ACTS

OF THE

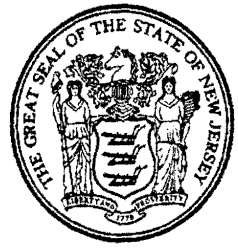
First Annual Session

OF THE

Two Hundred and Fifteenth Legislature

OF THE

STATE OF NEW JERSEY



2012

CHAPTER 19

AN ACT concerning environmental remediation compliance and amending P.L.1975, c.361 and P.L.1983, c.137, and supplementing P.L.1993, c.139 (C.58:10B-1 et al.).

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

1. Section 2 of P.L.1975, c.361 (C.54:3-27.2) is amended to read as follows:

C.54:3-27.2 Refund of excess taxes; interest.

2. Except as required in paragraph (2) of subsection a. of section 2 of P.L.1983, c.137 (C.54:4-134), in the event that a taxpayer is successful in an appeal from an assessment on real property, the respective taxing district shall refund any excess taxes paid, together with interest thereon from the date of payment at a rate of 5% per annum, less any amount of taxes, interest, or both, which may be applied against delinquencies pursuant to section 2 of P.L.1983, c.137 (C.54:4-134), within 60 days of the date of final judgment.

2. Section 2 of P.L.1983, c.137 (C.54:4-134) is amended to read as follows:

C.54:4-134 Application of refund to delinquency.

2. a. (1) Whenever the owner of real property shall be entitled, pursuant to a determination of a county board of taxation or a judgment of the tax court, to a refund of all or any portion of the property taxes paid against the property in any given year, and any property taxes, water or sewer payments, or parking or payroll taxes imposed or to be collected by the municipality against that property or the owner or owners of that property are delinquent at the time of the determination or judgment, the governing body of the municipality constituting the taxing district in which the property is located may apply the refund, or such portion thereof as may be necessary, including any accrued interest, against the delinquency.

(2) In addition to the application of a refund against a delinquency as set forth in paragraph (1) of this subsection, a refund from an appeal on the assessment of a property that was a constituent part of an industrial site or complex that is currently vacant or underutilized, and that is subject to any federal or State court order, or administrative action or order, for environmental remediation, shall be deposited by the taxing district with the Commissioner of Environmental Protection, to be used to ensure required site

remediation. Once the industrial site has been remediated, any remaining refund amounts shall be returned by the commissioner to the taxpayer within 30 days after completion of the site remediation. Any monies not returned within 30 days shall be paid, with interest, from the date of completion of the site remediation, at a rate of 5% per annum. The provisions of this paragraph shall not apply to any property for which a remediation trust fund has been established pursuant to the provisions of section 25 of P.L.1993, c.139 (C.58:10B-3).

b. If the total amount of the refund is equal to or exceeds the total amount of the delinquency, the lien against the property for unpaid taxes shall be extinguished, and the balance, if any, remaining after the application of the refund against the delinquency shall be forwarded to the owner not later than 60 days after the date of the determination of the county board of taxation or the tax court judgment, as the case may be. If the total amount of the delinquency exceeds the total amount of the refund, the balance of the delinquency remaining shall remain a lien against the property.

C.58:10B-3.2 Annual charge for prompt remediation of certain industrial properties; inapplicability.

3. a. Except as provided in subsection b. of this section, whenever an industrial property that is subject to any federal or State court order, or administrative action or order, for environmental remediation becomes vacant or underutilized, the municipality in which the property is located may assess an annual charge to ensure the prompt remediation of the property. The charge shall not exceed the difference between the amount of property taxes paid on the property in the last year of full industrial operation and the amount of property taxes paid on the property for the current year. Unpaid charges shall constitute a lien on the property and shall be collected in the same manner as property taxes. The municipality shall deposit any funds collected pursuant to this section with the Commissioner of Environmental Protection, who shall credit the amounts deposited against the property owner's environmental remediation liability pursuant to law.

b. The provisions of this section shall not apply to any property for which a remediation trust fund has been established pursuant to the provisions of section 25 of P.L.1993, c.139 (C.58:10B-3).

4. This act shall take effect immediately and section 2 shall be applicable with respect to property tax refunds not paid to the taxpayer prior to the date of enactment of this act.

Approved July 9, 2012.

CHAPTER 20

AN ACT concerning operation of school buses when transporting certain disabled persons and amending P.L.1965, c.119 and P.L.1942, c. 192.

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

1. Section 1 of P.L.1965, c.119 (C.39:3B-1) is amended to read as follows:

C.39:3B-1 Electric identification and warning lamps.

1. Every bus when being used to transport children to and from school pursuant to chapter 39 of Title 18A of the New Jersey Statutes shall be equipped with electric identification and warning lamps which, when such bus has stopped for the purpose of receiving or discharging any school child, will exhibit a flashing red light plainly visible at such a distance as will enable the driver of a vehicle approaching or overtaking the bus to see the red light in sufficient time to bring the same to a stop within 10 feet of the bus. Such lamps shall meet the requirements prescribed by the Motor Vehicle Commission, which requirements shall not be inconsistent with the provisions of this Title or any rule or regulation made pursuant thereto.

If a bus is equipped with electric identification and warning lamps that are required under this section and is stopped for the purpose of receiving or discharging a person who has a developmental disability, the driver of the bus shall activate the flashing lights and any other equipment, including a crossing control arm, installed on the bus for the safety of passengers.

Nothing contained herein shall be construed to apply to any motorbus when carrying passengers for hire over any street or road and accepting and discharging indiscriminately such persons as may offer themselves for transportation either at the termini or points along the route on which it is being operated.

2. Section 1 of P.L.1942, c.192 (C.39:4-128.1) is amended to read as follows:

C.39:4-128.1 School buses stopped for children, certain disabled persons, duty of motorists, bus driver; violations, penalties.

1. On highways having roadways not divided by safety islands or physical traffic separation installations, the driver of a vehicle approaching or overtaking a bus, which is being used for the transportation of children to or from school or a summer day camp or any school connected activity, or

which is being used for the transportation of a person who has a developmental disability, and which has stopped for the purpose of receiving or discharging any child or a person who has a developmental disability, shall stop such vehicle not less than 25 feet from such school bus and keep such vehicle stationary until such child or person who has a developmental disability has entered said bus or has alighted and reached the side of such highway and until a flashing red light is no longer exhibited by the bus; provided, such bus is designated as a school bus by one sign on the front and one sign on the rear, with each letter on such signs at least four inches in height.

On highways having dual or multiple roadways separated by safety islands or physical traffic separation installations, the driver of a vehicle overtaking a school bus, which has stopped for the purpose of receiving or discharging any child or any person who has a developmental disability, shall stop such vehicle not less than 25 feet from such school bus and keep such vehicle stationary until such child or person who has a developmental disability has entered said bus or has alighted and reached the side of the highway and until a flashing red light is no longer exhibited by the bus.

On highways having dual or multiple roadways separated by safety islands or physical traffic separation installations, the driver of a vehicle on another roadway approaching a school bus, which has stopped for the purpose of receiving or discharging any child, or any person who has a developmental disability shall reduce the speed of his vehicle to not more than 10 miles per hour and shall not resume normal speed until the vehicle has passed the bus and has passed any child who may have alighted therefrom or be about to enter said bus.

For purposes of this section, "highway" means the entire width between the boundary lines of every way whether publicly or privately maintained when any part thereof is open to the public for purposes of vehicular travel.

Whenever a school bus is parked at the curb for the purpose of receiving children directly from a school or a summer day camp or any school connected activity or discharging children to enter a school, or a summer day camp or any school connected activity, which is located on the same side of the street as that on which the bus is parked, drivers of vehicles shall be permitted to pass said bus without stopping, but at a speed not in excess of 10 miles per hour.

Whenever a school bus is parked at the curb for the purpose of receiving or discharging a person who has a developmental disability on the same side of the street as that on which the bus is parked, drivers of vehicles shall be permitted to pass the bus without stopping, but at a speed not in excess of 10 miles per hour.

The driver of a bus which is being used for the transportation of children to or from school or a summer day camp or any school connected activity, or for the transportation of a person who has a developmental disability shall continue to exhibit a flashing red light and shall not start his bus until every child who may have alighted therefrom shall have reached a place of safety.

Any person who shall violate any provision of this act shall be subject to (1) a fine of not less than $100.00, (2) imprisonment for not more than 15 days or community service for 15 days in such form and on such terms as the court shall deem appropriate, (3) or both for the first offense, and a fine not less than $250.00, imprisonment for not more than 15 days, or both for each subsequent offense. The penalties shall be enforced and recovered pursuant to the provisions of chapter 5 of Title 39 of the Revised Statutes. There shall be a rebuttable presumption that the registered owner of the vehicle which was involved in the violation of this section was the person who committed the act. Any person who suppresses, by way of concealment or destruction, any evidence of a violation of this section or who suppresses the identity of the violator shall be subject to a fine of $100.

The Chief Administrator of the Motor Vehicle Commission may also revoke the license to drive a motor vehicle of any person who shall have been guilty of such willful violation of any of the provisions of this act as shall, in the discretion of the chief administrator, justify such revocation, but the chief administrator shall, at all times, have power to validate such a license which has been revoked, or to grant a new license to any person whose license to drive a motor vehicle shall have been revoked pursuant to this act.

3. This act shall take effect immediately.

Approved July 12, 2012.

CHAPTER 21

AN ACT designated as Fred Baker's Law and establishing July 30 of each year as "Corrections Officer Day" in New Jersey to recognize all corrections officers and to honor those who have been killed in the line of duty.

WHEREAS, The operation of correctional facilities represents a crucial component of the criminal justice system in the United States, and correctional personnel play a vital role in protecting the rights of the public to be safeguarded from criminal activity; and

WHEREAS, Corrections officers in the State of New Jersey oversee the State's correctional facilities and are responsible for the care, custody, and maintenance of more than 25,000 inmates charged to their care; and

WHEREAS, To carry out their responsibilities, corrections officers work under demanding circumstances and face danger in their daily work lives, which sometimes results in the loss of life; and

WHEREAS, On July 30, 1997, Senior Corrections Officer Fred Baker paid the ultimate price when he was brutally stabbed to death by an inmate at Bayside State Prison in Leesburg, Cumberland County; and

WHEREAS, In addition to Senior Corrections Officer Fred Baker, numerous New Jersey corrections officers have lost their lives in the line of duty; and

WHEREAS, In 1984, former President Ronald Reagan signed Proclamation 5187, which designated the first week in May as "National Correctional Officers Week" in honor of corrections officers who put their lives on the line every day to protect the public from dangerous criminals and to help prisoners work toward becoming productive members of society; and

WHEREAS, In 1996, Congress expanded and renamed this special week "National Correctional Officers and Employees Week" in recognition of all those employed with city, state and federal correctional departments; and

WHEREAS, In accordance with the federal government's recognition of the indispensable contributions that corrections officers make every day to protect our citizens from harm, it is proper and befitting for the State of New Jersey to honor all corrections officers, not only those who have made the ultimate sacrifice in upholding their duty to the public here in New Jersey; and

WHEREAS, It is altogether fitting and appropriate to annually designate July 30th, the anniversary of Senior Corrections Officer Fred Baker's tragic and brutal death in the line of duty, as "Corrections Officer Day" in the State of New Jersey; now, therefore,

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

C.36:2-187 "Corrections Officer Day," July 30; designated.

1. July 30 of each year shall be designated as "Corrections Officer Day" in the State of New Jersey in recognition of the dedicated service corrections officers have rendered to their fellow citizens.

C.36:2-188 Annual proclamation.

2. The Governor shall issue annually a proclamation designating July 30 of each year as "Corrections Officer Day," and with the Legislature call upon all citizens of the State and all other public and private agencies and organizations to celebrate "Corrections Officer Day" by appropriate observance.

C.36:2-189 Flags flown at half-staff at correctional facilities.

3. The Governor shall direct the staff at the State's correctional facilities to fly the flag of the United States and the State flag at half-staff in honor of all those corrections officers who have been killed in the line of duty.

4. This act shall take effect immediately.

Approved July 17, 2012.

CHAPTER 22

AN ACT concerning the use of wireless telephones in motor vehicles, designated as Kulesh's, Kuberts', and Bolis' Law, and amending N.J.S.2C:11-5 and N.J.S.2C:12-1.

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

1. N.J.S.2C:11-5 is amended to read as follows:

Death by auto or vessel.

2C:11-5. Death by auto or vessel.

a. Criminal homicide constitutes vehicular homicide when it is caused by driving a vehicle or vessel recklessly.

Proof that the defendant fell asleep while driving or was driving after having been without sleep for a period in excess of 24 consecutive hours may give rise to an inference that the defendant was driving recklessly. Proof that the defendant was driving while intoxicated in violation of R.S.39:4-50 or was operating a vessel under the influence of alcohol or drugs in violation of section 3 of P.L.1952, c.157 (C.12:7-46) shall give rise to an inference that the defendant was driving recklessly. Proof that the defendant was operating a hand-held wireless telephone while driving a motor vehicle in violation of section 1 of P.L.2003, c.310 (C.39:4-97.3) may give

rise to an inference that the defendant was driving recklessly. Nothing in this section shall be construed to in any way limit the conduct or conditions that may be found to constitute driving a vehicle or vessel recklessly.

b. Except as provided in paragraph (3) of this subsection, vehicular homicide is a crime of the second degree.

(1) If the defendant was operating the auto or vessel while under the influence of any intoxicating liquor, narcotic, hallucinogenic or habit-producing drug, or with a blood alcohol concentration at or above the prohibited level as prescribed in R.S.39:4-50, or if the defendant was operating the auto or vessel while his driver's license or reciprocity privilege was suspended or revoked for any violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), by the Director of the Division of Motor Vehicles pursuant to P.L.1982, c.85 (C.39:5-30a et seq.), or by the court for a violation of R.S.39:4-96, the defendant shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or three years, whichever is greater, during which the defendant shall be ineligible for parole.

(2) The court shall not impose a mandatory sentence pursuant to paragraph (1) of this subsection unless the grounds therefor have been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish by a preponderance of the evidence that the defendant was operating the auto or vessel while under the influence of any intoxicating liquor, narcotic, hallucinogenic or habit-producing drug, or with a blood alcohol concentration at or above the level prescribed in R.S.39:4-50 or that the defendant was operating the auto or vessel while his driver's license or reciprocity privilege was suspended or revoked for any violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), by the Director of the Division of Motor Vehicles pursuant to P.L.1982, c.85 (C.39:5-30a et seq.), or by the court for a violation of R.S.39:4-96. In making its findings, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

(3) Vehicular homicide is a crime of the first degree if the defendant was operating the auto or vessel while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) while:

(a) on any school property used for school purposes which is owned by or leased to any elementary or secondary school or school board, or within 1,000 feet of such school property;

(b) driving through a school crossing as defined in R.S.39:1-1 if the municipality, by ordinance or resolution, has designated the school crossing as such; or

(c) driving through a school crossing as defined in R.S.39:1-1 knowing that juveniles are present if the municipality has not designated the school crossing as such by ordinance or resolution.

A map or true copy of a map depicting the location and boundaries of the area on or within 1,000 feet of any property used for school purposes which is owned by or leased to any elementary or secondary school or school board produced pursuant to section 1 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under subparagraph (a) of this paragraph.

It shall be no defense to a prosecution for a violation of subparagraph (a) or (b) of this paragraph that the defendant was unaware that the prohibited conduct took place while on or within 1,000 feet of any school property or while driving through a school crossing. Nor shall it be a defense to a prosecution under subparagraph (a) or (b) of this paragraph that no juveniles were present on the school property or crossing zone at the time of the offense or that the school was not in session.

(4) If the defendant was operating the auto or vessel in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the defendant's license to operate a motor vehicle shall be suspended for a period of between five years and life, which period shall commence upon completion of any prison sentence imposed upon that person.

c. For good cause shown, the court may, in accepting a plea of guilty under this section, order that such plea not be evidential in any civil proceeding.

d. Nothing herein shall be deemed to preclude, if the evidence so warrants, an indictment and conviction for aggravated manslaughter under the provisions of subsection a. of N.J.S.2C:11-4.

As used in this section, "auto or vessel" means all means of conveyance propelled otherwise than by muscular power.

e. Any person who violates paragraph (3) of subsection b. of this section shall forfeit the auto or vessel used in the commission of the offense, unless the defendant can establish at a hearing, which may occur at the time of sentencing, by a preponderance of the evidence that such forfeiture would constitute a serious hardship to the family of the defendant that outweighs the need to deter such conduct by the defendant and others. In making its findings, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other rele-

vant information. Forfeiture pursuant to this subsection shall be in addition to, and not in lieu of, civil forfeiture pursuant to chapter 64 of this title.

2. N.J.S.2C:12-1 is amended to read as follows:

Assault.

2C:12-1. Assault. a. Simple assault. A person is guilty of assault if he:

(1) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or

(2) Negligently causes bodily injury to another with a deadly weapon; or

(3) Attempts by physical menace to put another in fear of imminent serious bodily injury.

Simple assault is a disorderly persons offense unless committed in a fight or scuffle entered into by mutual consent, in which case it is a petty disorderly persons offense.

b. Aggravated assault. A person is guilty of aggravated assault if he:

(1) Attempts to cause serious bodily injury to another, or causes such injury purposely or knowingly or under circumstances manifesting extreme indifference to the value of human life recklessly causes such injury; or

(2) Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon; or

(3) Recklessly causes bodily injury to another with a deadly weapon; or

(4) Knowingly under circumstances manifesting extreme indifference to the value of human life points a firearm, as defined in section 2C:39-1f., at or in the direction of another, whether or not the actor believes it to be loaded; or

(5) Commits a simple assault as defined in subsection a. (1), (2) or (3) of this section upon:

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

(b) Any paid or volunteer fireman acting in the performance of his duties while in uniform or otherwise clearly identifiable as being engaged in the performance of the duties of a fireman; or

(c) Any person engaged in emergency first-aid or medical services acting in the performance of his duties while in uniform or otherwise clearly identifiable as being engaged in the performance of emergency first-aid or medical services; or

(d) Any school board member, school administrator, teacher, school bus driver or other employee of a public or nonpublic school or school board while clearly identifiable as being engaged in the performance of his duties or because of his status as a member or employee of a public or nonpublic school or school board or any school bus driver employed by an operator under contract to a public or nonpublic school or school board while clearly identifiable as being engaged in the performance of his duties or because of his status as a school bus driver; or

(e) Any employee of the Division of Child Protection and Permanency while clearly identifiable as being engaged in the performance of his duties or because of his status as an employee of the division; or

(f) Any justice of the Supreme Court, judge of the Superior Court, judge of the Tax Court or municipal judge while clearly identifiable as being engaged in the performance of judicial duties or because of his status as a member of the judiciary; or

(g) Any operator of a motorbus or the operator's supervisor or any employee of a rail passenger service while clearly identifiable as being engaged in the performance of his duties or because of his status as an operator of a motorbus or as the operator's supervisor or as an employee of a rail passenger service; or

(h) Any Department of Corrections employee, county corrections officer, juvenile corrections officer, State juvenile facility employee, juvenile detention staff member, juvenile detention officer, probation officer or any sheriff, undersheriff, or sheriff's officer acting in the performance of his duties while in uniform or exhibiting evidence of his authority; or

(i) Any employee, including any person employed under contract, of a utility company as defined in section 2 of P.L.1971, c.224 (C.2A:42-86) or a cable television company subject to the provisions of the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) while clearly identifiable as being engaged in the performance of his duties in regard to connecting, disconnecting or repairing or attempting to connect, disconnect or repair any gas, electric or water utility, or cable television or telecommunication service; or

(j) Any health care worker employed by a licensed health care facility to provide direct patient care, any health care professional licensed or otherwise authorized pursuant to Title 26 or Title 45 of the Revised Statutes to practice a health care profession, except a direct care worker at a State or county psychiatric hospital or State developmental center or veterans' memorial home, while clearly identifiable as being engaged in the duties of providing direct patient care or practicing the health care profession; or

(k) Any direct care worker at a State or county psychiatric hospital or State developmental center or veterans' memorial home, while clearly identifiable as being engaged in the duties of providing direct patient care or practicing the health care profession, provided that the actor is not a patient or resident at the facility who is classified by the facility as having a mental illness or developmental disability; or

(6) Causes bodily injury to another person while fleeing or attempting to elude a law enforcement officer in violation of subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this subsection upon proof of a violation of subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of subsection c. of N.J.S.2C:20-10 which resulted in bodily injury to another person; or

(7) Attempts to cause significant bodily injury to another or causes significant bodily injury purposely or knowingly or, under circumstances manifesting extreme indifference to the value of human life recklessly causes such significant bodily injury; or

(8) Causes bodily injury by knowingly or purposely starting a fire or causing an explosion in violation of N.J.S.2C:17-1 which results in bodily injury to any emergency services personnel involved in fire suppression activities, rendering emergency medical services resulting from the fire or explosion or rescue operations, or rendering any necessary assistance at the scene of the fire or explosion, including any bodily injury sustained while responding to the scene of a reported fire or explosion. For purposes of this subsection, "emergency services personnel" shall include, but not be limited to, any paid or volunteer fireman, any person engaged in emergency first-aid or medical services and any law enforcement officer. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this paragraph upon proof of a violation of N.J.S.2C:17-1 which resulted in bodily injury to any emergency services personnel; or

(9) Knowingly, under circumstances manifesting extreme indifference to the value of human life, points or displays a firearm, as defined in subsection v. of N.J.S.2C:39-1, at or in the direction of a law enforcement officer; or

(10) Knowingly points, displays or uses an imitation firearm, as defined in subsection v. of N.J.S.2C:39-1, at or in the direction of a law enforcement officer with the purpose to intimidate, threaten or attempt to put the officer in fear of bodily injury or for any unlawful purpose; or

(11) Uses or activates a laser sighting system or device, or a system or device which, in the manner used, would cause a reasonable person to believe that it is a laser sighting system or device, against a law enforcement officer acting in the performance of his duties while in uniform or exhibiting evidence of his authority. As used in this paragraph, "laser sighting system or device" means any system or device that is integrated with or affixed to a firearm and emits a laser light beam that is used to assist in the sight alignment or aiming of the firearm.

Aggravated assault under subsections b. (1) and b. (6) is a crime of the second degree; under subsections b. (2), b. (7), b. (9) and b. (10) is a crime of the third degree; under subsections b. (3) and b. (4) is a crime of the fourth degree; and under subsection b. (5) is a crime of the third degree if the victim suffers bodily injury, otherwise it is a crime of the fourth degree. Aggravated assault under subsection b.(8) is a crime of the third degree if the victim suffers bodily injury; if the victim suffers significant bodily injury or serious bodily injury it is a crime of the second degree. Aggravated assault under subsection b. (11) is a crime of the third degree.

c. (1) A person is guilty of assault by auto or vessel when the person drives a vehicle or vessel recklessly and causes either serious bodily injury or bodily injury to another. Assault by auto or vessel is a crime of the fourth degree if serious bodily injury results and is a disorderly persons offense if bodily injury results. Proof that the defendant was operating a hand-held wireless telephone while driving a motor vehicle in violation of section 1 of P.L.2003, c.310 (C.39:4-97.3) may give rise to an inference that the defendant was driving recklessly.

(2) Assault by auto or vessel is a crime of the third degree if the person drives the vehicle while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily injury results and is a crime of the fourth degree if the person drives the vehicle while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and bodily injury results.

(3) Assault by auto or vessel is a crime of the second degree if serious bodily injury results from the defendant operating the auto or vessel while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) while:

(a) on any school property used for school purposes which is owned by or leased to any elementary or secondary school or school board, or within 1,000 feet of such school property;

(b) driving through a school crossing as defined in R.S.39:1-1 if the municipality, by ordinance or resolution, has designated the school crossing as such; or

(c) driving through a school crossing as defined in R.S.39:1-1 knowing that juveniles are present if the municipality has not designated the school crossing as such by ordinance or resolution.

Assault by auto or vessel is a crime of the third degree if bodily injury results from the defendant operating the auto or vessel in violation of this paragraph.

A map or true copy of a map depicting the location and boundaries of the area on or within 1,000 feet of any property used for school purposes which is owned by or leased to any elementary or secondary school or school board produced pursuant to section 1 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under subparagraph (a) of paragraph (3) of this subsection.

It shall be no defense to a prosecution for a violation of subparagraph (a) or (b) of paragraph (3) of this subsection that the defendant was unaware that the prohibited conduct took place while on or within 1,000 feet of any school property or while driving through a school crossing. Nor shall it be a defense to a prosecution under subparagraph (a) or (b) of paragraph (3) of this subsection that no juveniles were present on the school property or crossing zone at the time of the offense or that the school was not in session.

(4) Assault by auto or vessel is a crime of the third degree if the person purposely drives a vehicle in an aggressive manner directed at another vehicle and serious bodily injury results and is a crime of the fourth degree if the person purposely drives a vehicle in an aggressive manner directed at another vehicle and bodily injury results. For purposes of this paragraph, "driving a vehicle in an aggressive manner" shall include, but is not limited to, unexpectedly altering the speed of the vehicle, making improper or erratic traffic lane changes, disregarding traffic control devices, failing to yield the right of way, or following another vehicle too closely.

As used in this section, "vessel" means a means of conveyance for travel on water and propelled otherwise than by muscular power.

d. A person who is employed by a facility as defined in section 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as defined in paragraph (1) or (2) of subsection a. of this section upon an institutionalized elderly person as defined in section 2 of P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth degree.

e. (Deleted by amendment, P.L.2001, c.443).

f. A person who commits a simple assault as defined in paragraph (1), (2) or (3) of subsection a. of this section in the presence of a child under 16 years of age at a school or community sponsored youth sports event is

guilty of a crime of the fourth degree. The defendant shall be strictly liable upon proof that the offense occurred, in fact, in the presence of a child under 16 years of age. It shall not be a defense that the defendant did not know that the child was present or reasonably believed that the child was 16 years of age or older. The provisions of this subsection shall not be construed to create any liability on the part of a participant in a youth sports event or to abrogate any immunity or defense available to a participant in a youth sports event. As used in this act, "school or community sponsored youth sports event" means a competition, practice or instructional event involving one or more interscholastic sports teams or youth sports teams organized pursuant to a nonprofit or similar charter or which are member teams in a youth league organized by or affiliated with a county or municipal recreation department and shall not include collegiate, semi-professional or professional sporting events.

3. This act shall take effect immediately.

Approved July 18, 2012.

CHAPTER 23

AN ACT concerning treatment for drug and alcohol dependent persons, amending N.J.S.2C:35-14 and N.J.S.2C:44-6, and supplementing Title 2C of the New Jersey Statutes.

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

C.2C:35-14.1 Defendant required to submit to professional diagnostic assessment, exceptions.

1. a. Except as provided in subsection c., the court shall require a defendant to submit to a professional diagnostic assessment if:

(1) there is a reasonable basis to believe that the defendant may be a drug dependent person as defined in N.J.S.2C:35-2;

(2) the defendant is charged with:

(a) a crime that is subject to a presumption of imprisonment pursuant to subsection d. of N.J.S.2C:44-1; or

(b) any crime of the third degree if the defendant has previously been convicted of a crime subject to the presumption of imprisonment or that resulted in imposition of a State prison term; and

(3) the defendant is eligible to be considered for a sentence to special probation pursuant to the provisions of N.J.S.2C:35-14.

b. For the purposes of this section, any of the following circumstances shall provide a reasonable basis to believe that a person may be drug dependent:

(1) the present offense involves a controlled dangerous substance;

(2) the defendant has previously been convicted of an offense involving a controlled dangerous substance, was admitted to pretrial intervention or supervisory treatment, or received a conditional discharge for a charge involving a controlled dangerous substance;

(3) the defendant has any other pending charge in this State, any other state, or a federal court involving a controlled dangerous substance;

(4) the defendant has any time previously received any form of drug treatment or counseling;

(5) the defendant appears to have been under the influence of a controlled dangerous substance during the commission of the present offense, or it reasonably appears that the present offense may have been committed to acquire property or monies to purchase a controlled dangerous substance for the defendant's personal use;

(6) the defendant admits to the unlawful use of a controlled dangerous substance within the year preceding the arrest for the present offense;

(7) the defendant has had a positive drug test within the last 12 months; or

(8) there is information, other than the circumstances enumerated in paragraphs (1) through (7) of this subsection, which indicates that the defendant may be a drug dependent person or would otherwise benefit by undergoing a professional diagnostic assessment within the meaning of paragraph (1) of subsection a. of N.J.S.2C:35-14.

c. The court shall not be required to order a diagnostic assessment pursuant to subsection a. of this section if it is clearly convinced that such assessment will not serve any useful purpose. If the court does not order a diagnostic assessment, the court shall place on the record the reasons for its decision.

d. Nothing in this section shall be construed to limit or constrain the court's authority and discretion to order drug testing, drug screening, or a professional diagnostic assessment at any time.

C.2C:35-14.2 Sentence of special probation for certain defendants.

2. a. In all cases where a professional diagnostic assessment within the meaning of paragraph (1) of subsection a. of N.J.S.2C:35-14 has been ordered and completed pursuant to section 1 of P.L.2012, c.23 (C.2C:35-

14.1), the court shall make a determination at sentencing or prior to sentencing whether the defendant may be a drug dependent person as defined in N.J.S.2C:35-2.

b. Notwithstanding any law to the contrary, where the court finds that a defendant is a person in need of treatment as defined in subsection f. of this section and that the defendant additionally meets all the requirements of N.J.S.2C:35-14, the court shall sentence a defendant to special probation pursuant to the provisions of N.J.S.2C:35-14 for the purpose of participating in a court-supervised drug treatment program, regardless of whether the defendant has sought or consents to such a sentence, unless:

(1) the court finds that a sentence of imprisonment must be imposed consistent with the provisions of chapters 43 and 44 of Title 2C of the New Jersey Statutes, in which case a sentence of imprisonment shall be imposed; or

(2) the court is clearly convinced that:

(a) the treatment, monitoring, and supervision services that will be provided under N.J.S.2C:45-1 are adequate to address the defendant's clinical needs;

(b) the defendant's treatment needs would not be better addressed by sentencing the defendant to special probation pursuant to N.J.S.2C:35-14;

(c) no danger to the community would result from placing the person on regular probation pursuant to N.J.S.2C:45-1; and

(d) a sentence of probation authorized under N.J.S.2C:45-1 would be consistent with the provisions of chapters 43 and 44 of Title 2C of the New Jersey Statutes.

c. In making the findings and determinations required by this section, the court shall consider all relevant circumstances, and shall take judicial notice of any evidence, testimony, or information adduced at the trial, plea hearing, or other court proceedings, and also shall also consider the presentence report and the results of any professional diagnostic assessment. The court shall place on the record the reasons for its decision.

d. If, pursuant to paragraph (2) of subsection b. of this section, the court imposes a sentence of probation authorized by N.J.S.2C:45-1, such sentence shall not become final for 10 days in order to permit the appeal of the sentence by the prosecution.

e. Nothing in this section shall be construed to alter the presumption of imprisonment contained in subsection d. of N.J.S.2C:44-1 or to require or authorize the reduction or waiver of a mandatory period of parole ineligibility required by law, or to modify the exceptions to such requirements

provided for by law, including but not limited to those provided in N.J.S.2C:35-12 and N.J.S.2C:35-14.

f. For the purposes of this section, the term "person in need of treatment" means a defendant who:

(1) the court has determined to be a drug dependent person as defined in N.J.S.2C:35-2;

(2) has been convicted of:

(a) a crime that is subject to a presumption of imprisonment pursuant to subsection d. of N.J.S.2C:44-1; or

(b) any other crime of the third degree if the person has previously been convicted of a crime subject to a presumption of imprisonment or a crime that resulted in the imposition of a State prison term; and

(3) is eligible to be considered for a sentence to special probation pursuant to the provisions of N.J.S.2C:35-14.

C.2C:35-14.3 Phase-in of implementation of provisions of law relative to special probation.

3. The Administrative Director of the Courts is authorized to phase-in the implementation of the provisions of P.L.2012, c.23 (C.2C:35-14.1 et al.) related to a program of mandatory sentencing and treatment of qualified offenders to special probation based on monies annually appropriated from the General Fund. Within 60 days of the effective date of this act, the program shall be established in no fewer than three court vicinages, and with further implementation occurring in no less than three additional vicinages in each fiscal year thereafter in a manner to be determined by the Administrative Director of the Courts provided that sufficient State funds have been appropriated. The Administrative Director of the Courts shall select appropriate vicinages for the implementation of the program. The program shall be fully implemented in the State no later than the fifth fiscal year following enactment provided that sufficient State funds have been appropriated.

4. Not later than one year following the effective date of this act, and annually thereafter for five years, the Administrative Director of the Courts shall submit to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report containing an evaluation of mandatory special probation. The report shall include the rates of completion and revocation for people admitted to mandatory special probation, the recidivism rates for graduates of mandatory special probation, the costs associated with implementing mandatory special probation, and any other information that may indicate the effectiveness of mandatory special proba-

tion. Additionally, the evaluation shall include a comparison of data from vicinages that have phased in mandatory special probation with those that have not, including comparative retention and recidivism data for non-mandatory special probation participants. The Administrative Director of the Courts may make recommendations for legislation or other action appropriate for adoption or consideration by the Legislature.

5. N.J.S.2C:35-14 is amended to read as follows:

Rehabilitation program for drug and alcohol dependent persons subject to a presumption of incarceration or a mandatory minimum period of parole ineligibility; criteria for imposing special probation; ineligible offenders; commitment to residential treatment facilities or participation in a nonresidential treatment program; presumption of revocation; brief incarceration in lieu of permanent revocation.

2C:35-14. Rehabilitation Program for Drug and Alcohol Dependent Persons Subject to a Presumption of Incarceration or a Mandatory Minimum Period of Parole Ineligibility; Criteria for Imposing Special Probation; Ineligible Offenders; Prosecutorial Objections; Commitment to Residential Treatment Facilities or Participation in a Nonresidential Treatment Program; Presumption of Revocation; Brief Incarceration in Lieu of Permanent Revocation.

a. Any person who is ineligible for probation due to a conviction for a crime which is subject to a presumption of incarceration or a mandatory minimum period of parole ineligibility may be sentenced to a term of special probation in accordance with this section, and may not apply for drug and alcohol treatment pursuant to N.J.S.2C:45-1. Nothing in this section shall be construed to prohibit a person who is eligible for probation in accordance with N.J.S.2C:45-1 due to a conviction for an offense which is not subject to a presumption of incarceration or a mandatory minimum period of parole ineligibility from applying for drug or alcohol treatment as a condition of probation pursuant to N.J.S.2C:45-1; provided, however, that a person in need of treatment as defined in subsection f. of section 2 of P.L.2012, c.23 (C.2C:35-14.2) shall be sentenced in accordance with that section. Notwithstanding the presumption of incarceration pursuant to the provisions of subsection d. of N.J.S.2C:44-1, and except as provided in subsection c. of this section, whenever a drug or alcohol dependent person who is subject to sentencing under this section is convicted of or adjudicated delinquent for an offense, other than one described in subsection b. of this section, the court, upon notice to the prosecutor, may, on motion of the person, or on the court's own motion, place the person on special probation,

which shall be for a term of five years, provided that the court finds on the record that:

(1) the person has undergone a professional diagnostic assessment to determine whether and to what extent the person is drug or alcohol dependent and would benefit from treatment; and

(2) the person is a drug or alcohol dependent person within the meaning of N.J.S.2C:35-2 and was drug or alcohol dependent at the time of the commission of the present offense; and

(3) the present offense was committed while the person was under the influence of a controlled dangerous substance, controlled substance analog or alcohol or was committed to acquire property or monies in order to support the person's drug or alcohol dependency; and

(4) substance abuse treatment and monitoring will serve to benefit the person by addressing his drug or alcohol dependency and will thereby reduce the likelihood that the person will thereafter commit another offense; and

(5) the person did not possess a firearm at the time of the present offense and did not possess a firearm at the time of any pending criminal charge; and

(6) the person has not been previously convicted on two or more separate occasions of crimes of the first or second degree, other than those listed in paragraph (7); or the person has not been previously convicted on two or more separate occasions, where one of the offenses is a crime of the third degree, other than crimes defined in N.J.S.2C:35-10, and one of the offenses is a crime of the first or second degree; and

(7) the person has not been previously convicted or adjudicated delinquent for, and does not have a pending charge of murder, aggravated manslaughter, manslaughter, kidnapping, aggravated assault, aggravated sexual assault or sexual assault, or a similar crime under the laws of any other state or the United States; and

(8) a suitable treatment facility licensed and approved by the Division of Addiction Services in the Department of Human Services is able and has agreed to provide appropriate treatment services in accordance with the requirements of this section; and

(9) no danger to the community will result from the person being placed on special probation pursuant to this section.

In determining whether to sentence the person pursuant to this section, the court shall consider all relevant circumstances, and shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing or other court proceedings, and shall also consider the presentence report and the results of the professional diagnostic assessment to deter-

mine whether and to what extent the person is drug or alcohol dependent and would benefit from treatment. The court shall give priority to a person who has moved to be sentenced to special probation over a person who is being considered for a sentence to special probation on the court's own motion or in accordance with the provisions of section 2 of P.L.2012, c.23 (C.2C:35-14.2).

As a condition of special probation, the court shall order the person to enter a residential treatment program at a facility licensed and approved by the Division of Addiction Services in the Department of Human Services or a program of nonresidential treatment by a licensed and approved treatment provider, to comply with program rules and the requirements of the course of treatment, to cooperate fully with the treatment provider, and to comply with such other reasonable terms and conditions as may be required by the court or by law, pursuant to N.J.S.2C:45-1, and which shall include periodic urine testing for drug or alcohol usage throughout the period of special probation. In determining whether to order the person to participate in a nonresidential rather than a residential treatment program, the court shall follow the procedure set forth in subsection j. of this section. Subject to the requirements of subsection d. of this section, the conditions of special probation may include different methods and levels of community-based or residential supervision.

b. A person shall not be eligible for special probation pursuant to this section if the person is convicted of or adjudicated delinquent for:

(1) a crime of the first degree;

(2) a crime of the first or second degree enumerated in subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), other than a crime of the second degree involving N.J.S.2C:15-1 (robbery) or N.J.S.2C:18-2 (burglary);

(3) a crime, other than that defined in section 1 of P.L.1987, c.101 (C.2C:35-7), for which a mandatory minimum period of incarceration is prescribed under chapter 35 of this Title or any other law; or

(4) an offense that involved the distribution or the conspiracy or attempt to distribute a controlled dangerous substance or controlled substance analog to a juvenile near or on school property.

c. (Deleted by amendment, P.L.2012, c.23)

d. Except as otherwise provided in subsection j. of this section, a person convicted of or adjudicated delinquent for a crime of the second degree or of a violation of section 1 of P.L.1987, c.101 (C.2C:35-7), or who previously has been convicted of or adjudicated delinquent for an offense under subsection a. of N.J.S.2C:35-5 or a similar offense under any other law of this State, any other state or the United States, who is placed on special

probation under this section shall be committed to the custody of a residential treatment facility licensed and approved by the Division of Addiction Services in the Department of Human Services. Subject to the authority of the court to temporarily suspend imposition of all or any portion of the term of commitment to a residential treatment facility pursuant to subsection j. of this section, the person shall be committed to the residential treatment facility immediately, unless the facility cannot accommodate the person, in which case the person shall be incarcerated to await commitment to the residential treatment facility. The term of such commitment shall be for a minimum of six months, or until the court, upon recommendation of the treatment provider, determines that the person has successfully completed the residential treatment program, whichever is later, except that no person shall remain in the custody of a residential treatment facility pursuant to this section for a period in excess of five years. Upon successful completion of the required residential treatment program, the person shall complete the period of special probation, as authorized by subsection a. of this section, with credit for time served for any imprisonment served as a condition of probation and credit for each day during which the person satisfactorily complied with the terms and conditions of special probation while committed pursuant to this section to a residential treatment facility. Except as otherwise provided in subsection l. of this section, the person shall not be eligible for early discharge of special probation pursuant to N.J.S.2C:45-2, or any other provision of the law. The court, in determining the number of credits for time spent in residential treatment, shall consider the recommendations of the treatment provider. A person placed into a residential treatment facility pursuant to this section shall be deemed to be subject to official detention for the purposes of N.J.S.2C:29-5 (escape).

e. The probation department or other appropriate agency designated by the court to monitor or supervise the person's special probation shall report periodically to the court as to the person's progress in treatment and compliance with court-imposed terms and conditions. The treatment provider shall promptly report to the probation department or other appropriate agency all significant failures by the person to comply with any court imposed term or condition of special probation or any requirements of the course of treatment, including but not limited to a positive drug or alcohol test or the unexcused failure to attend any session or activity, and shall immediately report any act that would constitute an escape. The probation department or other appropriate agency shall immediately notify the court and the prosecutor in the event that the person refuses to submit to a peri-

odic drug or alcohol test or for any reason terminates his participation in the course of treatment, or commits any act that would constitute an escape.

f. (1) Upon a first violation of any term or condition of the special probation authorized by this section or of any requirements of the course of treatment, the court in its discretion may permanently revoke the person's special probation.

(2) Upon a second or subsequent violation of any term or condition of the special probation authorized by this section or of any requirements of the course of treatment, the court shall, subject only to the provisions of subsection g. of this section, permanently revoke the person's special probation unless the court finds on the record that there is a substantial likelihood that the person will successfully complete the treatment program if permitted to continue on special probation, and the court is clearly convinced, considering the nature and seriousness of the violations, that no danger to the community will result from permitting the person to continue on special probation pursuant to this section. The court's determination to permit the person to continue on special probation following a second or subsequent violation pursuant to this paragraph may be appealed by the prosecution.

(3) In making its determination whether to revoke special probation, and whether to overcome the presumption of revocation established in paragraph (2) of this subsection, the court shall consider the nature and seriousness of the present infraction and any past infractions in relation to the person's overall progress in the course of treatment, and shall also consider the recommendations of the treatment provider. The court shall give added weight to the treatment provider's recommendation that the person's special probation be permanently revoked, or to the treatment provider's opinion that the person is not amenable to treatment or is not likely to complete the treatment program successfully.

(4) If the court permanently revokes the person's special probation pursuant to this subsection, the court shall impose any sentence that might have been imposed, or that would have been required to be imposed, originally for the offense for which the person was convicted or adjudicated delinquent. The court shall conduct a de novo review of any aggravating and mitigating factors present at the time of both original sentencing and resentencing. If the court determines or is required pursuant to any other provision of this chapter or any other law to impose a term of imprisonment, the person shall receive credit for any time served in custody pursuant to N.J.S.2C:45-1 or while awaiting placement in a treatment facility pursuant to this section, and for each day during which the person satisfactorily complied with the terms and conditions of special probation while commit-

ted pursuant to this section to a residential treatment facility. The court, in determining the number of credits for time spent in a residential treatment facility, shall consider the recommendations of the treatment provider.

(5) Following a violation, if the court permits the person to continue on special probation pursuant to this section, the court shall order the person to comply with such additional terms and conditions, including but not limited to more frequent drug or alcohol testing, as are necessary to deter and promptly detect any further violation.

(6) Notwithstanding any other provision of this subsection, if the person at any time refuses to undergo urine testing for drug or alcohol usage as provided in subsection a. of this section, the court shall, subject only to the provisions of subsection g. of this section, permanently revoke the person's special probation. Notwithstanding any other provision of this section, if the person at any time while committed to the custody of a residential treatment facility pursuant to this section commits an act that would constitute an escape, the court shall forthwith permanently revoke the person's special probation.

(7) An action for a violation under this section may be brought by a probation officer or prosecutor or on the court's own motion. Failure to complete successfully the required treatment program shall constitute a violation of the person's special probation. A person who fails to comply with the terms of his special probation pursuant to this section and is thereafter sentenced to imprisonment in accordance with this subsection shall thereafter be ineligible for entry into the Intensive Supervision Program, provided however that this provision shall not affect the person's eligibility for entry into the Intensive Supervision Program for a subsequent conviction.

g. When a person on special probation is subject to a presumption of revocation on a second or subsequent violation pursuant to paragraph (2) of subsection f. of this section, or when the person refuses to undergo drug or alcohol testing pursuant to paragraph (6) of subsection f. of this section, the court may, in lieu of permanently revoking the person's special probation, impose a term of incarceration for a period of not less than 30 days nor more than six months, after which the person's term of special probation pursuant to this section may be reinstated. In determining whether to order a period of incarceration in lieu of permanent revocation pursuant to this subsection, the court shall consider the recommendations of the treatment provider with respect to the likelihood that such confinement would serve to motivate the person to make satisfactory progress in treatment once special probation is reinstated. This disposition may occur only once with respect to any person unless the court is clearly convinced that there are com-

pelling and extraordinary reasons to justify reimposing this disposition with respect to the person. Any such determination by the court to reimpose this disposition may be appealed by the prosecution. Nothing in this subsection shall be construed to limit the authority of the court at any time during the period of special probation to order a person on special probation who is not subject to a presumption of revocation pursuant to paragraph (2) of subsection f. of this section to be incarcerated over the course of a weekend, or for any other reasonable period of time, when the court in its discretion determines that such incarceration would help to motivate the person to make satisfactory progress in treatment.

h. The court, as a condition of its order, and after considering the person's financial resources, shall require the person to pay that portion of the costs associated with his participation in any rehabilitation program, nonresidential treatment program or period of residential treatment imposed pursuant to this section which, in the opinion of the court, is consistent with the person's ability to pay, taking into account the court's authority to order payment or reimbursement to be made over time and in installments.

i. The court shall impose, as a condition of the special probation, any fine, penalty, fee or restitution applicable to the offense for which the person was convicted or adjudicated delinquent.

j. Where the court finds that a person has satisfied all of the eligibility criteria for special probation and would otherwise be required to be committed to the custody of a residential treatment facility pursuant to the provisions of subsection d. of this section, the court may temporarily suspend imposition of all or any portion of the term of commitment to a residential treatment facility and may instead order the person to enter a nonresidential treatment program, provided that the court finds on the record that:

(1) the person conducting the diagnostic assessment required pursuant to paragraph (1) of subsection a. of this section has recommended in writing that the proposed course of nonresidential treatment services is clinically appropriate and adequate to address the person's treatment needs; and

(2) no danger to the community would result from the person participating in the proposed course of nonresidential treatment services; and

(3) a suitable treatment provider is able and has agreed to provide clinically appropriate nonresidential treatment services.

If the prosecutor objects to the court's decision to suspend the commitment of the person to a residential treatment facility pursuant to this subsection, the sentence of special probation imposed pursuant to this section shall not become final for ten days in order to permit the appeal by the prosecution of the court's decision.

After a period of six months of nonresidential treatment, if the court, considering all available information including but not limited to the recommendation of the treatment provider, finds that the person has made satisfactory progress in treatment and that there is a substantial likelihood that the person will successfully complete the nonresidential treatment program and period of special probation, the court, on notice to the prosecutor, may permanently suspend the commitment of the person to the custody of a residential treatment program, in which event the special monitoring provisions set forth in subsection k. of this section shall no longer apply.

Nothing in this subsection shall be construed to limit the authority of the court at any time during the term of special probation to order the person to be committed to a residential or nonresidential treatment facility if the court determines that such treatment is clinically appropriate and necessary to address the person's present treatment needs.

k. (1) When the court temporarily suspends the commitment of the person to a residential treatment facility pursuant to subsection j. of this section, the court shall, in addition to ordering participation in a prescribed course of nonresidential treatment and any other appropriate terms or conditions authorized or required by law, order the person to undergo urine testing for drug or alcohol use not less than once per week unless otherwise ordered by the court. The court-ordered testing shall be conducted by the probation department or the treatment provider. The results of all tests shall be reported promptly to the court and to the prosecutor. In addition, the court shall impose appropriate curfews or other restrictions on the person's movements, and may order the person to wear electronic monitoring devices to enforce such curfews or other restrictions as a condition of special probation.

(2) The probation department or other appropriate agency shall immediately notify the court and the prosecutor in the event that the person fails or refuses to submit to a drug or alcohol test, knowingly defrauds the administration of a drug test, terminates his participation in the course of treatment, or commits any act that would constitute absconding from parole. If the person at any time while entered in a nonresidential treatment program pursuant to subsection j. of this section knowingly defrauds the administration of a drug test, goes into hiding or leaves the State with a purpose of avoiding supervision, the court shall permanently revoke the person's special probation.

l. If the court finds that the person has made exemplary progress in the course of treatment, the court may, upon recommendation of the person's supervising probation officer or on the court's own motion, and upon

notice to the prosecutor, grant early discharge from a term of special probation provided that the person: (1) has satisfactorily completed the treatment program ordered by the court; (2) has served at least two years of special probation; (3) did not commit a substantial violation of any term or condition of special probation, including but not limited to a positive urine test, within the preceding 12 months; and (4) is not likely to relapse or commit an offense if probation supervision and related services are discontinued.

6. N.J.S.2C:44-6 is amended to read as follows:

Procedure on sentence; presentence investigation and report.

2C:44-6 Procedure on sentence; presentence investigation and report.

a. The court shall not impose sentence without first ordering a presentence investigation of the defendant and according due consideration to a written report of such investigation when required by the Rules of Court. The court may order a presentence investigation in any other case.

b. The presentence investigation shall include an analysis of the circumstances attending the commission of the offense, the defendant's history of delinquency or criminality, family situation, financial resources, including whether or not the defendant is an enrollee or covered person under a health insurance contract, policy or plan, debts, including any amount owed for a fine, assessment or restitution ordered in accordance with the provisions of Title 2C, any obligation of child support including any child support delinquencies, employment history, personal habits, the disposition of any charge made against any codefendants, the defendant's history of civil commitment, any disposition which arose out of charges suspended pursuant to N.J.S.2C:4-6 including the records of the disposition of those charges and any acquittal by reason of insanity pursuant to N.J.S.2C:4-1, and any other matters that the probation officer deems relevant or the court directs to be included. The defendant shall disclose any information concerning any history of civil commitment. The report shall also include a medical history of the defendant and a complete psychological evaluation of the defendant in any case in which the defendant is being sentenced for a first or second degree crime involving violence and:

(1) the defendant has a prior acquittal by reason of insanity pursuant to N.J.S.2C:4-1 or had charges suspended pursuant to N.J.S.2C:4-6; or

(2) the defendant has a prior conviction for murder pursuant to N.J.S.2C:11-3, aggravated sexual assault or sexual assault pursuant to N.J.S.2C:14-2, kidnapping pursuant to N.J.S.2C:13-1, endangering the welfare of a child which would constitute a crime of the second degree pursu-

ant to N.J.S.2C:24-4, or stalking which would constitute a crime of the third degree pursuant to section 1 of P.L.1992, c.209 (C.2C:12-10); or

(3) the defendant has a prior diagnosis of psychosis.

The court, in its discretion and considering all the appropriate circumstances, may waive the medical history and psychological examination in any case in which a term of imprisonment including a period of parole ineligibility is imposed. In any case involving a conviction of N.J.S.2C:24-4, endangering the welfare of a child; N.J.S.2C:18-3, criminal trespass, where the trespass was committed in a school building or on school property; section 1 of P.L.1993, c.291 (C.2C:13-6), attempting to lure or entice a child with purpose to commit a criminal offense; section 1 of P.L.1992, c.209 (C.2C:12-10), stalking; or N.J.S.2C:13-1, kidnapping, where the victim of the offense is a child under the age of 18, the investigation shall include a report on the defendant's mental condition.

The presentence investigation shall also include information regarding the defendant's history of substance abuse and substance abuse treatment, if any, including whether the defendant has sought treatment in the past. If any of the factors listed in subsection b. of section 1 of P.L.2012, c.23 (C.2C:35-14.1) apply, the presentence report shall also include consideration of whether the defendant may be a drug dependent person as defined in N.J.S.2C:35-2.

The presentence investigation shall include an analysis of whether the defendant should be required to submit to a professional diagnostic assessment within the meaning of paragraph (1) of subsection a. of N.J.S.2C:35-14 in any case where: the defendant may be a drug dependent person as defined in N.J.S.2C:35-2; the defendant is eligible to be considered for a sentence to special probation pursuant to N.J.S.2C:35-14; and the court has not already ordered the defendant to submit to any such diagnostic assessment in regard to the pending matter.

The presentence report shall also include a report on any compensation paid by the Victims of Crime Compensation Agency as a result of the commission of the offense and, in any case where the victim chooses to provide one, a statement by the victim of the offense for which the defendant is being sentenced. The statement may include the nature and extent of any physical harm or psychological or emotional harm or trauma suffered by the victim, the extent of any loss to include loss of earnings or ability to work suffered by the victim and the effect of the crime upon the victim's family. The probation department shall notify the victim or nearest relative of a homicide victim of his right to make a statement for inclusion in the presentence report if the victim or relative so desires. Any such

statement shall be made within 20 days of notification by the probation department.

The presentence report shall specifically include an assessment of the gravity and seriousness of harm inflicted on the victim, including whether or not the defendant knew or reasonably should have known that the victim of the offense was particularly vulnerable or incapable of resistance due to advanced age, disability, ill-health, or extreme youth, or was for any other reason substantially incapable of exercising normal physical or mental power of resistance.

c. If, after the presentence investigation, the court desires additional information concerning an offender convicted of an offense before imposing sentence, it may order any additional psychological or medical testing of the defendant.

d. Disclosure of any presentence investigation report or psychiatric examination report shall be in accordance with law and the Rules of Court, except that information concerning the defendant's financial resources shall be made available upon request to the Victims of Crime Compensation Agency or to any officer authorized under the provisions of section 3 of P.L.1979, c.396 (C.2C:46-4) to collect payment on an assessment, restitution or fine and that information concerning the defendant's coverage under any health insurance contract, policy or plan shall be made available, as appropriate to the Commissioner of Corrections and to the chief administrative officer of a county jail in accordance with the provisions of P.L.1995, c.254 (C.30:7E-1 et al.).

e. The court shall not impose a sentence of imprisonment for an extended term unless the ground therefor has been established at a hearing after the conviction of the defendant and on written notice to him of the ground proposed. The defendant shall have the right to hear and controvert the evidence against him and to offer evidence upon the issue.

f. (Deleted by amendment, P.L.1986, c.85).

7. Section 5 of this act shall take effect six months following enactment and sections 1, 2, 3, 4, and 6 shall take effect on the first day of the 12th month following enactment, except that the Administrative Office of the Courts, the Office of the Attorney General, the Office of the Public Defender, and the Department of Human Services may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved July 19, 2012.

CHAPTER 24

AN ACT concerning certain electric customer metering and solar renewable portfolio standards requirements and amending P.L.1999, c.23.

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

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

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

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

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

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

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

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

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

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

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

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

"Bondable stranded costs" means any stranded costs or basic generation service transition costs of an electric public utility approved by the board for recovery pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the board: (1) the cost of retiring existing debt or equity capital of the electric public utility, including accrued interest, premium and other fees, costs and charges relating thereto, with the proceeds of the financing of bondable transition property; (2) if requested by an electric public utility in its application for a bondable stranded costs rate order, federal, State and local tax liabilities associated with stranded costs recovery or basic generation service transition cost recovery or the transfer or financing of such property or both, including taxes, whose recovery period is modified by the effect of a stranded costs recovery order, a bondable stranded costs rate order or both; and (3) the costs incurred to issue, service or refinance transition bonds, including interest, acquisition or redemption premium, and other financing costs, whether paid upon issuance or over the life of the transition bonds, including, but not limited to, credit enhancements, service charges, overcollateralization, in-

terest rate cap, swap or collar, yield maintenance, maturity guarantee or other hedging agreements, equity investments, operating costs and other related fees, costs and charges, or to assign, sell or otherwise transfer bondable transition property;

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

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

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

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

"Brownfield" means any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant;

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

reduction in the pricing, or the restructuring of other terms to reduce the overall cost of the power contract, for the remaining succeeding period of the purchased power arrangement or arrangements;

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

"Class I renewable energy" means electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells, geothermal technologies, wave or tidal action, small scale hydropower facilities with a capacity of three megawatts or less and put into service after the effective date of P.L.2012, c.24, and methane gas from landfills or a biomass facility, provided that the biomass is cultivated and harvested in a sustainable manner;

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

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

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

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

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

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

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

"Connected to the distribution system" means, for a solar electric power generation facility, that the facility is: (1) connected to a net metering customer's side of a meter, regardless of the voltage at which that customer connects to the electric grid, (2) an on-site generation facility, (3) qualified for net metering aggregation as provided pursuant to paragraph (4) of subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87), (4) owned or operated by an electric public utility and approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), (5) directly connected to the electric grid at 69kilovolts or less, regardless of how an electric public utility classifies that portion of its electric grid, and is designated as "connected to the distribution system" by the board pursuant to subsections q. through s. of section 38 of P.L.1999, c.23 (C.48:3-87), or (6) is certified by the board, in consultation with the Department of Environmental Protection, as being located on a brownfield, on an area of historic fill, or on a properly closed sanitary landfill facility. Any solar electric power generation facility, other than that of a net metering customer on the customer's side of the meter, connected above 69 kilovolts shall not be considered connected to the distribution system;

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

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

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

"Demand side management" means the management of customer demand for energy service through the implementation of cost-effective energy efficiency technologies, including, but not limited to, installed conser-

vation, load management and energy efficiency measures on and in the residential, commercial, industrial, institutional and governmental premises and facilities in this State;

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

"Electric power generator" means an entity that proposes to construct, own, lease or operate, or currently owns, leases or operates, an electric power production facility that will sell or does sell at least 90 percent of its output, either directly or through a marketer, to a customer or customers located at sites that are not on or contiguous to the site on which the facility will be located or is located. The designation of an entity as an electric power generator for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in and of itself, affect the entity's status as an exempt wholesale generator under the Public Utility Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its successor;

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

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

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

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

"Eligible generator" means a developer of a base load or mid-merit electric power generation facility including, but not limited to, an on-site generation facility that qualifies as a capacity resource under PJM criteria

and that commences construction after the effective date of P.L.2011, c.9 (C.48:3-98.2 et al.);

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

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

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

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

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

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

"Final remediation document" shall have the same meaning as provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b);

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

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

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

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

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

"Government aggregator" means any government entity subject to the requirements of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., or the "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written contract with a licensed electric power supplier or a licensed gas supplier for: (1) the provision of electric generation service, electric related service, gas supply service, or gas related service for its own use or the use of other government aggregators; or (2) if a municipal or county government, the provision of electric generation service or gas supply service on behalf of business or residential customers within its territorial jurisdiction;

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

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

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

"Historic fill" means generally large volumes of non-indigenous material, no matter what date they were emplaced on the site, used to raise the

topographic elevation of a site, which were contaminated prior to emplacement and are in no way connected with the operations at the location of emplacement and which include, but are not limited to, construction debris, dredge spoils, incinerator residue, demolition debris, fly ash, and nonhazardous solid waste. "Historic fill" shall not include any material which is substantially chromate chemical production waste or any other chemical production waste or waste from processing of metal or mineral ores, residues, slags, or tailings;

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

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

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

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

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

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

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

"Net metering aggregation" means a procedure for calculating the combination of the annual energy usage for all facilities owned by a single customer where such customer is a State entity, school district, county, county agency, county authority, municipality, municipal agency, or municipal authority, and which are served by a solar electric power generating facility as provided pursuant to paragraph (4) of subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87);

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

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

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

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

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

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

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

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

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

"Preliminary assessment" shall have the same meaning as provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b);

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

"Properly closed sanitary landfill facility" means a sanitary landfill facility, or a portion of a sanitary landfill facility, for which performance is complete with respect to all activities associated with the design, installation, purchase, or construction of all measures, structures, or equipment required by the Department of Environmental Protection, pursuant to law, in order to prevent, minimize, or monitor pollution or health hazards resulting from a sanitary landfill facility subsequent to the termination of operations at any portion thereof, including, but not necessarily limited to, the placement of earthen or vegetative cover, and the installation of methane gas vents or monitors and leachate monitoring wells or collection systems at the site of any sanitary landfill facility;

"Public utility holding company" means: (1) any company that, directly or indirectly, owns, controls, or holds with power to vote, ten percent or more of the outstanding voting securities of an electric public utility or a gas public utility or of a company which is a public utility holding company by virtue of this definition, unless the Securities and Exchange Commission, or its successor, by order declares such company not to be a public utility holding company under the Public Utility Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the Se-

curities and Exchange Commission, or its successor, determines, after notice and opportunity for hearing, directly or indirectly, to exercise, either alone or pursuant to an arrangement or understanding with one or more other persons, such a controlling influence over the management or policies of an electric public utility or a gas public utility or public utility holding company as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that such person be subject to the obligations, duties, and liabilities imposed in the Public Utility Holding Company Act of 1935 or its successor;

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

"Registration program" means an administrative process developed by the board pursuant to subsection u. of section 38 of P.L.1999, c.23 (C.48:3-87) that requires all owners of solar electric power generation facilities connected to the distribution system that intend to generate SRECs, to file with the board documents detailing the size, location, interconnection plan, land use, and other project information as required by the board;

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

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

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

"Reliability pricing model" or "RPM" means PJM's capacity-market model, and its successors, that secures capacity on behalf of electric load serving entities to satisfy load obligations not satisfied through the output

of electric generation facilities owned by those entities, or otherwise secured by those entities through bilateral contracts;

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

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

"Resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse, which the Department of Environmental Protection has determined to be in compliance with current environmental standards, including, but not limited to, all applicable requirements of the federal "Clean Air Act" (42 U.S.C. s.7401 et seq.);

"Restructuring related costs" means reasonably incurred costs directly related to the restructuring of the electric power industry, including the closure, sale, functional separation and divestiture of generation and other competitive utility assets by a public utility, or the provision of competitive services as such costs are determined by the board, and which are not stranded costs as defined in P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited to, investments in management information systems, and which shall include expenses related to employees affected by restructuring which result in efficiencies and which result in benefits to ratepayers, such as training or retraining at the level equivalent to one year's training at a vocational or technical school or county community college, the provision of severance pay of two weeks of base pay for each year of full-time employment, and a maximum of 24 months' continued health care coverage. Except as to expenses related to employees affected by restructuring, "restructuring related costs" shall not include going forward costs;

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

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

"Sanitary landfill facility" shall have the same meaning as provided in section 3 of P.L.1970, c.39 (C.13:1E-3);

"School district" means a local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes, a county special services school district established pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a county vocational school district established pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes, and a district under full State intervention pursuant to P.L.1987, c.399 (C.18A:7A-34 et al.);

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

"Site investigation" shall have the same meaning as provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b);

"Small scale hydropower facility" means a facility located within this State that is connected to the distribution system, and that meets the requirements of, and has been certified by, a nationally recognized low-impact hydropower organization that has established low-impact hydropower certification criteria applicable to: (1) river flows; (2) water quality; (3) fish passage and protection; (4) watershed protection; (5) threatened and endangered species protection; (6) cultural resource protection; (7) recreation; and (8) facilities recommended for removal;

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

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

"Solar alternative compliance payment" or "SACP" means a payment of a certain dollar amount per megawatt hour (MWh) which an electric power supplier or provider may submit to the board in order to comply with the solar electric generation requirements under section 38 of P.L.1999, c.23 (C.48:3-87);

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

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

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

"State entity" means a department, agency, or office of State government, a State university or college, or an authority created by the State;

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

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

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

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

"Transition bonds" means bonds, notes, certificates of participation or beneficial interest or other evidences of indebtedness or ownership issued pursuant to an indenture, contract or other agreement of an electric public utility or a financing entity, the proceeds of which are used, directly or indirectly, to recover, finance or refinance bondable stranded costs and which are, directly or indirectly, secured by or payable from bondable transition property. References in P.L.1999, c.23 (C.48:3-49 et al.) to principal, interest, and acquisition or redemption premium with respect to transition bonds which are issued in the form of certificates of participation or beneficial interest or other evidences of ownership shall refer to the comparable payments on such securities;

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

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

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

2. Section 38 of P.L.1999, c.23 (C.48:3-87) is amended to read as follows:

C.48:3-87 Environmental disclosure requirements; standards; rules.

38. a. The board shall require an electric power supplier or basic generation service provider to disclose on a customer's bill or on customer contracts or marketing materials, a uniform, common set of information about the environmental characteristics of the energy purchased by the customer, including, but not limited to:

(1) Its fuel mix, including categories for oil, gas, nuclear, coal, solar, hydroelectric, wind and biomass, or a regional average determined by the board;

(2) Its emissions, in pounds per megawatt hour, of sulfur dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant that the board may determine to pose an environmental or health hazard, or an emissions default to be determined by the board; and

(3) Any discrete emission reduction retired pursuant to rules and regulations adopted pursuant to P.L.1995, c.188.

b. Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board shall initiate a proceeding and shall adopt, in consultation with the Department of Environmental Protection, after notice and opportunity for public comment and public hearing, interim standards to implement this disclosure requirement, including, but not limited to:

(1) A methodology for disclosure of emissions based on output pounds per megawatt hour;

(2) Benchmarks for all suppliers and basic generation service providers to use in disclosing emissions that will enable consumers to perform a meaningful comparison with a supplier's or basic generation service provider's emission levels; and

(3) A uniform emissions disclosure format that is graphic in nature and easily understandable by consumers. The board shall periodically review the disclosure requirements to determine if revisions to the environmental disclosure system as implemented are necessary.

Such standards shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the board in accordance with the provisions of the "Administrative Procedure Act."

c. (1) The board may adopt, in consultation with the Department of Environmental Protection, after notice and opportunity for public comment, an emissions portfolio standard applicable to all electric power suppliers and basic generation service providers, upon a finding that:

(a) The standard is necessary as part of a plan to enable the State to meet federal Clean Air Act or State ambient air quality standards; and

(b) Actions at the regional or federal level cannot reasonably be expected to achieve the compliance with the federal standards.

(2) By July 1, 2009, the board shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a greenhouse gas emissions portfolio standard to mitigate leakage or another regulatory mechanism to mitigate leakage applicable to all electric power suppliers and basic generation service providers that provide electricity to customers

within the State. The greenhouse gas emissions portfolio standard or any other regulatory mechanism to mitigate leakage shall:

(a) Allow a transition period, either before or after the effective date of the regulation to mitigate leakage, for a basic generation service provider or electric power supplier to either meet the emissions portfolio standard or other regulatory mechanism to mitigate leakage, or to transfer any customer to a basic generation service provider or electric power supplier that meets the emissions portfolio standard or other regulatory mechanism to mitigate leakage. If the transition period allowed pursuant to this subparagraph occurs after the implementation of an emissions portfolio standard or other regulatory mechanism to mitigate leakage, the transition period shall be no longer than three years; and

(b) Exempt the provision of basic generation service pursuant to a basic generation service purchase and sale agreement effective prior to the date of the regulation.

Unless the Attorney General or the Attorney General's designee determines that a greenhouse gas emissions portfolio standard would unconstitutionally burden interstate commerce or would be preempted by federal law, the adoption by the board of an electric energy efficiency portfolio standard pursuant to subsection g. of this section, a gas energy efficiency portfolio standard pursuant to subsection h. of this section, or any other enhanced energy efficiency policies to mitigate leakage shall not be considered sufficient to fulfill the requirement of this subsection for the adoption of a greenhouse gas emissions portfolio standard or any other regulatory mechanism to mitigate leakage.

d. Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board shall initiate a proceeding and shall adopt, after notice, provision of the opportunity for comment, and public hearing, renewable energy portfolio standards that shall require:

(1) that two and one-half percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from Class I or Class II renewable energy sources;

(2) beginning on January 1, 2001, that one-half of one percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from Class I renewable energy sources. The board shall increase the required percentage for Class I renewable energy sources so that by January 1, 2006, one percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider shall be from Class I renewable energy

sources and shall additionally increase the required percentage for Class I renewable energy sources by one-half of one percent each year until January 1, 2012, when four percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider shall be from Class I renewable energy sources.

An electric power supplier or basic generation service provider may satisfy the requirements of this subsection by participating in a renewable energy trading program approved by the board in consultation with the Department of Environmental Protection;

(3) that the board establish a multi-year schedule, applicable to each electric power supplier or basic generation service provider in this State, beginning with the one-year period commencing on June 1, 2010, and continuing for each subsequent one-year period up to and including, the one-year period commencing on June 1, 2028, that requires the following number or percentage, as the case may be, of kilowatt-hours sold in this State by each electric power supplier and each basic generation service provider to be from solar electric power generators connected to the distribution system in this State:

EY 2011	306 Gigawatthours (Gwhrs)
EY 2012	442 Gwhrs
EY 2013	596 Gwhrs
EY 2014	2.050%
EY 2015	2.450%
EY 2016	2.750%
EY 2017	3.000%
EY 2018	3.200%
EY 2019	3.290%
EY 2020	3.380%
EY 2021	3.470%
EY 2022	3.560%
EY 2023	3.650%
EY 2024	3.740%
EY 2025	3.830%
EY 2026	3.920%
EY 2027	4.010%

EY 2028 4.100%, and for every energy year thereafter, at least 4.100% per energy year to reflect an increasing number of kilowatt-hours to be purchased by suppliers or providers from solar electric power generators connected to the distribution system in this State, and to establish a framework within which, of the electricity that the generators sell in this State, suppli-

ers and providers shall each obtain at least 3.470% in the energy year 2021 and 4.100% in the energy year 2028 from solar electric power generators connected to the distribution system in this State, provided, however, that:

(a) The board shall determine an appropriate period of no less than 120 days following the end of an energy year prior to which a provider or supplier must demonstrate compliance for that energy year with the annual renewable portfolio standard;

(b) No more than 24 months following the date of enactment of P.L.2012, c.24, the board shall complete a proceeding to investigate approaches to mitigate solar development volatility and prepare and submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report to the Legislature, detailing its findings and recommendations. As part of the proceeding, the board shall evaluate other techniques used nationally and internationally;

(c) The solar renewable portfolio standards requirements in this paragraph shall exempt those existing supply contracts which are effective prior to the date of enactment of P.L.2012, c.24 from any increase beyond the number of SRECs mandated by the solar renewable portfolio standards requirements that were in effect on the date that the providers executed their existing supply contracts. This limited exemption for providers' existing supply contracts shall not be construed to lower the Statewide solar sourcing requirements set forth in this paragraph. Such incremental requirements that would have otherwise been imposed on exempt providers shall be distributed over the providers not subject to the existing supply contract exemption until such time as existing supply contracts expire and all providers are subject to the new requirement in a manner that is competitively neutral among all providers and suppliers. The board shall implement the provisions of this subsection in a manner so as to prevent any subsidies between suppliers and providers and to promote competition in the electricity supply industry.

An electric power supplier or basic generation service provider may satisfy the requirements of this subsection by participating in a renewable energy trading program approved by the board in consultation with the Department of Environmental Protection, or compliance with the requirements of this subsection may be demonstrated to the board by suppliers or providers through the purchase of SRECs.

The renewable energy portfolio standards adopted by the board pursuant to paragraphs (1) and (2) of this subsection shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter,

be amended, adopted or readopted by the board in accordance with the provisions of the "Administrative Procedure Act."

The renewable energy portfolio standards adopted by the board pursuant to this paragraph shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 30 months after such filing, and shall, thereafter, be amended, adopted or readopted by the board in accordance with the "Administrative Procedure Act"; and

(4) within 180 days after the date of enactment of P.L.2010, c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind renewable energy certificate program to require that a percentage of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from offshore wind energy in order to support at least 1,100 megawatts of generation from qualified offshore wind projects.

The percentage established by the board pursuant to this paragraph shall serve as an offset to the renewable energy portfolio standard established pursuant to paragraphs (1) and (2) of this subsection and shall reduce the corresponding Class I renewable energy requirement.

The percentage established by the board pursuant to this paragraph shall reflect the projected OREC production of each qualified offshore wind project, approved by the board pursuant to section 3 of P.L.2010, c.57 (C.48:3-87.1), for twenty years from the commercial operation start date of the qualified offshore wind project which production projection and OREC purchase requirement, once approved by the board, shall not be subject to reduction.

An electric power supplier or basic generation service provider shall comply with the OREC program established pursuant to this paragraph through the purchase of offshore wind renewable energy certificates at a price and for the time period required by the board. In the event there are insufficient offshore wind renewable energy certificates available, the electric power supplier or basic generation service provider shall pay an offshore wind alternative compliance payment established by the board. Any offshore wind alternative compliance payments collected shall be refunded directly to the ratepayers by the electric public utilities.

The rules established by the board pursuant to this paragraph shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the board in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board shall initiate a proceeding and shall adopt, after notice, provision of the opportunity for comment, and public hearing:

(1) net metering standards for electric power suppliers and basic generation service providers. The standards shall require electric power suppliers and basic generation service providers to offer net metering at nondiscriminatory rates to industrial, large commercial, residential and small commercial customers, as those customers are classified or defined by the board, that generate electricity, on the customer's side of the meter, using a Class I renewable energy source, for the net amount of electricity supplied by the electric power supplier or basic generation service provider over an annualized period. Systems of any sized capacity, as measured in watts, are eligible for net metering. If the amount of electricity generated by the customer-generator, plus any kilowatt hour credits held over from the previous billing periods, exceeds the electricity supplied by the electric power supplier or basic generation service provider, then the electric power supplier or basic generation service provider, as the case may be, shall credit the customer-generator for the excess kilowatt hours until the end of the annualized period at which point the customer-generator will be compensated for any remaining credits or, if the customer-generator chooses, credit the customer-generator on a real-time basis, at the electric power supplier's or basic generation service provider's avoided cost of wholesale power or the PJM electric power pool's real-time locational marginal pricing rate, adjusted for losses, for the respective zone in the PJM electric power pool. Alternatively, the customer-generator may execute a bilateral agreement with an electric power supplier or basic generation service provider for the sale and purchase of the customer-generator's excess generation. The customer-generator may be credited on a real-time basis, so long as the customer-generator follows applicable rules prescribed by the PJM electric power pool for its capacity requirements for the net amount of electricity supplied by the electric power supplier or basic generation service provider. The board may authorize an electric power supplier or basic generation service provider to cease offering net metering whenever the total rated generating capacity owned and operated by net metering customer-generators Statewide equals 2.5 percent of the State's peak electricity demand;

(2) safety and power quality interconnection standards for Class I renewable energy source systems used by a customer-generator that shall be eligible for net metering.

Such standards or rules shall take into consideration the goals of the New Jersey Energy Master Plan, applicable industry standards, and the standards of other states and the Institute of Electrical and Electronic Engineers. The board shall allow electric public utilities to recover the costs of any new net meters, upgraded net meters, system reinforcements or upgrades, and interconnection costs through either their regulated rates or from the net metering customer-generator;

(3) credit or other incentive rules for generators using Class I renewable energy generation systems that connect to New Jersey's electric public utilities' distribution system but who do not net meter; and

(4) net metering aggregation standards to require electric public utilities to provide net metering aggregation to single electric public utility customers that operate a solar electric power generation system installed at one of the customer's facilities or on property owned by the customer, provided that any such customer is a State entity, school district, county, county agency, county authority, municipality, municipal agency, or municipal authority. The standards shall provide that, in order to qualify for net metering aggregation, the customer must operate a solar electric power generation system using a net metering billing account, which system is located on property owned by the customer, provided that: (a) the property is not land that has been actively devoted to agricultural or horticultural use and that is valued, assessed, and taxed pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year period prior to the effective date of P.L.2012, c.24, provided, however, that the municipal planning board of a municipality in which a solar electric power generation system is located may waive the requirement of this subparagraph (a), (b) the system is not an on-site generation facility, (c) all of the facilities of the single customer combined for the purpose of net metering aggregation are facilities owned or operated by the single customer and are located within its territorial jurisdiction except that all of the facilities of a State entity engaged in net metering aggregation shall be located within five miles of one another, and (d) all of those facilities are within the service territory of a single electric public utility and are all served by the same basic generation service provider or by the same electric power supplier. The standards shall provide that in order to qualify for net metering aggregation, the customer's solar electric power generation system shall be sized so that its annual generation does not exceed the combined metered annual energy usage of the qualified customer facilities, and the qualified customer facilities shall all be in the same customer rate class under the applicable electric public utility tariff. For the customer's facility

or property on which the solar electric generation system is installed, the electricity generated from the customer's solar electric generation system shall be accounted for pursuant to the provisions of paragraph (1) of this subsection to provide that the electricity generated in excess of the electricity supplied by the electric power supplier or the basic generation service provider, as the case may be, for the customer's facility on which the solar electric generation system is installed, over the annualized period, is credited at the electric power supplier's or the basic generation service provider's avoided cost of wholesale power or the PJM electric power pool real-time locational marginal pricing rate. All electricity used by the customer's qualified facilities, with the exception of the facility or property on which the solar electric power generation system is installed, shall be billed at the full retail rate pursuant to the electric public utility tariff applicable to the customer class of the customer using the electricity. A customer may contract with a third party to operate a solar electric power generation system, for the purpose of net metering aggregation. Any contractual relationship entered into for operation of a solar electric power generation system related to net metering aggregation shall include contractual protections that provide for adequate performance and provision for construction and operation for the term of the contract, including any appropriate bonding or escrow requirements. Any incremental cost to an electric public utility for net metering aggregation shall be fully and timely recovered in a manner to be determined by the board. The board shall adopt net metering aggregation standards within 270 days after the effective date of P.L.2012, c.24.

Such rules shall require the board or its designee to issue a credit or other incentive to those generators that do not use a net meter but otherwise generate electricity derived from a Class I renewable energy source and to issue an enhanced credit or other incentive, including, but not limited to, a solar renewable energy credit, to those generators that generate electricity derived from solar technologies.

Such standards or rules shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the board in accordance with the provisions of the "Administrative Procedure Act."

f. The board may assess, by written order and after notice and opportunity for comment, a separate fee to cover the cost of implementing and overseeing an emission disclosure system or emission portfolio standard, which fee shall be assessed based on an electric power supplier's or basic generation service provider's share of the retail electricity supply market.

The board shall not impose a fee for the cost of implementing and overseeing a greenhouse gas emissions portfolio standard adopted pursuant to paragraph (2) of subsection c. of this section, the electric energy efficiency portfolio standard adopted pursuant to subsection g. of this section, or the gas energy efficiency portfolio standard adopted pursuant to subsection h. of this section.

g. The board may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric energy efficiency portfolio standard that may require each electric public utility to implement energy efficiency measures that reduce electricity usage in the State by 2020 to a level that is 20 percent below the usage projected by the board in the absence of such a standard. Nothing in this section shall be construed to prevent an electric public utility from meeting the requirements of this section by contracting with another entity for the performance of the requirements.

h. The board may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy efficiency portfolio standard that may require each gas public utility to implement energy efficiency measures that reduce natural gas usage for heating in the State by 2020 to a level that is 20 percent below the usage projected by the board in the absence of such a standard. Nothing in this section shall be construed to prevent a gas public utility from meeting the requirements of this section by contracting with another entity for the performance of the requirements.

i. After the board establishes a schedule of solar kilowatt-hour sale or purchase requirements pursuant to paragraph (3) of subsection d. of this section, the board may initiate subsequent proceedings and adopt, after appropriate notice and opportunity for public comment and public hearing, increased minimum solar kilowatt-hour sale or purchase requirements, provided that the board shall not reduce previously established minimum solar kilowatt-hour sale or purchase requirements, or otherwise impose constraints that reduce the requirements by any means.

j. The board shall determine an appropriate level of solar alternative compliance payment, and permit each supplier or provider to submit an SACP to comply with the solar electric generation requirements of paragraph (3) of subsection d. of this section. The value of the SACP for each Energy Year, for Energy Years 2014 through 2028 per megawatt hour from solar electric generation required pursuant to this section, shall be:

EY 2014	$339
EY 2015	$331
EY 2016	$323

EY 2017	$315
EY 2018	$308
EY 2019	$300
EY 2020	$293
EY 2021	$286
EY 2022	$279
EY 2023	$272
EY 2024	$266
EY 2025	$260
EY 2026	$253
EY 2027	$250
EY 2028	$239.

The board may initiate subsequent proceedings and adopt, after appropriate notice and opportunity for public comment and public hearing, an increase in solar alternative compliance payments, provided that the board shall not reduce previously established levels of solar alternative compliance payments, nor shall the board provide relief from the obligation of payment of the SACP by the electric power suppliers or basic generation service providers in any form. Any SACP payments collected shall be refunded directly to the ratepayers by the electric public utilities.

k. The board may allow electric public utilities to offer long-term contracts through a competitive process, direct electric public utility investment and other means of financing, including but not limited to loans, for the purchase of SRECs and the resale of SRECs to suppliers or providers or others, provided that after such contracts have been approved by the board, the board's approvals shall not be modified by subsequent board orders. If the board allows the offering of contracts pursuant to this subsection, the board may establish a process, after hearing, and opportunity for public comment, to provide that a designated segment of the contracts approved pursuant to this subsection shall be contracts involving solar electric power generation facility projects with a capacity of up to 250 kilowatts.

l. The board shall implement its responsibilities under the provisions of this section in such a manner as to:

(1) place greater reliance on competitive markets, with the explicit goal of encouraging and ensuring the emergence of new entrants that can foster innovations and price competition;

(2) maintain adequate regulatory authority over non-competitive public utility services;

(3) consider alternative forms of regulation in order to address changes in the technology and structure of electric public utilities;

(4) promote energy efficiency and Class I renewable energy market development, taking into consideration environmental benefits and market barriers;

(5) make energy services more affordable for low and moderate income customers;

(6) attempt to transform the renewable energy market into one that can move forward without subsidies from the State or public utilities;

(7) achieve the goals put forth under the renewable energy portfolio standards;

(8) promote the lowest cost to ratepayers; and

(9) allow all market segments to participate.

m. The board shall ensure the availability of financial incentives under its jurisdiction, including, but not limited to, long-term contracts, loans, SRECs, or other financial support, to ensure market diversity, competition, and appropriate coverage across all ratepayer segments, including, but not limited to, residential, commercial, industrial, non-profit, farms, schools, and public entity customers.

n. For projects which are owned, or directly invested in, by a public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), the board shall determine the number of SRECs with which such projects shall be credited; and in determining such number the board shall ensure that the market for SRECs does not detrimentally affect the development of non-utility solar projects and shall consider how its determination may impact the ratepayers.

o. The board, in consultation with the Department of Environmental Protection, electric public utilities, the Division of Rate Counsel in, but not of, the Department of the Treasury, affected members of the solar energy industry, and relevant stakeholders, shall periodically consider increasing the renewable energy portfolio standards beyond the minimum amounts set forth in subsection d. of this section, taking into account the cost impacts and public benefits of such increases including, but not limited to:

(1) reductions in air pollution, water pollution, land disturbance, and greenhouse gas emissions;

(2) reductions in peak demand for electricity and natural gas, and the overall impact on the costs to customers of electricity and natural gas;

(3) increases in renewable energy development, manufacturing, investment, and job creation opportunities in this State; and

(4) reductions in State and national dependence on the use of fossil fuels.

p. Class I RECs and ORECs shall be eligible for use in renewable energy portfolio standards compliance in the energy year in which they are generated, and for the following two energy years. SRECs shall be eligible for use in renewable energy portfolio standards compliance in the energy year in which they are generated, and for the following four energy years.

q. (1) During the energy years of 2014, 2015, and 2016, a solar electric power generation facility project that is not: (a) net metered; (b) an on-site generation facility; (c) qualified for net metering aggregation; or (d) certified as being located on a brownfield, on an area of historic fill or on a properly closed sanitary landfill facility, as provided pursuant to subsection t. of this section may file an application with the board for approval of a designation pursuant to this subsection that the facility is connected to the distribution system. An application filed pursuant to this subsection shall include a notice escrow of $40,000 per megawatt of the proposed capacity of the facility. The board shall approve the designation if: the facility has filed a notice in writing with the board applying for designation pursuant to this subsection, together with the notice escrow; and the capacity of the facility, when added to the capacity of other facilities that have been previously approved for designation prior to the facility's filing under this subsection, does not exceed 80 megawatts in the aggregate for each year. The capacity of any one solar electric power supply project approved pursuant to this subsection shall not exceed 10 megawatts. No more than 90 days after its receipt of a completed application for designation pursuant to this subsection, the board shall approve, conditionally approve, or disapprove the application. The notice escrow shall be reimbursed to the facility in full upon either rejection by the board or the facility entering commercial operation, or shall be forfeited to the State if the facility is designated pursuant to this subsection but does not enter commercial operation pursuant to paragraph (2) of this subsection.

(2) If the proposed solar electric power generation facility does not commence commercial operations within two years following the date of the designation by the board pursuant to this subsection, the designation of the facility shall be deemed to be null and void, and the facility shall not be considered connected to the distribution system thereafter.

r. (1) For all proposed solar electric power generation facility projects except for those solar electric power generation facility projects approved pursuant to subsection q. of this section, and for all projects proposed in each energy year following energy year 2016, a proposed solar electric power generation facility that is neither net metered nor an on-site generation facility, may be considered "connected to the distribution system" only

upon designation as such by the board, after notice to the public and opportunity for public comment or hearing. A proposed solar power electric generation facility seeking board designation as "connected to the distribution system" shall submit an application to the board that includes for the proposed facility: the nameplate capacity; the estimated energy and number of SRECs to be produced and sold per year; the estimated annual rate impact on ratepayers; the estimated capacity of the generator as defined by PJM for sale in the PJM capacity market; the point of interconnection; the total project acreage and location; the current land use designation of the property; the type of solar technology to be used; and such other information as the board shall require.

(2) The board shall approve the designation of the proposed solar power electric generation facility as "connected to the distribution system" if the board determines that:

(a) the SRECs forecasted to be produced by the facility do not have a detrimental impact on the SREC market or on the appropriate development of solar power in the State;

(b) the approval of the designation of the proposed facility would not significantly impact the preservation of open space in this State;

(c) the impact of the designation on electric rates and economic development is beneficial; and

(d) there will be no impingement on the ability of an electric public utility to maintain its property and equipment in such a condition as to enable it to provide safe, adequate, and proper service to each of its customers.

(3) The board shall act within 90 days of its receipt of a completed application for designation of a solar power electric generation facility as "connected to the distribution system," to either approve, conditionally approve, or disapprove the application. If the proposed solar electric power generation facility does not commence commercial operations within two years following the date of the designation by the board pursuant to this subsection, the designation of the facility as "connected to the distribution system" shall be deemed to be null and void, and the facility shall thereafter be considered not "connected to the distribution system."

s. In addition to any other requirements of P.L.1999, c.23 or any other law, rule, regulation or order, a solar electric power generation facility that is not net metered or an on-site generation facility and which is located on land that has been actively devoted to agricultural or horticultural use that is valued, assessed, and taxed pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year period prior to the effective date of P.L.2012, c.24, shall only be considered

"connected to the distribution system" if (1) the board approves the facility's designation pursuant to subsection q. of this section; or (2) (a) PJM issued a System Impact Study for the facility on or before June 30, 2011, (b) the facility files a notice with the board within 60 days of the effective date of P.L.2012, c.24, indicating its intent to qualify under this subsection, and (c) the facility has been approved as "connected to the distribution system" by the board. Nothing in this subsection shall limit the board's authority concerning the review and oversight of facilities, unless such facilities are exempt from such review as a result of having been approved pursuant to subsection q. of this section.

t. (1) No more than 180 days after the date of enactment of P.L.2012, c.24, the board shall, in consultation with the Department of Environmental Protection and the New Jersey Economic Development Authority, and, after notice and opportunity for public comment and public hearing, complete a proceeding to establish a program to provide SRECs to owners of solar electric power generation facility projects certified by the board, in consultation with the Department of Environmental Protection, as being located on a brownfield, on an area of historic fill or on a properly closed sanitary landfill facility, including those owned or operated by an electric public utility and approved pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1). Projects certified under this subsection shall be considered "connected to the distribution system", shall not require such designation by the board, and shall not be subject to board review required pursuant to subsections q. and r. of this section. Notwithstanding the provisions of section 3 of P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or order to the contrary, for projects certified under this subsection, the board shall establish a financial incentive that is designed to supplement the SRECs generated by the facility in order to cover the additional cost of constructing and operating a solar electric power generation facility on a brownfield, on an area of historic fill or on a properly closed sanitary landfill facility. Any financial benefit realized in relation to a project owned or operated by an electric public utility and approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a financial incentive established by the board pursuant to this subsection, shall be credited to ratepayers. The issuance of SRECs for all solar electric power generation facility projects pursuant to this subsection shall be deemed "Board of Public Utilities financial assistance" as provided under section 1 of P.L.2009, c.89 (C.48:2-29.47).

(2) Notwithstanding the provisions of the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any other law, rule,

regulation, or order to the contrary, the board, in consultation with the Department of Environmental Protection, may find that a person who operates a solar electric power generation facility project that has commenced operation on or after the effective date of P.L.2012, c.24, which project is certified by the board, in consultation with the Department of Environmental Protection pursuant to paragraph (1) of this subsection, as being located on a brownfield for which a final remediation document has been issued, on an area of historic fill or on a properly closed sanitary landfill facility, which projects shall include, but not be limited to projects located on a brownfield for which a final remediation document has been issued, on an area of historic fill or on a properly closed sanitary landfill facility owned or operated by an electric public utility and approved pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), or a person who owns property acquired on or after the effective date of P.L.2012, c.24 on which such a solar electric power generation facility project is constructed and operated, shall not be liable for cleanup and removal costs to the Department of Environmental Protection or to any other person for the discharge of a hazardous substance provided that:

(a) the person acquired or leased the real property after the discharge of that hazardous substance at the real property;

(b) the person did not discharge the hazardous substance, is not in any way responsible for the hazardous substance, and is not a successor to the discharger or to any person in any way responsible for the hazardous substance or to anyone liable for cleanup and removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g);

(c) the person, within 30 days after acquisition of the property, gave notice of the discharge to the Department of Environmental Protection in a manner the Department of Environmental Protection prescribes;

(d) the person does not disrupt or change, without prior written permission from the Department of Environmental Protection, any engineering or institutional control that is part of a remedial action for the contaminated site or any landfill closure or post-closure requirement;

(e) the person does not exacerbate the contamination at the property;

(f) the person does not interfere with any necessary remediation of the property;

(g) the person complies with any regulations and any permit the Department of Environmental Protection issues pursuant to section 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection a. of section 6 of P.L.1970, c.39 (C.13:1E-6);

(h) with respect to an area of historic fill, the person has demonstrated pursuant to a preliminary assessment and site investigation, that hazardous substances have not been discharged; and

(i) with respect to a properly closed sanitary landfill facility, no person who owns or controls the facility receives, has received, or will receive, with respect to such facility, any funds from any post-closure escrow account established pursuant to section 10 of P.L.1981, c.306 (C.13:1E-109) for the closure and monitoring of the facility.

Only the person who is liable to clean up and remove the contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g) and who does not have a defense to liability pursuant to subsection d. of that section shall be liable for cleanup and removal costs.

u. No more than 180 days after the date of enactment of P.L.2012, c.24, the board shall complete a proceeding to establish a registration program. The registration program shall require the owners of solar electric power generation facility projects connected to the distribution system to make periodic milestone filings with the board in a manner and at such times as determined by the board to provide full disclosure and transparency regarding the overall level of development and construction activity of those projects Statewide.

v. The issuance of SRECs for all solar electric power generation facility projects pursuant to this section, for projects connected to the distribution system with a capacity of one megawatt or greater, shall be deemed "Board of Public Utilities financial assistance" as provided pursuant to section 1 of P.L.2009, c.89 (C.48:2-29.47).

w. No more than 270 days after the date of enactment of P.L.2012, c.24, the board shall, after notice and opportunity for public comment and public hearing, complete a proceeding to consider whether to establish a program to provide, to owners of solar electric power generation facility projects certified by the board as being three megawatts or greater in capacity and being net metered, including facilities which are owned or operated by an electric public utility and approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is designed to supplement the SRECs generated by the facility to further the goal of improving the economic competitiveness of commercial and industrial customers taking power from such projects. If the board determines to establish such a program pursuant to this subsection, the board may establish a financial incentive to provide that the board shall issue one SREC for no less than every 750 kilowatt-hours of solar energy generated by the certified projects. Any financial benefit realized in relation to a project owned or

operated by an electric public utility and approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provisions of a financial incentive established by the board pursuant to this subsection, shall be credited to ratepayers.

x. Solar electric power generation facility projects that are located on an existing or proposed commercial, retail, industrial, municipal, professional, recreational, transit, commuter, entertainment complex, multi-use, or mixed-use parking lot with a capacity to park 350 or more vehicles where the area to be utilized for the facility is paved, or an impervious surface may be owned or operated by an electric public utility and may be approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).

3. This act shall take effect immediately.

Approved July 23, 2012.

CHAPTER 25

AN ACT concerning public contracts and supplementing various parts of the statutory law.

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

C.52:32-55 Findings, declarations relative to certain public contracts.

1. The Legislature finds and declares that:

a. In imposing sanctions on Iran, the United States Congress and the President of the United States have determined that the illicit nuclear activities of Iran, combined with its development of unconventional weapons and ballistic missiles, and its support of international terrorism, represent a serious threat to the security of the United States and its allies around the world.

b. The International Atomic Energy Agency has repeatedly called attention to Iran's unlawful nuclear activities, and as a result, the United Nations Security Council has adopted four rounds of sanctions designed to compel the Government of Iran to cease those activities and comply with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons, commonly known as the Nuclear Non-Proliferation Treaty.

c. The human rights situation in Iran has steadily deteriorated since the fraudulent elections of 2009, as evidenced by the brutal repression, tor-

ture, murder and arbitrary detention of peaceful protestors, dissidents and minorities.

d. On July 1, 2010, President Obama signed into law the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, which expressly authorizes state and local governments to prevent investment in, including prohibiting entry into or renewing contracts with, companies operating in Iran and includes provisions that preclude companies that do business in Iran from contracting with the U.S. Government.

e. It is the intention of the Legislature to implement this authority granted under Section 202 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010.

f. There are moral and reputational reasons for state and local governments to not engage in business with foreign companies that have business activities benefiting foreign states, such as Iran, that pursue illegal nuclear programs, support acts of terrorism and commit violations of human rights.

g. Short-term economic profits cannot be a justification to circumvent even in spirit those international sanctions designed to thwart Iran from developing nuclear weapons.

h. The concerns of this Legislature regarding Iran are strictly the result of the actions of the government of Iran and should not be construed as enmity toward the Iranian people.

C.52:32-56 Definitions relative to certain public contracts.

2. As used in this act:

a. "State agency" means any of the principal departments in the Executive Branch of the State government, and any division, board, bureau, office, commission or other instrumentality within or created by such department, the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch, and any independent State authority, commission, instrumentality or agency which is authorized by law to award public contracts.

b. "Energy sector" of Iran means activities to develop, invest in, explore for, refine, transfer, purchase or sell petroleum, gasoline, or other refined petroleum products, or natural gas, liquefied natural gas resources or nuclear power in Iran.

c. "Financial institution" means the term as used in Section 14 of the Iran Sanctions Act of 1996, Section 14 of Pub.L.104-172 (50 U.S.C. 1701 note).

d. "Iran" means the government of Iran, and includes the territory of Iran and any other territory or marine area, including the exclusive economic zone and continental shelf, over which the government of Iran claims sover-

eignty, sovereign rights, or jurisdiction, provided that the government of Iran exercises partial or total control over the area or derives a benefit from economic activity in the area pursuant to international arrangements.

e. "Person or entity" means any of the following:

(1) A natural person, corporation, company, limited partnership, limited liability partnership, limited liability company, business association, sole proprietorship, joint venture, partnership, society, trust, or any other nongovernmental entity, organization, or group.

(2) Any governmental entity or instrumentality of a government, including a multilateral development institution, as defined in Section 1701(c)(3) of the International Financial Institutions Act, 22 U.S.C. 262r(c)(3).

(3) Any parent, successor, subunit, direct or indirect subsidiary, or any entity under common ownership or control with, any entity described in paragraph (1) or (2).

f. For the purposes of this act, a person engages in investment activities in Iran, if:

the person provides goods or services of $20,000,000 or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or

the person is a financial institution that extends $20,000,000 or more in credit to another person, for 45 days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created pursuant to subsection b. of section 3 of this act as a person engaging in investment activities in Iran as described in subsection a. of section 3 of this act.

The State Treasurer shall adopt regulations that reduce the amounts provided for in this subsection if the State Treasurer determines that such change is permitted or required under Section 202 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010.

C.52:32-57 Certain persons, entities prohibited from bidding on certain public contracts, maintenance of list.

3. a. A person or entity that, at the time of bid or proposal for a new contract or renewal of an existing contract, is identified on a list created pursuant to subsection b. of this section as a person or entity engaging in investment activities in Iran as described in subsection f. of section 2 of this act, shall be ineligible to, and shall not, bid on, submit a proposal for, or enter into or renew, a contract with a State agency for goods or services.

b. Within 90 days of the effective date of this act, the Department of the Treasury shall, using credible information available to the public, develop a list of persons or entities it determines engage in investment activities in Iran as described in subsection f. of section 2.

c. The department shall update the list every 180 days.

d. Before finalizing an initial list pursuant to subsection b. of this section or an updated list pursuant to subsection c. of this section, the department shall do the following before a person or entity is included on the list:

(1) Provide 90 days' written notice of its intent to include the person or entity on the list. The notice shall inform the person or entity that inclusion on the list would make the person or entity ineligible to bid on, submit a proposal for, or enter into or renew, a contract for goods or services with a State agency; and

(2) Provide a person or entity with an opportunity to comment in writing that it is not engaged in investment activities in Iran. If the person or entity demonstrates to the department that the person or entity is not engaged in investment activities in Iran as described in subsection f. of section 2 of this act, the person or entity shall not be included on the list, unless the person or entity is otherwise ineligible to bid on a contract as described in paragraph (3) of subsection a. of section 5 of this act.

(3) The department shall make every effort to avoid erroneously including a person or entity on the list.

C.52:32-58 Certification required.

4. a. A State agency shall require a person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract to certify, at the time the bid is submitted or the contract is renewed, that the person or entity is not identified on a list created pursuant to subsection b. of section 3 of this act as a person or entity engaging in investment activities in Iran described in subsection f. of section 2 of this act.

b. The certification required shall be executed on behalf of the applicable person or entity by an authorized officer or representative of the person or entity.

c. In the event that a person or entity is unable to make the certification required because it or one of its parents, subsidiaries, or affiliates as defined in subsection e. of section 2 of this act has engaged in one or more of the activities specified in subsection f. of section 2 of this act, the person or entity shall provide to the State agency concerned, prior to the deadline for delivery of such certification, a detailed and precise description of such activities, such description to be provided under penalty of perjury.

d. The certifications provided under subsection a. of this section and disclosures provided under subsection c. of this section shall be disclosed to the public.

C.52:32-59 False certification, penalties.

5. a. If the department determines, using credible information available to the public and after providing 90 days' written notice and an opportunity to comment in writing for the person or entity to demonstrate that it is not engaged in investment activities in Iran, that the person or entity has submitted a false certification pursuant to section 4 of this act, and the person or entity fails to demonstrate to the department that the person or entity has ceased its engagement in the investment activities in Iran within 90 days after the determination of a false certification, the following shall apply:

(1) Pursuant to an action under subsection b. of this section, a civil penalty in an amount that is equal to the greater of $1,000,000 or twice the amount of the contract for which the false certification was made.

(2) Termination of an existing contract with the State agency as deemed appropriate by the State agency.

(3) Ineligibility to bid on a contract for a period of three years from the date of the determination that the person or entity submitted the false certification.

b. The department shall report to the New Jersey Attorney General the name of the person or entity that the State agency determines has submitted a false certification under section 4 of this act, together with its information as to the false certification, and the Attorney General shall determine whether to bring a civil action against the person or entity to collect the penalty described in paragraph (1) of subsection a. of this section.

Only one civil action against the person or entity to collect the penalty described in paragraph (1) of subsection a. of this section may be brought for a false certification on a contract. A civil action to collect such penalty shall commence within three years from the date the certification is made.

C.52:32-60 Written notice to Attorney General.

6. The Governor shall submit to the Attorney General of the United States a written notice describing this act within 30 days after its effective date.

C.40A:11-2.1 Civil action brought on behalf of local contracting unit.

7. a. A local contracting unit as defined in and subject to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), shall implement and comply with the provisions of P.L.2012, c.25

(C.52:32-55 et al.), except that the contracting unit shall rely on the list developed by the State Department of the Treasury pursuant to section 3 of P.L.2012, c.25 (C.52:32-57).

b. If the local contracting unit determines that a person or entity has submitted a false certification concerning its engagement in investment activities in Iran pursuant to section 4 of P.L.2012, c.25 (C.52:32-58), the local contracting unit shall report to the New Jersey Attorney General the name of that person or entity, and the Attorney General shall determine whether to bring a civil action against the person to collect the penalty prescribed in paragraph (1) of subsection a. of section 5 of P.L.2012, c.25 (C.52:32-59). The local contracting unit may also report to the municipal attorney or county counsel, as appropriate, the name of that person, together with its information as to the false certification, and the municipal attorney or county counsel, as appropriate, may determine to bring such civil action against the person to collect such penalty.

C.18A:18A-49.4 Civil action brought on behalf of board of education.

8. a. A board of education as defined in and subject to the provisions of the "Public School Contracts Law," P.L.1977, c.114 (N.J.S.18A:18A-1 et seq.), shall implement and comply with the provisions of P.L.2012, c.25 (C.52:32-55 et al.), except that the board shall rely on the list developed by the State Department of the Treasury pursuant to section 3 of P.L.2012, c.25 (C.52:32-57).

b. If the board determines that a person or entity has submitted a false certification concerning its engagement in investment activities in Iran under section 4 of P.L.2012, c.25 (C.52:32-58), the board shall report to the New Jersey Attorney General the name of that person or entity, and the Attorney General shall determine whether to bring a civil action against the person to collect the penalty prescribed in paragraph (1) of subsection a. of section 5 of P.L.2012, c.25 (C.52:32-59).

The board may also report to the board's attorney the name of that person, together with its information as to the false certification, and the board's attorney may determine to bring such civil action against the person to collect such penalty.

C.18A:64A-25.43 Civil action brought on behalf of county college.

9. a. A county college as defined in and subject to the provisions of the "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.), shall implement and comply with the provisions of P.L.2012, c.25 (C.52:32-55 et al.), except that the county college shall rely on the list de-

veloped by the State Department of the Treasury pursuant to section 3 of P.L.2012, c.25 (C.52:32-57).

b. If the county college determines that a person or entity has submitted a false certification concerning its engagement in investment activities in Iran pursuant to section 4 of P.L.2012, c.25 (C.52:32-58), the county college shall report to the New Jersey Attorney General the name of that person, and the Attorney General shall determine whether to bring a civil action against the person or entity to collect the penalty prescribed in paragraph (1) of subsection a. of section 5 of P.L.2012, c.25 (C.52:32-59).

The county college may also report to the county college attorney the name of that person, together with its information as to the false certification, and the county college attorney may determine to bring such civil action against the person to collect such penalty.

10. This act shall take effect immediately but shall apply to contracts awarded or renewed commencing 30 days after the effective date of this act.

Approved July 30, 2012.

CHAPTER 26

AN ACT concerning school employees, revising various parts of the statutory law, and supplementing chapters 6 and 28 of Title 18A of the New Jersey Statutes.

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

C.18A:6-117 Short title.

1. This act shall be known and may be cited as the "Teacher Effectiveness and Accountability for the Children of New Jersey (TEACHNJ) Act."

C.18A:6-118 Findings, declarations relative to the TEACHNJ Act.

2. The Legislature finds and declares that:

a. The goal of this legislation is to raise student achievement by improving instruction through the adoption of evaluations that provide specific feedback to educators, inform the provision of aligned professional development, and inform personnel decisions;

b. The New Jersey Supreme Court has found that a multitude of factors play a vital role in the quality of a child's education, including effectiveness in teaching methods and evaluations. Changing the current evaluation system to focus on improved student outcomes, including objective measures of student growth, is critical to improving teacher effectiveness, raising student achievement, and meeting the objectives of the federal "No Child Left Behind Act of 2001"; and

c. Existing resources from federal, State, and local sources should be used in ways consistent with this law.

C.18A:6-119 Definitions relative to the TEACHNJ Act.

3. As used in sections 12 through 17, 19 through 21, and 24 of P.L.2012, c.26 (C.18A:6-117 et al.):

"Corrective action plan" means a written plan developed by a teaching staff member serving in a supervisory capacity in collaboration with the teaching staff member to address deficiencies as outlined in an evaluation. The corrective action plan shall include timelines for corrective action, responsibilities of the individual teaching staff member and the school district for implementing the plan, and specific support that the district shall provide.

"Evaluation" means a process based on the individual's job description, professional standards and Statewide evaluation criteria that incorporates analysis of multiple measures of student progress and multiple data sources. Such evaluation shall include formal observations, as well as post conferences, conducted and prepared by an individual employed in the district in a supervisory role and capacity and possessing a school administrator certificate, principal certificate, or supervisor certificate.

"Individual professional development plan" means a written statement of goals developed by a teaching staff member serving in a supervisory capacity in collaboration with a teaching staff member, that: aligns with professional standards for teachers set forth in N.J.A.C.6A:9-3.3 and the New Jersey Professional Development Standards; derives from the annual evaluation process; identifies professional goals that address specific individual, district or school needs, or both; and grounds professional development activities in objectives related to improving teaching, learning, and student achievement. The individual professional development plan shall include timelines for implementation, responsibilities of the employee and the school district for implementing the plan, and specific support and periodic feedback that the district shall provide.

"Ineffective" or "partially effective" means the employee receives an annual summative evaluation rating of "ineffective" or "partially effective"

based on the performance standards for his position established through the evaluation rubric adopted by the board of education and approved by the commissioner.

"Multiple objective measures of student learning" means the results of formal and informal assessments of students. Such measures may include a combination of, but are not limited to: teacher-set goals for student learning; student performance assessments, including portfolio projects, problem-solving protocols, and internships; teacher-developed assessments; standardized assessments; and district-established assessments.

"Professional standards" means the New Jersey Professional Standards for Teachers and the New Jersey Professional Standards for School Leaders recommended by the commissioner and adopted by the State Board of Education.

"Teaching staff member" means a member of the professional staff of any district or regional board of education, or any board of education of a county vocational school, holding office, position or employment of such character that the qualifications, for such office, position or employment, require him to hold a valid and effective standard, provisional or emergency certificate, appropriate to his office, position or employment, issued by the State Board of Examiners and includes a school nurse and a school athletic trainer.

4. N.J.S.18A:6-9 is amended to read as follows:

Controversies, disputes arising under school laws; jurisdiction.

18A:6-9. The commissioner shall have jurisdiction to hear and determine, without cost to the parties, all controversies and disputes arising under the school laws, excepting those governing higher education, or under the rules of the State board or of the commissioner. For the purposes of this Title, controversies and disputes concerning the conduct of school elections shall not be deemed to arise under the school laws.

Notwithstanding the provisions of this section to the contrary, an arbitrator shall hear and make a final determination on a controversy and dispute arising under subarticle B of article 2 of chapter 6 of Title 18A of the New Jersey Statutes (C.18A:6-10 et seq.).

5. N.J.S.18A:6-11 is amended to read as follows:

Written charges, statement of evidence; filing; statement of position by employee; certification of determination; notice.

18A:6-11. Any charge made against any employee of a board of education under tenure during good behavior and efficiency shall be filed with the secretary of the board in writing, and a written statement of evidence

under oath to support such charge shall be presented to the board. The board of education shall forthwith provide such employee with a copy of the charge, a copy of the statement of the evidence and an opportunity to submit a written statement of position and a written statement of evidence under oath with respect thereto. After consideration of the charge, statement of position and statements of evidence presented to it, the board shall determine by majority vote of its full membership whether there is probable cause to credit the evidence in support of the charge and whether such charge, if credited, is sufficient to warrant a dismissal or reduction of salary. The board of education shall forthwith notify the employee against whom the charge has been made of its determination, personally or by certified mail directed to his last known address. In the event the board finds that such probable cause exists and that the charge, if credited, is sufficient to warrant a dismissal or reduction of salary, then it shall forward such written charge to the commissioner for a hearing pursuant to N.J.S.18A:6-16, together with a certificate of such determination. The consideration and actions of the board as to any charge shall not take place at a public meeting.

6. N.J.S.18A:6-13 is amended to read as follows:

Dismissal of charge for failure of determination by board.

18A:6-13. If the board does not make such a determination within 45 days after receipt of the written charge, the charge shall be deemed to be dismissed and no further proceeding or action shall be taken thereon.

7. N.J.S.18A:6-14 is amended to read as follows:

Suspension upon certification of charge; compensation; reinstatement.

18A:6-14. Upon certification of any charge to the commissioner, the board may suspend the person against whom such charge is made, with or without pay, but, if the determination of the charge by the arbitrator is not made within 120 calendar days after certification of the charges, excluding all delays which are granted at the request of such person, then the full salary (except for said 120 days) of such person shall be paid beginning on the one hundred twenty-first day until such determination is made. Should the charge be dismissed at any stage of the process, the person shall be reinstated immediately with full pay from the first day of such suspension. Should the charge be dismissed at any stage of the process and the suspension be continued during an appeal therefrom, then the full pay or salary of such person shall continue until the determination of the appeal. However, the board of education shall deduct from said full pay or salary any sums received by such

employee or officers by way of pay or salary from any substituted employment assumed during such period of suspension. Should the charge be sustained on the original hearing or an appeal therefrom, and should such person appeal from the same, then the suspension may be continued unless and until such determination is reversed, in which event he shall be reinstated immediately with full pay as of the time of such suspension.

8. N.J.S.18A:6-16 is amended to read as follows:

Proceedings before commissioner; written response; determination.

18A:6-16. Upon receipt of such a charge and certification, or of a charge lawfully made to the commissioner, the commissioner or the person appointed to act in the commissioner's behalf in the proceedings shall examine the charges and certification. The individual against whom the charges are certified shall have 15 days to submit a written response to the charges to the commissioner. Upon a showing of good cause, the commissioner may grant an extension of time. The commissioner shall render a determination on the sufficiency of charges as set forth below within 10 days immediately following the period provided for a written response to the charges.

If, following receipt of the written response to the charges, the commissioner is of the opinion that they are not sufficient to warrant dismissal or reduction in salary of the person charged, he shall dismiss the same and notify said person accordingly. If, however, he shall determine that such charge is sufficient to warrant dismissal or reduction in salary of the person charged, he shall refer the case to an arbitrator pursuant to section 22 of P.L.2012, c.26 (C.18A:6-17.1) for further proceedings, except that when a motion for summary decision has been made prior to that time, the commissioner may retain the matter for purposes of deciding the motion.

9. N.J.S.18A:28-5 is amended to read as follows:

Requirements for tenure.

18A:28-5. a. The services of all teaching staff members employed prior to the effective date of P.L.2012, c.26 (C.18A:6-117 et al.) in the positions of teacher, principal, other than administrative principal, assistant principal, vice-principal, assistant superintendent, and all school nurses including school nurse supervisors, head school nurses, chief school nurses, school nurse coordinators, and any other nurse performing school nursing services, school athletic trainer and such other employees as are in positions which require them to hold appropriate certificates issued by the board of examin-

ers, serving in any school district or under any board of education, excepting those who are not the holders of proper certificates in full force and effect and school business administrators shared by two or more school districts, shall be under tenure during good behavior and efficiency and they shall not be dismissed or reduced in compensation except for inefficiency, incapacity, or conduct unbecoming such a teaching staff member or other just cause and then only in the manner prescribed by subarticle B of article 2 of chapter 6 of this Title, after employment in such district or by such board for:

(1) Three consecutive calendar years, or any shorter period which may be fixed by the employing board for such purpose; or

(2) Three consecutive academic years, together with employment at the beginning of the next succeeding academic year; or

(3) The equivalent of more than three academic years within a period of any four consecutive academic years.

b. The services of all teaching staff members employed on or after the effective date of P.L.2012, c.26 (C.18A:6-117 et al.) in the position of teacher, principal, other than administrative principal, assistant principal, vice-principal, assistant superintendent, and all school nurses, including school nurse supervisors, head school nurses, chief school nurses, school nurse coordinators, and any other nurse performing school nursing services, school athletic trainer and such other employees as are in positions which require them to hold appropriate certificates issued by the board of examiners, serving in any school district or under any board of education, excepting those who are not the holders of proper certificates in full force and effect, and school business administrators shared by two or more school districts, shall be under tenure during good behavior and efficiency and they shall not be dismissed or reduced in compensation except for inefficiency, incapacity, or conduct unbecoming such a teaching staff member or other just cause and then only in the manner prescribed by subarticle B of article 2 of chapter 6 of this Title, after employment in such district or by such board for:

(1) Four consecutive calendar years; or

(2) Four consecutive academic years, together with employment at the beginning of the next succeeding academic year; or

(3) The equivalent of more than four academic years within a period of any five consecutive academic years.

In order to achieve tenure pursuant to this subsection, a teacher shall also complete a district mentorship program during the initial year of employment and receive a rating of effective or highly effective in two annual summative evaluations within the first three years of employment after the initial year of employment in which the teacher completes the district men-

torship program. In order to achieve tenure pursuant to this subsection, a principal, assistant principal, and vice-principal shall also receive a rating of effective or highly effective in two annual summative evaluations within the first three years of employment with the first effective rating being received on or after the completion of the second year of employment.

For purposes of this subsection, "effective" or "highly effective" means the employee has received an annual summative evaluation rating of "effective" or "highly effective" based on the performance standards for his position established through the evaluation rubric adopted by the board of education and approved by the commissioner.

c. For purposes of this chapter, tenure in any of the administrative or supervisory positions enumerated herein shall accrue only by employment in that administrative or supervisory position. Tenure so accrued shall not extend to any other administrative or supervisory position and nothing herein shall limit or restrict tenure rights which were or may be acquired pursuant to N.J.S.18A:28-6 in a position in which the individual actually served.

10. N.J.S.18A:28-6 is amended to read as follows:

Tenure upon transfer or promotion.

18A:28-6. a. Any such teaching staff member under tenure or eligible to obtain tenure under this chapter, who is transferred or promoted with his consent to another position covered by this chapter on or after July 1, 1962, shall not obtain tenure in the new position until after:

(1) the expiration of a period of employment of two consecutive calendar years in the new position unless a shorter period is fixed by the employing board for such purpose; or

(2) employment for two academic years in the new position together with employment in the new position at the beginning of the next succeeding academic year; or

(3) employment in the new position within a period of any three consecutive academic years, for the equivalent of more than two academic years;

provided that the period of employment in such new position shall be included in determining the tenure and seniority rights in the former position held by such teaching staff member, and in the event the employment in such new position is terminated before tenure is obtained therein, if he then has tenure in the district or under said board of education, such teaching staff member shall be returned to his former position at the salary which he would have received had the transfer or promotion not occurred together

with any increase to which he would have been entitled during the period of such transfer or promotion.

b. Any such teaching staff member under tenure or eligible to obtain tenure under this chapter, who is transferred or promoted with his consent to another position covered by this chapter on or after the effective date of P.L.2012, c.26 (C.18A:6-117 et al.), shall not obtain tenure in the new position until after:

(1) the expiration of a period of employment of two consecutive calendar years in the new position; or

(2) employment for two academic years in the new position together with employment in the new position at the beginning of the next succeeding academic year; or

(3) employment in the new position within a period of any three consecutive academic years, for the equivalent of more than two academic years;

provided that the period of employment in such new position shall be included in determining the tenure and seniority rights in the former position held by such teaching staff member, and in the event the employment in such new position is terminated before tenure is obtained therein, if he then has tenure in the district or under said board of education, such teaching staff member shall be returned to his former position at the salary which he would have received had the transfer or promotion not occurred together with any increase to which he would have been entitled during the period of such transfer or promotion.

In order to receive tenure pursuant to this subsection, a teacher, principal, assistant principal, and vice-principal shall be evaluated as effective or highly effective in two annual summative evaluations within the first three years of employment in the new position.

For purposes of this subsection, "effective" or "highly effective" means the employee has received an annual summative evaluation rating of "effective" or "highly effective" based on the performance standards for his position established through the evaluation rubric adopted by the board of education and approved by the commissioner.

C.18A:28-5.1 Tenure upon transfer to an underperforming school.

11. A tenured teaching staff member who has been rated effective or highly effective on his most recent annual summative evaluation, and who accepts employment in the same position in an underperforming school shall be under tenure in that position in the new district during good behavior and efficiency and shall not be dismissed or reduced in compensation except for inefficiency, incapacity, or conduct unbecoming such a teaching staff mem-

ber or other just cause and then only in the manner prescribed by subarticle B of article 2 of chapter 6 of this Title, after the employee receives a rating of effective or highly effective in at least one of the annual summative evaluations within the first two years of employment in the new school.

For purposes of this subsection, "effective" or "highly effective" means the employee has received an annual summative evaluation rating of "effective" or "highly effective" based on the performance standards for his position established through the evaluation rubric adopted by the board of education and approved by the commissioner.

As used in this section, "underperforming school" means a school which has been identified by the Department of Education as a "focus school" or a "priority school" for any year within a two-year period.

C.18A:6-120 School improvement panel.

12. a. In order to ensure the effectiveness of its teachers, each school shall convene a school improvement panel. A panel shall include the principal, or his designee, an assistant or vice-principal, and a teacher. The principal's designee shall be an individual employed in the district in a supervisory role and capacity who possesses a school administrator certificate, principal certificate, or supervisor certificate. The teacher shall be a person with a demonstrated record of success in the classroom who shall be selected in consultation with the majority representative. An individual teacher shall not serve more than three consecutive years on any one school improvement panel. In the event that an assistant or vice-principal is not available to serve on the panel, the principal shall appoint an additional member to the panel, who is employed in the district in a supervisory role and capacity and who possesses a school administrator certificate, principal certificate, or supervisor certificate.

Nothing in this section shall prevent a district that has entered a shared services agreement for the functions of the school improvement panel from providing services under that shared services agreement.

b. The panel shall oversee the mentoring of teachers and conduct evaluations of teachers, including an annual summative evaluation, provided that the teacher on the school improvement panel shall not be included in the evaluation process, except in those instances in which the majority representative has agreed to the contrary. The panel shall also identify professional development opportunities for all instructional staff members that are tailored to meet the unique needs of the students and staff of the school.

c. The panel shall conduct a mid-year evaluation of any employee in the position of teacher who is evaluated as ineffective or partially effective

in his most recent annual summative evaluation, provided that the teacher on the school improvement panel shall not be included in the mid-year evaluation process, except in those instances in which the majority representative has agreed to the contrary.

d. Information related to the evaluation of a particular employee shall be maintained by the school district, shall be confidential, and shall not be accessible to the public pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented.

C.18A:6-121 Evaluations of principal, assistant principal, vice-principal.

13. a. In order to ensure the effectiveness of the schools in the district, the superintendent of schools or his designee shall conduct evaluations of each principal employed by the school district, including an annual summative evaluation.

b. The principal, in conjunction with the superintendent or his designee, shall conduct evaluations of each assistant principal and vice-principal employed in his school, including an annual summative evaluation.

c. The superintendent or his designee and the principal, as appropriate, shall conduct a mid-year evaluation of any principal, assistant principal, or vice-principal who is evaluated as ineffective or partially effective in his most recent annual summative evaluation.

d. Information related to the evaluation of a particular employee shall be maintained by the school district, shall be confidential, and shall not be accessible to the public pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented.

C.18A:6-127 Researched-based mentoring program.

14. a. A board of education shall implement a researched-based mentoring program that pairs effective, experienced teachers with first-year teachers to provide observation and feedback, opportunities for modeling, and confidential support and guidance in accordance with the Professional Standards for Teachers and the evaluation rubric.

b. The mentoring program shall: enhance teacher knowledge of, and strategies related to, the core curriculum content standards in order to facilitate student achievement and growth; identify exemplary teaching skills and educational practices necessary to acquire and maintain excellence in teaching; and assist first-year teachers in the performance of their duties and adjustment to the challenges of teaching. To the greatest extent feasible, mentoring activities shall be developed in consultation with the school improvement panels established pursuant to section 12 of P.L.2012, c.26

(C.18A:6-120) in order to be responsive to the unique needs of different teachers in different instructional settings.

C.18A:6-128 Ongoing professional development.

15. a. A board of education, principal, or superintendent shall provide its teaching staff members with ongoing professional development that supports student achievement and with an individual professional development plan. To the greatest extent feasible, professional development opportunities shall be developed in consultation with the school improvement panels established pursuant to section 12 of P.L.2012, c.26 (C.18A:6-120) in order to be responsive to the unique needs of different instructional staff members in different instructional settings.

b. A board of education, principal, or superintendent shall provide additional professional development for any teaching staff member who fails or is struggling to meet the performance standards established by the board, as documented in the teaching staff member's annual summative evaluation. The additional professional development shall be designed to correct the needs identified in the annual summative evaluation.

A corrective action plan shall be developed by the teaching staff member and a teaching staff member serving in a supervisory capacity to address deficiencies outlined in the evaluation when the employee is rated ineffective or partially effective. The corrective action plan shall include timelines for corrective action and responsibilities of the teaching staff member and the school district for implementation of the plan.

c. All funds budgeted by a school district for professional development shall be used primarily to provide the professional development required pursuant to the provisions of P.L.2012, c.26 (C.18A:6-117 et al.).

C.18A:6-122 Annual submission of evaluation rubrics.

16. a. A school district shall annually submit to the Commissioner of Education, for review and approval, the evaluation rubrics that the district will use to assess the effectiveness of its teachers, principals, assistant principals, and vice-principals and all other teaching staff members. The board shall ensure that an approved rubric meets the minimum standards established by the State Board of Education.

b. Notwithstanding the provisions of subsection a. of this section, a school district may choose to use the model evaluation rubric established by the commissioner pursuant to subsection f. of section 17 of P.L.2012, c.26 (C.18A:6-123) to assess the effectiveness of its teachers, principals, assistant principals, and vice-principals and all other teaching staff mem-

bers. In the case in which the district fails to submit a rubric for review and approval, the model rubric shall be used by the district to assess the effectiveness of its teachers, principals, assistant principals, and vice-principals and all other teaching staff members.

C.18A:6-123 Review, approval of evaluation rubrics.

17. a. The Commissioner of Education shall review and approve evaluation rubrics submitted by school districts pursuant to section 16 of P.L.2012, c.26 (C.18A:6-122). The board of education shall adopt a rubric approved by the commissioner.

b. The State Board of Education shall promulgate regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to set standards for the approval of evaluation rubrics for teachers, principals, assistant principals, and vice-principals. The standards at a minimum shall include:

(1) four defined annual rating categories for teachers, principals, assistant principals, and vice-principals: ineffective, partially effective, effective, and highly effective;

(2) a provision requiring that the rubric be partially based on multiple objective measures of student learning that use student growth from one year's measure to the next year's measure;

(3) a provision that allows the district, in grades in which a standardized test is not required, to determine the methods for measuring student growth;

(4) a provision that multiple measures of practice and student learning be used in conjunction with professional standards of practice using a comprehensive evaluation process in rating effectiveness with specific measures and implementation processes. Standardized assessments shall be used as a measure of student progress but shall not be the predominant factor in the overall evaluation of a teacher;

(5) a provision that the rubric be based on the professional standards for that employee;

(6) a provision ensuring that performance measures used in the rubric are linked to student achievement;

(7) a requirement that the employee receive multiple observations during the school year which shall be used in evaluating the employee;

(8) a provision that requires that at each observation of a teacher, either the principal, his designee who shall be an individual employed in the district in a supervisory role and capacity and who possesses a school administrator certificate, principal certificate, or supervisor certificate, the vice-principal, or the assistant principal shall be present;

(9) an opportunity for the employee to improve his effectiveness from evaluation feedback;

(10) guidelines for school districts regarding training and the demonstration of competence on the evaluation system to support its implementation;

(11) a process for ongoing monitoring and calibration of the observations to ensure that the observation protocols are being implemented correctly and consistently;

(12) a performance framework, associated evaluation tools, and observation protocols, including training and observer calibration resources;

(13) a process for a school district to obtain the approval of the commissioner to utilize other evaluation tools; and

(14) a process for ensuring that the results of the evaluation help to inform instructional development.

c. A board of education shall adopt a rubric approved by the commissioner by December 31, 2012.

d. Beginning no later than January 31, 2013, a board of education shall implement a pilot program to test and refine the evaluation rubric.

e. Beginning with the 2013-2014 school year, a board of education shall ensure implementation of the approved, adopted evaluation rubric for all educators in all elementary, middle, and high schools in the district. Results of evaluations shall be used to identify and provide professional development to teaching staff members. Results of evaluations shall be provided to the commissioner, as requested, on a regular basis.

f. The commissioner shall establish a model evaluation rubric that may be utilized by a school district to assess the effectiveness of its teaching staff members.

C.18A:6-17.5 Determination of certain tenure charge.

18. Any tenure charge transmitted to the Office of Administrative Law pursuant to N.J.S.18A:6-16 prior to the effective date of P.L.2012, c.26 (C.18A:6-117 et al.) shall be determined in accordance with the provisions of subarticle B of Article 2 of chapter 6 of Title 18A of the New Jersey Statutes, N.J.S.18A:6-10 et seq., as the same read prior to the effective date of P.L.2012, c.26 (C.18A:6-117 et al.).

C.18A:6-125 Evaluation rubric not subject to collective negotiations.

19. A school district's evaluation rubric approved by the commissioner pursuant to section 16 of P.L.2012, c.25 (C.18A:6-122) shall not be subject to collective negotiations.

C.18A:6-129 Funds provided.

20. The Department of Education shall provide the funds necessary to effectuate the provisions of this act.

C.18A:6-126 Conflicts with collective bargaining agreements.

21. No collective bargaining agreement or other contract entered into by a school district after July 1, 2013 shall conflict with the educator evaluation system established pursuant to P.L.2012, c.26 (C.18A:6-117 et al.). A district with an existing collective bargaining agreement on July 1, 2013 which conflicts in whole or in part with the educator evaluation system established pursuant to that act, shall implement in accordance with that act those provisions not in conflict with the collective bargaining agreement.

Notwithstanding the provisions of this act, aspects of evaluation not superseded by statute or regulation shall continue to be mandatory subjects of collective negotiations.

C.18A:6-17.1 Panel of arbitrators.

22. a. The Commissioner of Education shall maintain a panel of 25 permanent arbitrators to hear matters pursuant to N.J.S.18A:6-16. Of the 25 arbitrators, eight arbitrators shall be designated by the New Jersey Education Association, three arbitrators shall be designated by the American Federation of Teachers, nine arbitrators shall be designated by the New Jersey School Boards Association, and five arbitrators shall be designated by the New Jersey Principals and Supervisors Association. The commissioner shall inform the appropriate designating entity when a vacancy exists. If the appropriate entity does not designate an arbitrator within 30 days, the commissioner shall designate an arbitrator to fill that vacancy.

All arbitrators designated pursuant to this section shall serve on the American Arbitration Association panel of labor arbitrators and shall be members of the National Academy of Arbitrators. The arbitrators shall have knowledge and experience in the school employment sector. Arbitrators on the permanent panel shall be assigned by the commissioner randomly to hear cases.

b. The following provisions shall apply to a hearing conducted by an arbitrator pursuant to N.J.S.18A:6-16, except as otherwise provided pursuant to P.L.2012, c.26 (C.18A:6-117 et al.):

(1) The hearing shall be held before the arbitrator within 45 days of the assignment of the arbitrator to the case;

(2) The arbitrator shall receive no more than $1250 per day and no more than $7500 per case. The costs and expenses of the arbitrator shall be borne by the State of New Jersey;

(3) Upon referral of the case for arbitration, the employing board of education shall provide all evidence including, but not limited to, documents, electronic evidence, statements of witnesses, and a list of witnesses with a complete summary of their testimony, to the employee or the employee's representative. The employing board of education shall be precluded from presenting any additional evidence at the hearing, except for purposes of impeachment of witnesses. At least 10 days prior to the hearing, the employee shall provide all evidence upon which he will rely including, but not limited to, documents, electronic evidence, statements of witnesses, and a list of witnesses with a complete summary of their testimony, to the employing board of education or its representative. The employee shall be precluded from presenting any additional evidence at the hearing except for purposes of impeachment of witnesses.

Discovery shall not include depositions, and interrogatories shall be limited to 25 without subparts.

c. The arbitrator shall determine the case under the American Arbitration Association labor arbitration rules. In the event of a conflict between the American Arbitration Association labor arbitration rules and the procedures established pursuant to this section, the procedures established pursuant to this section shall govern.

d. Notwithstanding the provisions of N.J.S.18A:6-25 or any other section of law to the contrary, the arbitrator shall render a written decision within 45 days of the start of the hearing.

e. The arbitrator's determination shall be final and binding and may not be appealable to the commissioner or the State Board of Education. The determination shall be subject to judicial review and enforcement as provided pursuant to N.J.S.2A:24-7 through N.J.S.2A:24-10.

f. Timelines set forth herein shall be strictly followed; the arbitrator or any involved party shall inform the commissioner of any timeline that is not adhered to.

g. An arbitrator may not extend the timeline of holding a hearing beyond 45 days of the assignment of the arbitrator to the case without approval from the commissioner. An arbitrator may not extend the timeline for rendering a written decision within 45 days of the start of the hearing without approval from the commissioner. Extension requests shall occur before the 41 day of the respective timelines set forth herein. The commissioner shall approve or disapprove extension requests within five days of receipt.

h. The commissioner may remove any arbitrator from an arbitration case or an arbitration panel if an arbitrator does not adhere to the timelines set forth herein without approval from the commissioner. If the commis-

sioner removes an arbitrator from an arbitration case, the commissioner shall refer the case to a new arbitrator within five days. The newly-assigned arbitrator shall convene a new hearing and then render a written decision within 45 days of being referred the case.

C.18A:6-17.2 Considerations for arbitrator in rendering decision.

23. a. In the event that the matter before the arbitrator pursuant to section 22 of this act is employee inefficiency pursuant to section 25 of this act, in rendering a decision the arbitrator shall only consider whether or not:

(1) the employee's evaluation failed to adhere substantially to the evaluation process, including, but not limited to providing a corrective action plan;

(2) there is a mistake of fact in the evaluation;

(3) the charges would not have been brought but for considerations of political affiliation, nepotism, union activity, discrimination as prohibited by State or federal law, or other conduct prohibited by State or federal law; or

(4) the district's actions were arbitrary and capricious.

b. In the event that the employee is able to demonstrate that any of the provisions of paragraphs (1) through (4) of subsection a. of this section are applicable, the arbitrator shall then determine if that fact materially affected the outcome of the evaluation. If the arbitrator determines that it did not materially affect the outcome of the evaluation, the arbitrator shall render a decision in favor of the board and the employee shall be dismissed.

c. The evaluator's determination as to the quality of an employee's classroom performance shall not be subject to an arbitrator's review.

d. The board of education shall have the ultimate burden of demonstrating to the arbitrator that the statutory criteria for tenure charges have been met.

e. The hearing shall be held before the arbitrator within 45 days of the assignment of the arbitrator to the case. The arbitrator shall render a written decision within 45 days of the start of the hearing.

C.18A:6-124 Regulations.

24. The State Board of Education shall promulgate regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), in accordance with an expeditious time frame, to set standards for the approval of evaluation rubrics for all teaching staff members, other than those included under the provisions of subsection b. of section 17 of P.L.2012, c.26 (C.18A:6-123). The standards at a minimum shall include: four defined annual rating categories: ineffective, partially effective, effective, and highly effective.

C.18A:6-17.3 Evaluation process, determination of charges.

25. a. Notwithstanding the provisions of N.J.S.18A:6-11 or any other section of law to the contrary, in the case of a teacher, principal, assistant principal, and vice-principal:

(1) the superintendent shall promptly file with the secretary of the board of education a charge of inefficiency whenever the employee is rated ineffective or partially effective in an annual summative evaluation and the following year is rated ineffective in the annual summative evaluation;

(2) if the employee is rated partially effective in two consecutive annual summative evaluations or is rated ineffective in an annual summative evaluation and the following year is rated partially effective in the annual summative evaluation, the superintendent shall promptly file with the secretary of the board of education a charge of inefficiency, except that the superintendent upon a written finding of exceptional circumstances may defer the filing of tenure charges until after the next annual summative evaluation. If the employee is not rated effective or highly effective on this annual summative evaluation, the superintendent shall promptly file a charge of inefficiency.

b. Within 30 days of the filing, the board of education shall forward a written charge to the commissioner, unless the board determines that the evaluation process has not been followed.

c. Notwithstanding the provisions of N.J.S.18A:6-16 or any other section of law to the contrary, upon receipt of a charge pursuant to subsection a. of this section, the commissioner shall examine the charge. The individual against whom the charges are filed shall have 10 days to submit a written response to the charges to the commissioner. The commissioner shall, within five days immediately following the period provided for a written response to the charges, refer the case to an arbitrator and appoint an arbitrator to hear the case, unless he determines that the evaluation process has not been followed.

d. The only evaluations which may be used for purposes of this section are those evaluations conducted in accordance with a rubric adopted by the board and approved by the commissioner pursuant to P.L.2012, c.26 (C.18A:6-117 et al.).

C.18A:6-17.4 Commissioner's authority.

26. The commissioner shall have the authority to extend the timelines in the tenure charge process upon a showing of exceptional circumstances.

Repealer.

27. The following section is repealed:

Section 1 of P.L.1998, c.42 (C.52:14B-10.1).

28. This act shall take effect in the 2012-2013 school year, except that section 17 of this act shall take effect immediately. The Department of Education shall take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved August 6, 2012.

CHAPTER 27

AN ACT concerning crime victims rights, designated as Alex DeCroce's Law, and amending and supplementing P.L.1985, c.249.

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

1. Section 3 of P.L.1985, c.249 (C.52:4B-36) is amended to read as follows:

C.52:4B-36 Findings, declarations relative to rights of crime victims, witnesses.

3. The Legislature finds and declares that crime victims and witnesses are entitled to the following rights:

a. To be treated with dignity and compassion by the criminal justice system;

b. To be informed about the criminal justice process;

c. To be free from intimidation, harassment or abuse by any person including the defendant or any other person acting in support of or on behalf of the defendant, due to the involvement of the victim or witness in the criminal justice process;

d. To have inconveniences associated with participation in the criminal justice process minimized to the fullest extent possible;

e. To make at least one telephone call provided the call is reasonable in both length and location called;

f. To medical assistance reasonably related to the incident in accordance with the provisions of the "Criminal Injuries Compensation Act of 1971," P.L.1971, c.317 (C.52:4B-1 et seq.);

g. To be notified in a timely manner, if practicable, if presence in court is not needed or if any scheduled court proceeding has been adjourned or cancelled;

h. To be informed about available remedies, financial assistance and social services;

i. To be compensated for loss sustained by the victim whenever possible;

j. To be provided a secure, but not necessarily separate, waiting area during court proceedings;

k. To be advised of case progress and final disposition and to confer with the prosecutor's representative so that the victim may be kept adequately informed;

l. To the prompt return of property when no longer needed as evidence;

m. To submit a written statement, within a reasonable amount of time, about the impact of the crime to a representative of the prosecuting agency which shall be considered prior to the prosecutor's final decision concerning whether formal criminal charges will be filed, whether the prosecutor will consent to a request by the defendant to enter into a pre-trial program, and whether the prosecutor will make or agree to a negotiated plea;

n. To make, prior to sentencing, an in-person statement directly to the sentencing court concerning the impact of the crime.

This statement is to be made in addition to the statement permitted for inclusion in the presentence report by N.J.S.2C:44-6;

o. To have the opportunity to consult with the prosecuting authority prior to the conclusion of any plea negotiations, and to have the prosecutor advise the court of the consultation and the victim's position regarding the plea agreement, provided however that nothing herein shall be construed to alter or limit the authority or discretion of the prosecutor to enter into any plea agreement which the prosecutor deems appropriate;

p. To be present at any judicial proceeding involving a crime or any juvenile proceeding involving a criminal offense, except as otherwise provided by Article I, paragraph 22 of the New Jersey Constitution;

q. To be notified of any release or escape of the defendant; and

r. To appear in any court before which a proceeding implicating the rights of the victim is being held, with standing to file a motion or present argument on a motion filed to enforce any right conferred herein or by Article I, paragraph 22 of the New Jersey Constitution, and to receive an adjudicative decision by the court on any such motion.

C.52:4B-36.1 Rights of victim's survivor relative to a homicide prosecution.

2. Pursuant to Article I, paragraph 22 of the New Jersey Constitution, in any homicide prosecution:

a. A victim's survivor may, at the time of making the in-person statement to the sentencing court authorized by subsection n. of section 3 of P.L.1985, c.249 (C.52:4B-36), display directly to the sentencing court a photograph of the victim taken before the homicide including, but not limited to, a still photograph, a computer-generated presentation, or a video presentation of the victim. The time, length and content of such presentation shall be within the sound discretion of the sentencing judge; and

b. A victim's survivor may, during any judicial proceeding involving the defendant, wear a button not exceeding four inches in diameter that contains a picture of the victim, if the court determines that the wearing of such button will not deprive the defendant of his right to a fair trial under the Sixth Amendment of the United States Constitution and Article I of the New Jersey Constitution. Other spectators at such judicial proceedings may also wear similar buttons if the court so determines. If the victim's survivor seeks to wear the button at trial, the victim's survivor shall give notice to the defendant and to the court no less than 30 days prior to the final trial date.

C.52:4B-36.2 Crime victims not required to pay certain costs.

3. Pursuant to Article I, paragraph 22 of the New Jersey Constitution, no crime victim shall be required to pay the maintenance, support, rehabilitation, or other costs arising from the imprisonment or commitment of a victimizer as a result of the crime.

4. This act shall take effect on the 60th day following enactment.

Approved August 7, 2012.

CHAPTER 28

AN ACT concerning invasion of privacy and supplementing Title 2A of the Revised Statutes.

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

C.2A:58D-2 Definitions relative to invasion of privacy relative to first responders; violations, penalties.

1. a. As used in this section:

"Disclose" means to sell, manufacture, give, provide, lend, trade, mail, deliver, transfer, publish, distribute, circulate, disseminate, present, exhibit, advertise, or offer.

"First responder" means a law enforcement officer, paid or volunteer firefighter, paid or volunteer member of a duly incorporated first aid, emergency, ambulance, or rescue squad association, or any other individual who, in the course of his employment, is dispatched to the scene of a motor vehicle accident or other emergency situation for the purpose of providing medical care or other assistance.

b. A first responder who is dispatched to or is otherwise present at the scene of a motor vehicle accident or other emergency situation, for the purpose of providing medical care or other assistance, shall not photograph, film, videotape, record, or otherwise reproduce in any manner, the image of a person being provided medical care or other assistance, except in accordance with applicable rules, regulations, or operating procedures of the agency employing the first responder.

c. A first responder shall not disclose any photograph, film, videotape, record, or other reproduction of the image of a person being provided medical care or other assistance at the scene of a motor vehicle accident or other emergency situation without the prior written consent of the person, or the person's next-of-kin if the person cannot provide consent, unless that disclosure was for a legitimate law enforcement, public safety, health care, or insurance purpose or pursuant to a court order.

d. A person who knowingly violates the provisions of subsection c. of this section shall be guilty of a disorderly persons offense.

e. In addition to any other right of action or recovery otherwise available under the laws of this State, a first responder who knowingly violates the provisions of subsection b. or c. of this section shall be liable to the person whose image was taken or disclosed, who may bring a civil action in the Superior Court.

The court may award:

(1) actual damages, but not less than liquidated damages computed at the rate of $1,000 for each violation of this act;

(2) punitive damages upon proof of willful or reckless disregard of the law;

(3) reasonable attorney's fees and other litigation costs reasonably incurred; and

(4) such other preliminary and equitable relief as the court determines to be appropriate.

2. This act shall take effect immediately.

Approved August 7, 2012.

CHAPTER 28

AN ACT concerning invasion of privacy and supplementing Title 2A of the Revised Statutes.

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

C.2A:58D-2 Definitions relative to invasion of privacy relative to first responders; violations, penalties.

1. a. As used in this section:

"Disclose" means to sell, manufacture, give, provide, lend, trade, mail, deliver, transfer, publish, distribute, circulate, disseminate, present, exhibit, advertise, or offer.

"First responder" means a law enforcement officer, paid or volunteer firefighter, paid or volunteer member of a duly incorporated first aid, emergency, ambulance, or rescue squad association, or any other individual who, in the course of his employment, is dispatched to the scene of a motor vehicle accident or other emergency situation for the purpose of providing medical care or other assistance.

b. A first responder who is dispatched to or is otherwise present at the scene of a motor vehicle accident or other emergency situation, for the purpose of providing medical care or other assistance, shall not photograph, film, videotape, record, or otherwise reproduce in any manner, the image of a person being provided medical care or other assistance, except in accordance with applicable rules, regulations, or operating procedures of the agency employing the first responder.

c. A first responder shall not disclose any photograph, film, videotape, record, or other reproduction of the image of a person being provided medical care or other assistance at the scene of a motor vehicle accident or other emergency situation without the prior written consent of the person, or the person's next-of-kin if the person cannot provide consent, unless that disclosure was for a legitimate law enforcement, public safety, health care, or insurance purpose or pursuant to a court order.

d. A person who knowingly violates the provisions of subsection c. of this section shall be guilty of a disorderly persons offense.

e. In addition to any other right of action or recovery otherwise available under the laws of this State, a first responder who knowingly violates the provisions of subsection b. or c. of this section shall be liable to the person whose image was taken or disclosed, who may bring a civil action in the Superior Court.

The court may award:

(1) actual damages, but not less than liquidated damages computed at the rate of $1,000 for each violation of this act;

(2) punitive damages upon proof of willful or reckless disregard of the law;

(3) reasonable attorney's fees and other litigation costs reasonably incurred; and

(4) such other preliminary and equitable relief as the court determines to be appropriate.

2. This act shall take effect immediately.

Approved August 7, 2012.

CHAPTER 29

AN ACT concerning the practice of dentistry, amending and supplementing P.L.1979, c.46, and supplementing chapter 6 of Title 45 of the Revised Statutes.

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

1. Section 2 of P.L.1979, c.46 (C.45:6-49) is amended to read as follows:

C.45:6-49 Definitions.

2. For the purposes of this act:

a. "Board" means the New Jersey State Board of Dentistry.

b. "Registered dental assistant" means any person who has fulfilled the requirements for registration established by this act and who has been registered by the board. A registered dental assistant shall work under the direct supervision of a licensed dentist.

c. "Dental assistant" means any person who is trained by formal education or office internship to perform, under the direct supervision of a den-

tist, any routine office procedure, not including an intra-oral procedure, in the office of a dentist.

d. "Dental hygienist" means any person who performs in the office of any licensed dentist or in any appropriately equipped school, dental clinic, or institution under the supervision of a licensed dentist, those educational, preventive and therapeutic services and procedures which licensed dental hygienists are trained to perform, and which are specifically permitted by regulation of the board, and such intra-oral clinical services which are primarily concerned with preventive dental procedures, including, but not limited to, during the course of a complete prophylaxis, removing all hard and soft deposits and stains from the surfaces of the human teeth to the depth of the gingival sulcus, polishing natural and restored surfaces of teeth, applying indicated topical agents, surveying intra- and extra-oral structures, noting deformities, defects and abnormalities thereof, performing a complete oral prophylaxis and providing clinical instruction to promote the maintenance of dental health.

e. "Direct supervision" means acts performed in the office of a licensed dentist wherein he is physically present at all times during the performance of such acts and such acts are performed pursuant to his order, control and full professional responsibility.

f. "Supervision" means acts performed pursuant to a dentist's written order, control and full professional responsibility, whether or not he is physically present.

g. "Limited registered dental assistant" means any person who has fulfilled the requirements for registration established by this amendatory and supplementary act and who has been registered by the board. A limited registered dental assistant shall be limited to working under the direct supervision of a dentist who conducts a limited dental practice in the dental specialty for which the assistant has been trained and registered, and in performing those intra-oral procedures as defined by the board which are involved in that specialty.

h. "Dental clinic" means dental clinic as defined in section 1 of P.L.1951, c.199 (C.45:6-15.1).

i. "Institution" means any nursing home, veterans' home, hospital or prison, or any State or county facility providing inpatient care, supervision and treatment for persons with developmental disabilities.

2. Section 15 of P.L.1979, c.46 (C.45:6-62) is amended to read as follows:

C.45:6-62 Practice of dental hygiene.

15. a. Any person who has graduated from a school or college of dental hygiene approved by the Commission on Dental Accreditation of the American Dental Association and has been licensed to practice dental hygiene in this State and holds a current certification in Basic or Advanced Cardiac Life Support by an association approved by the board may, subject to the supervision of a New Jersey licensed dentist, practice dental hygiene in an office in which general dentistry or any special area of dentistry recognized by the board is regularly practiced, or in any appropriately equipped school, dental clinic, or institution, except that a New Jersey licensed dentist may, in his sole discretion, require direct supervision in his dental office.

b. A dental hygienist acting under supervision in a dental office or dental clinic may treat only patients who are existing patients of record.

c. Each licensed dentist may provide supervision to no more than three licensed dental hygienists at one time.

d. A dental hygienist may practice dental hygiene under direct supervision or supervision only in a facility having readily available emergency equipment as may be designated by the board, by regulation.

3. Section 17 of P.L.1979, c.46 (C.45:6-64) is amended to read as follows:

C.45:6-64 Establishment of independent office, practice, of dental hygienist; prohibition.

17. Nothing in this act shall be construed as permitting a licensed dental hygienist to establish an independent office or engage in independent practice in connection with the performance of traditional hygienist services whether or not there is supervision or direct supervision of a licensed dentist.

C.45:6-69.1 Direct supervision required for certain procedures.

4. The administration of local anesthesia, the monitoring of a patient administered nitrous oxide, and any other anesthetic procedures that may be designated by the New Jersey State Board of Dentistry, by regulation, shall be performed by a licensed dental hygienist only under direct supervision.

C.45:6-69.2 Restrictions relative to dental hygienists.

5. A licensed dental hygienist shall not perform any intra-oral service, other than administering preventive measures such as the application of fluorides, pit and fissure sealants as well as other recognized topical agents for the prevention of oral disease or associated discomfort and the detection

of caries in a school setting, upon any living person who the dental hygienist reasonably believes has not received an examination by a duly licensed dentist within the immediately preceding 365-day period. After performing an assessment, a dental hygienist acting under supervision who reasonably believes that a person has either dental caries or some other medical or dental condition requiring diagnosis or treatment by a dentist shall so inform in writing, within seven days, the dentist who is providing the supervision, except if it appears that emergent care is indicated, the dental hygienist shall immediately notify the supervising dentist.

C.45:6-73 License to practice dentistry required under certain circumstances.

6. Except as otherwise provided in P.L.1964, c.186 (C.45:6-16.1 et seq.), R.S.45:6-19 and R.S.45:6-20, no person other than a person duly licensed to practice dentistry in this State shall:

a. make any diagnosis or develop any treatment plan with respect to the dental condition or treatment of any living person in this State;

b. perform any surgical or irreversible procedure, including, but not limited to, the cutting of hard or soft tissue or the extraction of any tooth on any living person in this State;

c. either bill or submit a claim for any service rendered involving the practice of dentistry or dental hygiene in this State; or

d. receive payment for the performance of dental or dental hygienist services from any source other than an employer authorized by law to practice dentistry in this State or any dental clinic, institution, or employment agency, as defined pursuant to section 1 of P.L.1989, c.331 (C.34:8-43), that employs licensed dental hygienists to provide temporary dental hygiene services.

7. This act shall take effect on the 60th day next following enactment.

Approved August 7, 2012.

CHAPTER 30

AN ACT concerning identification cards issued by a county clerk or register of deeds and mortgages to certain veterans for certain purposes and supplementing Title 40A of the New Jersey Statutes.

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

C.40A:9-78.1 Short title.

1. Sections 1 through 7 of P.L.2012, c.30 (C.40A:9-78.1 et seq.) shall be known and may be cited as the "County Identification Cards for Veterans Act."

C.40A:9-78.2 "Veteran" defined.

2. As used in this act, P.L.2012, c.30 (C.40A:9-78.1 et seq.), "veteran" means a person who has served in the Army, Navy, Air Force, Marines or Coast Guard of the United States or a Reserve component thereof or the National Guard of this State as defined in section 1 of P.L.1963, c.109 (C.38A:1-1), and has been honorably discharged or released under conditions other than dishonorable from such service.

C.40A:9-78.3 Veteran identification card program.

3. A county clerk or register of deeds and mortgages, as appropriate, may establish a veteran identification card program for the sole purpose of identifying the holder as a veteran when such identification is required to receive discounts or other courtesies extended to military veterans.

C.40A:9-78.4 Issuance of card.

4. a. When such a program has been authorized, the county clerk or register of deeds and mortgages, as appropriate, shall issue an identification card to any veteran who is a resident of the county who does not hold an identification card issued by the federal government that identifies the person as a veteran. The veteran identification card shall bear the true name, branch of the armed forces in which the veteran served, and other identifying information as certified by the applicant for such veteran identification card. Every application for a veteran identification card shall be signed and certified by the applicant and shall be supported by such documentary evidence as the county clerk or register of deeds and mortgages, as appropriate, may require.

b. The documentary evidence required by subsection a. of this section shall include the applicant's DD-214 form issued by the federal government. The county clerk or register of deeds and mortgages, as appropriate, shall require a copy of the applicant's DD-214 form to be kept on file with the application for a veteran identification card, and shall note the location of the original DD-214 form on that application form. The copy of the DD-214 and the application shall be kept confidential and shall not be considered a government record under P.L.1963, c.73 (C.47:1A-1 et seq.), except that they may be released to another government agency.

C.40A:9-78.5 Violations relative to veteran identification card.

5. It shall be unlawful for any person:

a. To display or cause or permit to be displayed or have in the person's possession any canceled, fictitious, fraudulently altered, or fraudulently obtained veteran identification card;

b. To lend the veteran identification card to any other person or knowingly permit the use thereof by another;

c. To display or represent any veteran identification card not issued to the person as being the person's card;

d. To permit any unlawful use of a veteran identification card issued to the person;

e. To photograph, photostat, duplicate, or in any way reproduce any veteran identification card or facsimile thereof in such a manner that it could be mistaken for a valid veteran identification card, or to display or have in the person's possession any such photograph, photostat, duplicate, reproduction, or facsimile; or

f. To alter any veteran identification card in any manner.

C.40A:9-78.6 Card not deemed proof of status.

6. The veteran identification card issued under P.L.2012, c.30 (C.40A:9-78.1 et seq.), shall not be deemed sufficient valid proof of veteran status for official governmental purposes when a statute, regulation, or directive of a governmental entity requires documentation of veteran status.

C.40A:9-78.7 Violations, disorderly persons offense.

7. Any person who violates any of the provisions of this act, P.L.2012, c.30 (C.40A:9-78.1 et seq.), is guilty of a disorderly persons offense.

8. This act shall take effect immediately.

Approved August 7, 2012.

CHAPTER 31

AN ACT expanding the permissible scope of operation of incinerator authorities and amending P.L.1948, c.348.

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

1. Section 1 of P.L.1948, c.348 (C.40:66A-1) is amended to read as follows:

C.40:66A-1 Short title.

1. This act shall be known and may be cited as the "incinerator or environmental services authorities law."

2. Section 2 of P.L.1948, c.348 (C.40:66A-2) is amended to read as follows:

C.40:66A-2 Public interest and policy declared.

2. It is hereby declared to be in the public interest and to be the policy of the State to foster and promote by all reasonable means the health and welfare of the citizens thereof by the proper collection and disposal of garbage and other refuse matter, as well as by the performance of various other sanitation, public works and environmental services necessary to maintain a clean, healthy, and safe environment for all citizens.

3. Section 3 of P.L.1948, c.348 (C.40:66A-3) is amended to read as follows:

C.40:66A-3 Definitions.

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

(1) "Municipality" shall mean any city of any class, any borough, village, town, township, or any other municipality other than a county or a school district;

(2) "Governing body" shall mean the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality;

(3) "Person" shall mean any person, association, corporation, nation, State or any agency or subdivision thereof, municipality of the State or an incinerator authority;

(4) "Incinerator authority" or "environmental services authority" shall mean a public body created pursuant to section four of this act;

(5) Subject to the exceptions provided in section four of this act, "district" shall mean the area within the territorial boundaries of the municipality or municipalities which created or joined in the creation of an incinerator or environmental services authority;

(6) "Local unit" shall mean any municipality which created or joined in the creation of an incinerator or environmental services authority;

(7) "Garbage disposal system" shall mean the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by an incinerator or environmental services authority, including incinerators or other plants for the treatment and disposal of garbage and refuse matter and all other real and personal and rights therein and appurtenances necessary or useful and convenient for the collection, treatment or disposal in a sanitary manner of garbage and refuse matter (but not including sewage);

(8) "Cost" shall mean, in addition to the usual connotations thereof, the cost of acquisition or construction, of all or any part of a garbage disposal system, of all or any property, rights, easements and franchises deemed by the incinerator or environmental services authority to be necessary or useful and convenient therefor, including reimbursements to the incinerator or environmental services authority or any municipality or other person of any moneys theretofore expended for the purposes of the incinerator or environmental services authority and including interest or discount on bonds to finance such cost, engineering and inspection costs and legal expenses, the cost of financial, professional and other advice, and the cost of issuance of any such bonds;

(9) "Real property" shall mean lands both within and without the State, and improvements thereof or thereon, or any rights or interests therein;

(10) "Construct" and "construction" shall connote and include acts of construction, reconstruction, replacement, extension, improvement and betterment of a garbage disposal system;

(11) "Garbage or refuse matter" shall mean any refuse matter, trash or garbage from residences, hotels, apartments or any other public or private building but shall not include water-carried wastes, industrial waste or the kinds of wastes usually collected, carried away and disposed of by a sewerage system;

(12) "Ordinance" means a written act of the governing body of a municipality adopted and otherwise approved and published in the manner or mode of procedure prescribed for ordinances tending to obligate such municipality pecuniarily;

(13) "Resolution" means a written act of the governing body of a local unit adopted and otherwise approved in the manner or mode of procedure prescribed for resolutions tending to obligate such local unit pecuniarily; and

(14) "Environmental services" shall mean any and all services relative to sanitation, recycling, park and other recreation area maintenance, demolition, repair or maintenance of unsafe, unsanitary, or unsound structures,

automobile towing and impound, municipal vehicle maintenance and repair and services related thereto, street and road safety services, snow removal, environmental compliance and education, services necessary or appropriate for neighborhood beautification or environmental improvement, and any other service relative to maintaining a sanitary, safe, and healthy environment within a municipality.

4. Section 4 of P.L.1948, c.348 (C.40:66A-4) is amended to read as follows:

C.40:66A-4 Creation of incinerator or environmental services authority.

4. (a) The governing body of any municipality may, by ordinance duly adopted, create a public body corporate and politic under the name and style of "the ..... incinerator authority" with all or any significant part of the name of such municipality inserted. The governing body of a municipality in which an incinerator authority has been established pursuant to P.L.1948, c.348 (C.40:66A-1 et seq.) prior to the effective date of P.L.2012, c.31 may, by ordinance duly adopted, create, continue and reestablish the incinerator authority under the name and style of the "environmental services authority" with all or any significant part of the name of the municipality inserted. An incinerator or environmental services authority created pursuant to this section by a municipality other than a city of the first class shall consist of five members, and an incinerator or environmental services authority created pursuant to this section by a municipality which is a city of the first class shall consist of five or seven members, as determined by the governing body. Members of the incinerator or environmental services authority shall be appointed by resolution of the governing body as hereinafter in this section provided, and the authority shall constitute the incinerator or environmental services authority contemplated and provided for in this act and an agency and instrumentality of said municipality. After the taking effect of such ordinance and the filing of a certified copy thereof as in subsection (c) of this section provided, the members of the incinerator or environmental services authority shall be appointed. The members first appointed shall, by the resolution of appointment, be designated to serve for terms respectively expiring as follows: the terms of the first four members shall expire in turn on each of the first days of the first, second, third and fourth Februaries next ensuing after the date of their appointment, and the remaining members shall be designated to serve for terms expiring on the first day of the fifth February next ensuing after the date of their appointment. On or after the first day of

January in each year after such first appointments, one person shall be appointed or reappointed as a member of the incinerator or environmental services authority to succeed each member whose term is expiring, and shall serve for a term commencing on the first day of February in such year and expiring on the first day of February in the fifth year after such year. In the event of a vacancy in the membership of the incinerator or environmental services authority occurring during an unexpired term of office, a person shall be appointed as a member of the incinerator or environmental services authority to serve for such unexpired term.

The governing body of a municipality which is a city of the first class may increase the membership of its incinerator or environmental services authority to seven members from five members. The two additional members shall be appointed to serve five-year terms, commencing on the February 1 next following their appointment and expiring on February 1 in the fifth year after their appointment.

(b) The governing bodies of any two or more municipalities, whether or not the areas of such municipalities comprise an integral body of territory, may, by parallel ordinances duly adopted by each of such governing bodies within any single calendar year, create a public body corporate and politic under the name and style of "the ..... incinerator authority" with all or any significant part of the name of each such municipality or some identifying geographical phrase inserted. The governing bodies of any two or more municipalities who have established an incinerator authority pursuant to P.L.1948, c.348 (C.40:66A-1 et seq.) prior to the effective date of P.L.2012, c.31, whether or not the areas of such municipalities comprise an integral body of territory, may, by parallel ordinances duly adopted by each of such governing bodies within any single calendar year, create, continue and reestablish the incinerator authority under the name and style of "the environmental services authority" with all or any significant part of the name of each such municipality or some identifying geographical phrase inserted. Said body shall consist of the members thereof, in an aggregate number determined as hereinafter in this subsection provided, who shall be appointed by resolution of the several governing bodies as hereinafter in this section provided, and it shall constitute the incinerator or environmental services authority contemplated and provided for in this act and an agency and instrumentality of the said municipalities. The number of members of the incinerator or environmental services authority to be appointed at any time for full terms of office by the governing body of any such municipality or municipalities, as the case may be, shall be as may be stated in said ordinances which shall be not less than one nor more than three. After the tak-

ing effect of the said ordinances of all such municipalities and after the filing of certified copies thereof as in subsection (c) of this section provided, the appropriate number of persons shall be appointed as members of the incinerator or environmental services authority by the governing body of each municipality. The members first appointed or to be first appointed shall serve for terms expiring on the first day of the fifth February next ensuing after the date of the first appointment of any member. On or after the first day of January in the year in which expires the terms of the said members first appointed and in every fifth year thereafter, the appropriate number of persons shall be appointed as members of the incinerator or environmental services authority by the governing body of each municipality, to serve for terms commencing on the first day of February in such year and expiring on the first day of February in the fifth year after such year. In the event of a vacancy in the membership of the incinerator or environmental services authority occurring during an unexpired term of office, a person shall be appointed as a member of the incinerator or environmental services authority to serve for such unexpired term by the governing body which made the original appointment for such unexpired term.

(c) A copy of each ordinance for the creation of an incinerator or environmental services authority adopted pursuant to this section, duly certified by the appropriate officer of the local unit, shall be filed in the office of the Secretary of State. Upon proof of such filing of a certified copy of the ordinance or of certified copies of the parallel ordinances for the creation of an incinerator or environmental services authority as aforesaid, the incinerator or environmental services authority therein referred to shall, in any suit, action or proceeding involving the validity or enforcement of, or relating to, any contract or obligation or act of the incinerator or environmental services authority, be conclusively deemed to have been lawfully and properly created and established and authorized to transact business and exercise its powers under this act. A copy of any such certified ordinance, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any suit, action or proceeding.

(d) A copy of each resolution appointing any member of an incinerator or environmental services authority adopted pursuant to this section, duly certified by the appropriate officer of the local unit, shall be filed in the office of the Secretary of State. A copy of such certified resolution, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any suit, action or proceeding and, except in a suit, action or proceeding directly questioning such appointment, shall be conclusive evidence of the due and proper appointment of the members named therein.

(e) Except as otherwise provided in subsection (a) or subsection (b) of this section with respect to the continuation and reestablishment of an environmental services authority, no governing body which may create or join in the creation of any incinerator or environmental services authority pursuant to this section shall thereafter create or join in the creation of any other incinerator or environmental services authority. No governing body of any municipality within a district shall create or join in the creation of any incinerator or environmental services authority except upon the written consent of the incinerator or environmental services authority and in accordance with the terms and conditions of such consent, and in the event such consent be given and an incinerator or environmental services authority be created pursuant thereto, the area within the territorial boundaries of such municipality shall not thereafter be part of the district.

5. Section 5 of P.L.1948, c.348 (C.40:66A-5) is amended to read as follows:

C.40:66A-5 Incinerator, environmental services authority; powers to be vested in members; membership; reimbursement for expenses; election.

5. (a) The powers of an incinerator or environmental services authority shall be vested in the members thereof in office from time to time. A majority of the entire authorized membership of the incinerator or environmental services authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the incinerator or environmental services authority at any meeting of the members thereof by vote of a majority of the members present, unless in any case the by-laws of the incinerator or environmental services authority shall require a larger number. The incinerator or environmental services authority may delegate to one or more of its officers, agents or employees such powers and duties as it may deem proper.

(b) Each member of an incinerator or environmental services authority shall hold office for the term for which he was appointed and until his successor has been appointed and has qualified.

(c) No member, officer or employee of an incinerator or environmental services authority shall have or acquire any interest, direct or indirect, in the garbage disposal system in any property included or planned to be included in the garbage disposal system or in any contract or proposed contract for materials or services to be furnished to or used by the incinerator or environmental services authority, but neither the holding of any office or employment in the government of any municipality or under any law of the

State nor the owning of any property within the State shall be deemed a disqualification for membership in or employment by an incinerator or environmental services authority. A member of an incinerator or environmental services authority may be removed only by the governing body by which he was appointed and only for inefficiency or neglect of duty or misconduct in office and after he shall have been given a copy of the charges against him and, not sooner than ten days thereafter, had opportunity in person or by counsel to be heard thereon by such governing body.

(d) An incinerator or environmental services authority may reimburse its members for necessary expenses incurred in the discharge of their duties. The ordinance or parallel ordinances for the creation of an incinerator or environmental services authority may provide that the members of the incinerator or environmental services authority may receive compensation for their services within an annual and other limitations to be stated in such ordinance or parallel ordinances, and in that event, each member may receive from the incinerator or environmental services authority such compensation for his services as the incinerator or environmental services authority may determine within the limitations stated in such ordinance or parallel ordinances. No member of any incinerator or environmental services authority shall receive any compensation for his services except as provided in this subsection.

(e) Every incinerator or environmental services authority, upon the first appointment of its members and thereafter on or after the first day of February in each year, shall annually elect from among its members a chairman and a vice-chairman who shall hold office, until the first day of February next ensuing and until their respective successors have been appointed and have qualified. Every incinerator or environmental services authority may also appoint and employ a secretary and such professional and technical advisers and experts and such other officers, agents and employees as it may require, and it shall determine their qualifications, duties and compensation.

6. Section 6 of P.L.1948, c.348 (C.40:66A-6) is amended to read as follows:

C.40:66A-6 Acquisition of facilities.

6. Every incinerator or environmental services authority is hereby authorized and directed, subject to the limitations of this act, to acquire, in its own name but for the local unit or units, by purchase, gift, condemnation or otherwise, and, notwithstanding the provisions of any charter, ordinance

or resolution of any county or municipality to the contrary, to construct, maintain, operate and use such incinerators, treatment plants or works at such places, and such other plants, structures, property and conveyances, as in the judgment of the incinerator or environmental services authority will provide an effective and satisfactory method for promoting the purposes of the incinerator or environmental services authority.

7. Section 7 of P.L.1948, c.348 (C.40:66A-7) is amended to read as follows:

C.40:66A-7 Incinerator, environmental services authority as political subdivision; powers.

7. Every incinerator or environmental services authority shall be a public body politic and corporate constituting a political subdivision of the State established as an instrumentality exercising public and essential governmental functions to provide for the public health and welfare and shall have perpetual succession and have the following powers:

(1) To adopt and have a common seal and to alter the same at pleasure;

(2) To sue and to be sued;

(3) In the name of the incinerator or environmental services authority and on its behalf, to acquire, hold, use and dispose of its service charges and other revenues and other moneys;

(4) In the name of the incinerator or environmental services authority but for the local unit or unit, to acquire, hold, use and dispose of other personal property for the purposes of the incinerator or environmental services authority;

(5) In the name of the incinerator or environmental services authority but for the local unit or units, to acquire by purchase, gift, condemnation or otherwise, real property and easements therein, necessary or useful and convenient for the purposes of the incinerator or environmental services authority, and subject to mortgages, deeds of trust or other liens, or otherwise, and to hold and to use the same, and to dispose of property so acquired no longer necessary for the purposes of the incinerator or environmental services authority;

(6) To provide for and secure the payment of any bonds and the rights of the holders thereof, and to purchase, hold and dispose of any bonds;

(7) To accept gifts or grants of real or personal property, money, material, labor or supplies for the purpose of the incinerator or environmental services authority, and to make and perform such agreements and contracts

as may be necessary or convenient in connection with the procuring, acceptance or disposition of such gifts or grants;

(8) To enter on any lands or premises for the purposes of the incinerator or environmental services authority;

(9) To make and enforce bylaws or rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of the garbage disposal system and any other of its properties, and to amend the same;

(10) To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contracts with any persons; and

(11) To enter into any and all contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purpose of the incinerator or environmental services authority or to carry out any power expressly given in this act subject to P.L.1971, c.198 "Local Public Contracts Law" (C.40A:11-1 et seq.).

8. Section 1 of P.L.1952, c.304 (C.40:66A-7.1) is amended to read as follows:

C.40:66A-7.1 Audit of accounts annually; filing.

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

9. Section 2 of P.L.1952, c.304 (C.40:66A-7.2) is amended to read as follows:

C.40:66A-7.2 Certified copy of bond resolution proceedings; filing.

2. Every such "incinerator or environmental services authority" shall file a certified copy of every bond resolution as finally passed with the Director of the Division of Local Government Services in the Department of Community Affairs and in addition shall file a certified copy of all bond proceedings with the said director.

10. Section 8 of P.L.1948, c.348 (C.40:66A-8) is amended to read as follows:

C.40:66A-8 Incinerator, environmental services authority charges.

8. (a) Every incinerator or environmental services authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "service charges") for the services and facilities of the garbage disposal system.

(b) Such rents, rates, fees and charges, being in the nature of use or service charges, shall as nearly as the incinerator or environmental services authority shall deem practicable and equitable be uniform throughout the district for the same type, class and amount of use or service of the garbage disposal system.

(c) The incinerator or environmental services authority shall prescribe and from time to time when necessary revise the schedule of such service charges, which in any event shall be such that the revenues of the incinerator or environmental services authority will at all times be adequate to pay all expenses of operation and maintenance of the garbage disposal system, including reserves, insurance, extensions, and replacements, and to pay punctually the principal of and interest on any bonds and to maintain such reserves or sinking funds therefor as may be required by the terms of any contract of the incinerator or environmental services authority. Said schedule shall thus be prescribed and from time to time revised by the incinerator or environmental services authority after public hearing thereon which shall be held by the incinerator or environmental services authority at least 7 days after publication of notice of the proposed adjustment of the service charges and of the time and place of the public hearing in at least two newspapers of general circulation in the area serviced by the authority. The incinerator or environmental services authority shall provide evidence at the hearing showing that the proposed adjustment of the service charges is necessary and reasonable, and shall provide the opportunity for cross-examination of persons offering such evidence, and a transcript of the hearing shall be made and a copy thereof shall be available upon request to any interested party at a reasonable fee. The incinerator or environmental services authority shall likewise fix and determine the time or times when and the place or places where such service charges shall be due and payable and may require that such service charges shall be paid in advance for periods of not more than 1 year. A copy of such schedule of service charges in effect shall at all times be kept on file at the principal office of the incinerator

or environmental services authority and shall at all reasonable times be open to public inspection.

11. Section 9 of P.L.1948, c.348 (C.40:66A-9) is amended to read as follows:

C.40:66A-9 Local unit may appropriate moneys.

9. Any local unit shall have power, in the discretion of its governing body, to appropriate moneys for the purposes of the incinerator or environmental services authority, and to loan or donate such moneys to the incinerator or environmental services authority in such installments and upon such terms as may be agreed upon between such local unit and the incinerator or environmental services authority.

12. Section 10 of P.L.1948, c.348 (C.40:66A-10) is amended to read as follows:

C.40:66A-10 Revenue bonds authorized, purpose, issuing details.

10. Revenue bonds may be authorized to be issued under this act to provide funds to pay the cost of all or any part of the garbage disposal system, or for the refunding of any bonds theretofore issued for such purposes. The purposes for which such revenue bonds may be issued shall include the payment to the local unit or local units of the reasonable value of any properties or facilities deemed necessary or desirable for the purposes of the incinerator or environmental services authority, and such incinerator or environmental services authorities are hereby authorized to purchase and acquire such properties or facilities from such local unit or local units.

Such revenue bonds shall be authorized by resolution of the incinerator or environmental services authority which may be adopted at the same meeting at which it is introduced by a majority of all the members thereof then in office, shall take effect immediately and need not be published or posted. Such revenue bonds may bear interest at such rate or rates, not exceeding 6% per annum, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding 30 years from their respective dates, may be payable in such medium of payment at such place or places, may carry such registration privileges, may be subject to such terms of redemption with or without premium, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as such resolution or subsequent resolution may provide. Such revenue bonds may be sold, all at one

time or in blocks from time to time, at public or private sale, or if refunding bonds may also be delivered in exchange for the outstanding obligations to be refunded thereby, in such manner as the incinerator or environmental services authority shall determine by resolution, and at such price or prices, computed according to standard tables of bond values, as will yield to the purchasers or the holders of the obligations surrendered in exchange, income at a rate not exceeding 6% per annum to the maturity dates of the several bonds so sold or exchanged on the money paid or the principal amount of obligations surrendered therefor to the incinerator or environmental services authority.

13. Section 11 of P.L.1948, c.348 (C.40:66A-11) is amended to read as follows:

C.40:66A-11 Rights of holders of temporary bonds.

11. After sale of any revenue bonds pursuant to this act, the incinerator or environmental services authority shall have power to authorize the execution and issuance to the purchasers, pending the preparation of the definitive bonds, of interim certificates therefor or of temporary bonds or other temporary instruments exchangeable for the definitive bonds when prepared, executed and ready for delivery. The holders of such interim certificates, temporary bonds or other temporary instruments shall have all the rights and remedies which they would have as holders of the definitive bonds.

14. Section 12 of P.L.1948, c.348 (C.40:66A-12) is amended to read as follows:

C.40:66A-12 Publication of bond proceedings.

12. Any incinerator or environmental services authority may cause to be published in a newspaper published in the district a notice stating the date of adoption of such bond resolution, the amount and maturities of the bonds authorized to be issued, and also stating that any action or proceeding of any kind or nature in any court questioning the validity of the creation and establishment of the incinerator or environmental services authority, or the validity or proper authorization of bonds provided for by the bond resolution, or the validity of any covenants, agreements or contracts provided for by the bond resolution shall be commenced within twenty days after the first publication of such notice. If no such action or proceeding shall be commenced or instituted within twenty days after the first publication of such notice, then all residents and taxpayers and owners of property in the district and users of the garbage disposal system and all other

persons whatsoever shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court, or from pleading any defense to any action or proceeding, questioning the validity of the creation and establishment of the incinerator or environmental services authority, the validity or proper authorization of such bonds, or the validity of any such covenants, agreements or contracts, and said bonds, covenants, agreements and contracts shall be conclusively deemed to be valid and binding obligations in accordance with their terms and tenor.

15. Section 14 of P.L.1948, c.348 (C.40:66A-14) is amended to read as follows:

C.40:66A-14 Provisions of bond resolutions.

14. Any bond resolution of an incinerator or environmental services authority providing for or authorizing the issuance of any bonds may contain provisions, and such incinerator or environmental services authority, in order to secure the payment of such bonds and in addition to its other powers, shall have power by provision in the bond resolution to covenant and agree with the several holders of such bonds, as to:

(1) The custody, security, use, expenditure or application of the proceeds of the bonds;

(2) The construction and completion, or replacement, of all or any part of the garbage disposal system;

(3) The use, regulation, operation, maintenance, insurance or disposition of all or any part of the garbage disposal system, or restrictions on the exercise of the powers of the incinerator or environmental services authority to dispose, or to limit or regulate the use, of all or any part of the garbage disposal system;

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

(5) The use and disposition of any moneys of the incinerator or environmental services authority, including revenues (in this act sometimes called "system revenues") derived or to be derived from the operation of all or any part of the garbage disposal system, including any parts thereof theretofore constructed or acquired;

(6) Pledging, setting aside, depositing or trusteeing all or any part of the system revenues or other moneys of the incinerator or environmental services authority to secure the payment of the principal of or interest on

the bonds or any other obligations, or the payment of expenses of operation or maintenance of the garbage disposal system, and the powers and duties of any trustee with regard thereto;

(7) The setting aside out of the system revenues or other moneys of the incinerator or environmental services authority of reserves and sinking funds, and the source, custody, security, regulation, application and disposition thereof;

(8) Determination or definition of the system revenues or of the expenses of operation and maintenance of the garbage disposal system;

(9) The rents, rates, fees, or other charges for the use of the services and facilities of the garbage disposal system, including any parts thereof theretofore constructed or acquired and any parts, extension, replacements or improvements thereof thereafter constructed or acquired, and the fixing, establishment, collection and enforcement of the same, the amount or amounts of system revenues to be produced thereby, and the disposition and application of the amounts charged or collected;

(10) The assumption or payment or discharge of any indebtedness, liens or other claims relating to any part of the garbage disposal system or any obligations having or which may have a lien on any part of the system revenue;

(11) Limitations on the issuance of additional bonds or any other obligations or on the incurrence of indebtedness of the incinerator or environmental services authority;

(12) Limitations on the powers of the incinerator or environmental services authority to construct, acquire or operate, or permit the construction, acquisition, or operation of, any plants, structures, facilities or properties which may compete or tend to compete with the garbage disposal system;

(13) Vesting in a trustee or trustees such property, rights, powers and duties in trust as the incinerator or environmental services authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the holders of bonds pursuant to section seventeen of this act, and limiting or abrogating the right of such holders to appoint a trustee pursuant to section fifteen of this act or limiting the rights, duties and powers of such trustee;

(14) Payment of costs or expenses incident to the enforcement of the bonds or of the provision of the bond resolution or of any covenant or contract with the holders of bonds;

(15) The procedure, if any, by which the terms of any covenant or contract with, or duty to, the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given or evidenced; or

(16) Any other matter or course of conduct which by recital in the bond resolution, is declared to further secure the payment of the principal of or interest on the bonds.

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

16. Section 15 of P.L.1948, c.348 (C.40:66A-15) is amended to read as follows:

C.40:66A-15 Default in payment of bonds; trustee; appointment; powers; receiver.

15. In the event that there shall be a default in the payment of principal of or interest on any bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the incinerator or environmental services authority shall fail or refuse to comply with the provisions of this act or shall fail or refuse to carry out and perform the terms of any contract with the holders of any of such bonds, and such failure or refusal shall continue for a period of thirty days after written notice to the incinerator or environmental services authority of its existence and nature, the holders of twenty-five per centum (25%) in aggregate principal amount of the bonds of such series then outstanding, by instruments or instrument filed in the office of the Secretary of State and proved and acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of the bonds of such series for the purposes in this section, and to have the powers provided in this section.

(a) Such trustee may and upon written request of the holders of twenty-five per centum (25%) in aggregate principal amount of the bonds of such series then outstanding shall, in his or its own name:

(1) By an action or proceeding in a court of competent jurisdiction, enforce all rights of the holders of such bonds, including the right to require the incinerator or environmental services authority to charge and collect service charges adequate to carry out any contract as to, or pledge of, system revenues, and to require the incinerator or environmental services authority to carry out and perform the terms of any contract with the holders of such bonds or its duties under this act;

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

(3) By an action require the incinerator or environmental services authority to account as if it were the trustee of an express trust for the holders of such bonds;

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

(5) Declare all such bonds due and payable, whether or not in advance of maturity, upon thirty days' prior notice in writing to the incinerator or environmental services authority and, if all defaults shall be made good, then with the consent of the holders of twenty-five per centum (25%) of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

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

(c) In any action or proceeding by such trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, appointed pursuant to this act, may be allowed by the court as taxable costs and disbursements or otherwise, when so allowed, shall be a first charge upon any service charges and system revenues of the incinerator or environmental services authority pledged for the payment or security of bonds of such series.

(d) Such trustee, upon such default referred to in this section, whether or not all of the bonds of such series shall have been declared due and payable, shall be entitled as of right to the appointment of a receiver of the garbage disposal system, and such receiver may enter upon and take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance or reconstruction of the garbage disposal system and proceed with such acquisition, construction, operation, maintenance or reconstruction which the incinerator or environmental services authority is under any obligation to do, and operate, maintain and reconstruct the garbage disposal system and fix, charge, collect, enforce and receive the service charges and all system revenues thereafter arising subject to any pledge thereof or contract with the holders of such bonds relating thereto and perform the public duties and carry out the contracts and obligations of the incinerator or environmental services authority in the same manner as the incinerator or environmental services authority itself might do and under the direction of the court.

17. Section 16 of P.L.1948, c.348 (C.40:66A-16) is amended to read as follows:

C.40:66A-16 Personal liability on bonds; not debt or liability of State or local unit.

16. Neither the members of the incinerator or environmental services authority nor any person executing bonds issued pursuant to this act shall be liable personally on the bonds by reason of the issuance pursuant to this act shall not be in any way a debt or liability of the State, and bonds or other obligations issued by an incinerator or environmental services authority pursuant to this act shall not be in any way a debt or liability of the State or of any local unit or municipality.

18. Section 17 of P.L.1948, c.348 (C.40:66A-17) is amended to read as follows:

C.40:66A-17 Real property, acquisition of; condemnation.

17. Every incinerator or environmental services authority is hereby empowered, in its own name but for the local unit or units, to acquire by purchase, gift, grant or devise and to take for public use real property, within or without the district, which may be deemed by the incinerator or environmental services authority necessary for its purposes. Such incinerator or environmental services authority is hereby empowered to acquire and take such real property by condemnation, in the manner provided by chapter one of Title 20, Eminent Domain, of the Revised Statutes (R.S., section 20:1-1 et seq.) and, to that end, may invoke and exercise in the manner or mode of procedure prescribed in said chapter, either in its own name or in the name of any local unit or units, all of the powers of such local unit or units to acquire or take property for public use.

19. Section 18 of P.L.1948, c.348 (C.40:66A-18) is amended to read as follows:

C.40:66A-18 Service charge with regard to real property; interest; liens, enforcement of; collection.

18. (a) In the event that a service charge of any incinerator or environmental services authority with regard to any parcel of real property shall not be paid as and when due, interest shall accrue and be due to the incinerator or environmental services authority on the unpaid balance at the rate of one per centum (1%) per month until such service charge, and the interest thereon, shall be fully paid to the incinerator or environmental services authority.

(b) In the event that a service charge of any incinerator or environmental services authority with regard to any parcel of real property owned by any person, firm, corporation or association shall not be paid as and when due, the unpaid balance thereof and all interest accruing thereon shall be a lien on such parcel. Such lien shall be superior and paramount to the interest in such parcel of any owner, lessee, tenant, mortgagee or other person except the lien of State, county and municipal taxes and shall be on a parity with and deemed equal to the lien on such parcel of State, county and municipal taxes.

(c) In the event that a service charge of any incinerator or environmental services authority with regard to any parcel of real property shall not be paid as and when due, the incinerator or environmental services authority may, in its discretion, discontinue the furnishing of any of the services and facilities of said garbage disposal system until such service charge and any subsequent service charge with regard to such parcel and all interest accrued thereon shall be fully paid to the incinerator or environmental services authority.

(d) The collector or other officer of every municipality charged by law with the duty of enforcing municipal liens on real property shall enforce, with and as any other municipal lien on real property in such municipality, all service charges and the lien thereof and shall pay over to the incinerator or environmental services authority the sums or a pro rata share of the sums realized upon such enforcement or upon liquidation of any property acquired by the municipality by virtue of such enforcement.

(e) In the event that any service charge of an incinerator or environmental services authority shall not be paid as and when due, the unpaid balance thereof and all interest accrued thereon, together with attorneys' fees and costs, may be recovered by the incinerator or environmental services authority in a civil action, and any lien on real property for such service charge and interest accrued thereon may be foreclosed or otherwise enforced by the incinerator or environmental services authority by action or suit in equity as for the foreclosure of a mortgage on such real property.

(f) All rights and remedies granted by this act for the collection and enforcement of service charges shall be cumulative and concurrent.

20. Section 19 of P.L.1948, c.348 (C.40:66A-19) is amended to read as follows:

C.40:66A-19 Sale, lease, loan, grant or conveyance to incinerator, environmental services authority; permit.

19. Any county, by resolution of its board of chosen freeholders, or any municipality, by ordinance of its governing body, or any other person is

hereby empowered, without any referendum and without the consent of any board, officer or other agency of the State, to sell, lease, lend, grant or convey to any incinerator or environmental services authority, or to permit any incinerator or environmental services authority to use, maintain or operate as part of the garbage disposal system, any real or personal property owned by it, which may be necessary or useful and convenient for the purposes of the incinerator or environmental services authority and which may be accepted by the incinerator or environmental services authority. Any such sale, lease, loan, grant, conveyance or permit may be made with or without consideration and for a specified or an unlimited period of time and under any agreement and in any terms and conditions which may be approved by such county, municipality or other person and which may be agreed to by the incinerator or environmental services authority in conformity with its contracts with the holders of bonds, the incinerator or environmental services authority may enter into and perform any and all agreements for the assumption of principal or interest or both of indebtedness of such county, municipality or other person or of any mortgage or lien existing with respect to such property or for the operation and maintenance of such property as part of the garbage disposal system.

21. Section 20 of P.L.1948, c.348 (C.40:66A-20) is amended to read as follows:

C.40:66A-20 Contracts.

20. Any incinerator or environmental services authority and any municipality within the district by ordinance of its governing body may enter into a contract or contracts providing for or relating to the collection, treatment and disposal of garbage and refuse originating in the district or in such municipality by means of the garbage disposal system, and the cost and expense of such collection, treatment and disposal. Such contract or contracts may provide for the payment to the incinerator or environmental services authority by such municipality annually or otherwise of such sum or sums of money, computed at fixed amounts or by a formula based on any factors or other matters described in subsection (b) of section 8 of this act or in any other manner, as said contract or contracts may provide, and the sum or sums so payable may include provision for all or any part or a share of the amounts necessary (1) to pay or provide for the expenses of operation and maintenance of the garbage disposal system, including without limitation insurance, extensions, betterments and replacements and the principal of and interest on any bonds, and (2) to provide for any deficits

resulting from failure to receive sums payable to the incinerator or environmental services authority by such municipality, any other municipality, or any person, or from any other cause, and (3) to maintain such reserves or sinking funds for any of the foregoing as may be required by the terms of any contract of the incinerator or environmental services authority or as may be deemed necessary or desirable by the incinerator or environmental services authority. Any such contract may provide that the sum or sums so payable to the incinerator or environmental services authority shall be in lieu of all or any part of the service charges which would otherwise be charged and collected by the incinerator or environmental services authority with regard to persons or real property within such municipality. Such contract or contracts may also contain provisions as to the financing and payment of expenses to be incurred by the incinerator or environmental services authority and determined by it to be necessary for its purposes prior to the placing in operation of the garbage disposal system and may provide for the payment by such municipality to the incinerator or environmental services authority for application to such expenses or indebtedness therefor such sum or sums of money, not in the aggregate exceeding an amount stated or otherwise limited in said contract or contracts plus interest thereon, as said contract or contracts may provide and as the governing body of said municipality shall, by virtue of its authorization of and entry into said contract or contracts, determine to be necessary for the purposes of the incinerator or environmental services authority. Any such contract may be made with or without consideration and for a specified or an unlimited time and on any terms and conditions which may be approved by such municipality and which may be agreed to by the incinerator or environmental services authority in conformity with its contracts with the holders of any bonds, and shall be valid whether or not an appropriation with respect thereto is made by such municipality prior to authorization or execution thereof. Subject to any such contracts with the holders of bonds, such municipality is hereby authorized and directed to do and perform any and all acts or things necessary, convenient or desirable to carry out and perform every such contract and to provide for the payment or discharge of any obligation thereunder in the same manner as other obligations of such municipality and, in accordance with any such contract, to waive, modify, suspend or reduce the service charges which would otherwise be charged and collected by the incinerator or environmental services authority with regard to persons or real property within such municipality. Nothing in this section, however, shall prevent the incinerator or environmental services authority from collecting additional fees and charges from the owners or

occupants of all parcels of real estate served by it within such municipality if for any reason such additional fees or charges shall be necessary in order for the incinerator or environmental services authority to pay all operating expenses, debt service and other payments required pursuant to contracts with bondholders; and notwithstanding such contracts with such municipalities, the incinerator or environmental services authority shall at all times have power and be obligated to collect sufficient additional fees and charges whenever necessary to pay all operating costs, debt service and all other payments required by contracts with bondholders.

22. Section 21 of P.L.1948, c.348 (C.40:66A-21) is amended to read as follows:

C.40:66A-21 Public bodies to pay service charge.

21. Each county, municipality and other public body shall promptly pay to any incinerator or environmental services authority all service charges which the incinerator or environmental services authority may charge to it, as owner or occupant of any real property and shall provide for the payment thereof in the same manner as other obligations of such county, municipality or public body.

23. Section 22 of P.L.1948, c.348 (C.40:66A-22) is amended to read as follows:

C.40:66A-22 Mortgage, pledge or disposal of garbage disposal system; exemptions.

22. Neither the incinerator or environmental services authority nor any local unit shall have power to mortgage, pledge, encumber or otherwise dispose of any part of the garbage disposal system, except that the incinerator or environmental services authority may dispose of such part or parts thereof as may be no longer necessary for the purposes of the incinerator or environmental services authority. The provisions of this section shall be deemed to constitute a part of the contract with the holder of any bonds. All property of an incinerator or environmental services authority shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same nor shall any judgment against an incinerator or environmental services authority be a charge or lien upon its property; provided, that nothing herein contained shall apply to or limit the rights of the holder of any bonds to pursue any remedy for the enforcement of any pledge or lien given by an incinerator or environmental services authority on its system revenues.

24. Section 24 of P.L.1948, c.348 (C.40:66A-24) is amended to read as follows:

C.40:66A-24 Property as public property; bonds declared issued by political subdivision; bonds exempt from taxation.

24. Every garbage disposal system and all other property of an incinerator or environmental services authority are hereby declared to be public property of a political subdivision of the State and devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of the State or any subdivision thereof. All bonds issued pursuant to this act are hereby declared to be issued by a political subdivision of this State and for an essential public and governmental purpose and to be a public instrumentality, and such bonds, and the interest thereon and the income therefrom, and all service charges, funds, revenues and other moneys pledged or available to pay or secure the payment of such bonds, or interest thereon, shall at all times be exempt from taxation except for transfer, inheritance and estate taxes.

25. Section 25 of P.L.1948, c.348 (C.40:66A-25) is amended to read as follows:

C.40:66A-25 Competitive systems; State's pledge and agreement with bondholders.

25. The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds issued pursuant to this act that the State will not authorize or permit the construction or maintenance of any incinerator or garbage disposal system which will be competitive with the garbage disposal system of the incinerator or environmental services authority, and will not limit or alter the rights hereby vested in the incinerator or environmental services authority to acquire, construct, maintain, reconstruct and operate its garbage disposal system, and to fix, establish, charge and collect its service charges and to fulfill the terms of any agreement made with the holders of such bonds or other obligations, and will not in any way impair the rights or remedies of such holders, and will not modify in any way the exemptions from taxation provided for in this act, until such bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged.

26. Section 26 of P.L.1948, c.348 (C.40:66A-26) is amended to read as follows:

C.40:66A-26 Banks authorized to give undertaking; deposits.

26. All banks, bankers, trust companies, savings banks, investment companies and other persons carrying on a banking business are hereby authorized to give to any incinerator or environmental services authority a good and sufficient undertaking with such sureties as shall be approved by the incinerator or environmental services authority to the effect that such bank or banking institution as hereinbefore described shall faithfully keep and pay over to the order of or upon the warrant of the incinerator or environmental services authority or its authorized agent all such funds as may be deposited with it by the incinerator or environmental services authority and agreed interest thereon, at such times or upon such demands as may be agreed upon with the authority or, in lieu of such sureties, deposit with the incinerator or environmental services authority or its authorized agent or any trustee therefor or for the holders of any bonds, as collateral, such securities as the incinerator or environmental services authority may approve; provided, such securities shall consist of obligations in which public officers and bodies of the State and its municipal subdivisions, savings institutions, including savings and loan associations, insurance companies and associations, executors, administrators, guardians, trustees and other fiduciaries in the State may properly and legally invest the funds within their control, in such principal amount, market value or other description as may be approved by the incinerator or environmental services authority. The deposits of the incinerator or environmental services authority may be evidenced by a depository collateral agreement in such form and upon such terms and conditions as may be agreed upon by the incinerator or environmental services authority and such bank or banking institution.

27. Section 27 of P.L.1948, c.348 (C.40:66A-27) is amended to read as follows:

C.40:66A-27 Municipalities' powers respecting garbage disposal limited after creation of incinerator, environmental services authority; use of services.

27. After the creation of an incinerator or environmental services authority as provided herein, no municipality within the district shall have power to engage in, grant any license or permit for, or enter into any contract for, the collection, treatment and disposal of garbage and refuse; and no such municipality, or any person, firm, corporation or association shall engage in any activities within such municipality which would be competitive with the purposes of the incinerator or environmental services authority as provided in this act.

It is hereby determined and declared that it is necessary for the health and welfare of the inhabitants of every district within which an incinerator or environmental services authority is created that the facilities and services of such incinerator or environmental services authority shall be used by the owners or occupants of all lands, buildings and premises within such district, and the incinerator or environmental services authority may by resolution require the owners or occupants of all lands, buildings and premises therein to use the services and facilities of the incinerator or environmental services authority under such rules and regulations as the incinerator or environmental services authority shall fix and establish.

The provisions of this section shall not be construed, however, to affect or impair any contracts entered into prior to the creation of an incinerator or environmental services authority.

28. This act shall take effect immediately.

Approved August 7, 2012.

CHAPTER 32

AN ACT concerning employment of certain persons by alcoholic beverage licensees and amending R.S.33:1-26.

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

1. R.S.33:1-26 is amended to read as follows:

License, terms, transfer; fee.

33:1-26. All licenses shall be for a term of one year from July 1 in each year. The respective fees for any such license shall be prorated according to the effective date of the license and based on the respective annual fee as in this chapter provided. Where the license fee deposited with the application exceeds the prorated fee, a refund of the excess shall be made to the licensee. Licenses are not transferable except as hereinafter provided. A separate license is required for each specific place of business and the operation and effect of every license is confined to the licensed premises. No retail license of any class shall be issued to any holder of a manufacturer's or wholesaler's license, and no manufacturer's or wholesaler's license shall be issued to the holder of a retail license of any class.

Any person who shall exercise or attempt to exercise, or hold himself out as authorized to exercise, the rights and privileges of a licensee except the licensee and then only with respect to the licensed premises, shall be guilty of a misdemeanor.

In case of death, bankruptcy, receivership or incompetency of the licensee, or if for any other reason whatsoever the operation of the business covered by the license shall devolve by operation of law upon a person other than the licensee, the director or the issuing authority may, in his or its discretion, extend the license for a limited time, not exceeding its term, to the executor, administrator, trustee, receiver or other person upon whom the same has devolved by operation of law as aforesaid. Under no circumstances, however, shall a license, or rights thereunder, be deemed property, subject to inheritance, sale, pledge, lien, levy, attachment, execution, seizure for debts, or any other transfer or disposition whatsoever, except for payment of taxes, fees, interest and penalties imposed by any State tax law for which a lien may attach pursuant to R.S.54:49-1 or pursuant to the State Uniform Tax Procedure Law, R.S.54:48-1 et seq., or any similar State lien of tax, except to the extent expressly provided by this chapter.

On application made therefor setting forth the same matters and things with reference to the premises to which a transfer of license is sought as are required to be set forth in connection with an original application for license, as to the premises, and after publication of notice of intention to apply for transfer, in the same manner as is required in case of an application for license as to the premises, the director or other issuing authority may transfer, upon payment of a fee of 10% of the annual license fee for the license sought to be transferred, any license issued by him or it respectively to a different place of business than that specified therein, by endorsing permission upon the license.

On application made therefor setting forth the same matters and things with reference to the person to whom a transfer of license is sought as are required to be set forth in connection with an original application for license, which application for transfer shall be signed and sworn to by the person to whom the transfer of license is sought and shall bear the consent in writing of the licensee to the transfer, and after publication of notice of intention by the person to whom the transfer of license is sought, to apply for transfer in the same manner as is required in the case of an original application for license, the director or other issuing authority, as the case may be, may transfer any license issued by him or it respectively to the applicant for transfer by endorsing the license. The application and the applicant shall comply with all requirements of this chapter pertaining to an original

application for license and shall be accompanied, in lieu of the license fee required on the original application, by a fee of 10% of the annual license fee for the license sought to be transferred, which 10% shall be retained by the director or other issuing authority, as the case may be, whether the transfer be granted or not, and accounted for as other license fees.

If the other issuing authority shall refuse to grant a transfer the applicant shall be notified forthwith of the refusal by a notice served personally upon the applicant, or sent to him by registered mail addressed to him at the address stated in the application, and the applicant may, within 30 days after the date of service or mailing of the notice, appeal to the director from the action of the issuing authority. If the other issuing authority shall grant a transfer, any taxpayer or other aggrieved person opposing the grant of the transfer may, within 30 days after the grant of the transfer, appeal to the director from the action of the issuing authority.

No person who would fail to qualify as a licensee under this chapter shall be knowingly employed by or connected in any business capacity whatsoever with a licensee. A person failing to qualify as to age or by reason of conviction of a crime involving moral turpitude may, with the approval of the director, and subject to rules and regulations, be employed by any licensee, but the employee if disqualified by age shall not, in any manner whatsoever serve, sell or solicit the sale or participate in the manufacture, rectification, blending, treating, fortification, mixing, processing or bottling of any alcoholic beverage; and further provided, that no permit shall be necessary for the employment in a bona fide hotel or restaurant of any person failing to qualify as to age so long as the person shall not in any manner whatsoever serve, sell or solicit the sale of any alcoholic beverage, or participate in the mixing, processing or preparation thereof. Except for a person convicted of a sex offense as enumerated in subsection b. of N.J.S.2C:7-2 or a person convicted of a crime involving moral turpitude committed while employed on a licensed premises, a person who has been convicted of a crime involving moral turpitude may be employed by a Class C licensee without obtaining the approval of the director or a rehabilitation employment permit provided the person's responsibilities do not involve serving, selling or soliciting the sale of any alcoholic beverage; participating in the mixing, processing or preparation of alcoholic beverages; providing private security or admission-monitoring services for the premises; or providing or participating in any management or professional services.

Each person seeking to be employed or connected in any business capacity whatsoever with a licensee shall submit to the director the applicant's name, address, fingerprints and written consent for a criminal history record

background check to be performed. The director is authorized to receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the director in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

Any request for relief under this section shall be accompanied by a nonreturnable filing fee of $100.00 payable to the director.

2. This act shall take effect immediately.

Approved August 7, 2012.

CHAPTER 33

AN ACT concerning civilian federal firefighters and amending P.L.1996, c.140.

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

1. Section 1 of P.L.1996, c.140 (C.40A:14-182) is amended to read as follows:

C.40A:14-182 Federal firefighters, certain; appointment.

1. a. The provisions of any other law to the contrary notwithstanding, the appointing authority of a municipality which, pursuant to N.J.S.40A:14-7, has established and maintains a paid or part-paid fire department and force or the board of fire commissioners in the case of a fire district established pursuant to the provisions of N.J.S.40A:14-70 et seq., may appoint as a member or officer of that fire department or force any person who:

(1) was serving as a civilian federal firefighter in good standing at any U.S. military installation in the State in a career or conditional career status;

(2) satisfactorily completed such firefighter training as is required for employment as a civilian federal firefighter; and

(3) was, as a consequence of the closure of, or a reduction in force or elimination of his position at, a federal military installation in this State, terminated as a civilian federal firefighter within 60 months prior to the appointment.

b. A municipality may employ such a person notwithstanding that:

(1) Title 11A, Civil Service, of the New Jersey Statutes is operative in that municipality;

(2) the municipality has available to it an eligible or regular reemployment list of persons eligible for such appointments; and

(3) the appointed person is not on any eligible list. A municipality which has adopted Title 11A, Civil Service, may not employ such a person if a special reemployment list is in existence for the firefighter title to be filled.

c. If a municipality determines to appoint a person pursuant to the provisions of this act, it shall give first priority in making such appointments to residents of the municipality and second priority to residents of the county not residing in the municipality.

d. The seniority, seniority-related privileges and rank a civilian federal firefighter possessed while employed at a federal military installation shall not be transferable to a position in a municipal fire department and force obtained pursuant to the provisions of this section.

e. To effectuate the purposes of this section, the Civil Service Commission shall prepare and circulate, to those municipalities which have established and maintain fire departments and forces pursuant to N.J.S.40A:14-7, and to boards of fire commissioners in the case of fire districts established pursuant to the provisions of N.J.S.40A:14-70 et seq., a list of civilian federal firefighters eligible for appointment under the provisions of this section. The Civil Service Commission shall also circulate the list to municipalities and fire districts that have not adopted Title 11A, Civil Service, of the New Jersey Statutes.

Placement on the list compiled by the commission shall be governed by length of service as a federal firefighter. A federal firefighter may apply for placement on the list at the time he or she receives a notice of termination of position or a priority placement program notice, and shall remain on the list for a period of four years.

2. This act shall take effect immediately.

Approved August 7, 2012.

CHAPTER 34

AN ACT concerning the regulation of casino gaming and amending various parts of the statutory law and supplementing P.L.1977, c.110 (C.5:12-1 et seq.) and P.L.2011, c.231 (C.5:12A-1 et seq.).

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

1. Section 12 of P.L.1977, c.110 (C.5:12-12) is amended to read as follows:

C.5:12-12 "Casino Service Industry Enterprise."

12. "Casino Service Industry Enterprise" -- Any vendor offering goods or services which directly relate to casino or gaming activity, including gaming equipment and simulcast wagering equipment manufacturers, suppliers, repairers and independent testing laboratories, or any vendor providing to casino licensees or applicants goods and services ancillary to gaming activity, including, without limitation, junket enterprises and junket representatives, holders of casino hotel alcoholic beverage control licenses, lessors of casino property not required to hold a casino license pursuant to section 82 of P.L.1977, c.110 (C.5:12-82), and licensors of authorized games. Notwithstanding the foregoing, any form of enterprise engaged in the manufacture, sale, distribution, testing or repair of slot machines within New Jersey, other than antique slot machines as defined in N.J.S.2C:37-7, shall be considered a casino service industry enterprise for the purposes of this act regardless of the nature of its business relationship, if any, with casino applicants and licensees in this State.

For the purposes of this section, "casino applicant" includes any person required to hold a casino license pursuant to section 82 of P.L.1977, c.110 (C.5:12-82) who has applied to the division for a casino license or any approval required under P.L.1977, c.110 (C.5:12-1 et seq.).

C.5:12-27a "Independent software contractor."

2. "Independent software contractor" – A person or entity not employed directly by a casino service industry enterprise who, pursuant to an agreement with the casino service industry enterprise, develops, designs, programs, produces, composes, or manufactures any software, source language, executable code, or content which a casino service industry enterprise acquires control over or ownership of and assumes legal responsibility for the gaming device in which the software or code is used.

3. Section 11 of P.L.2011, c.19 (C.5:12-14.2a) is amended to read as follows:

C.5:12-14.2a "Corporate Officer."

11. "Corporate Officer" - The chief executive officer, chief financial officer, chief operating officer, chief information officer, chief compliance officer, and chief legal officer of a corporation, or their equivalents in any unincorporated entity.

4. Section 81 of P.L.1977, c.110 (C.5:12-81) is amended to read as follows:

C.5:12-81 Statement of compliance.

81. Statement of compliance.

a. (1) Upon consideration of a report and recommendation of the division, the commission may, in its discretion, issue a statement of compliance to an applicant for a casino license or to any person required to qualify in conjunction with a casino license or casino license applicant if the applicant or person, as the case may be, has established by clear and convincing evidence that one or more particular eligibility criteria have been satisfied. A request for the issuance of a statement of compliance pursuant to this paragraph shall be initiated by the applicant filing a petition with the division. Before the division initiates any investigation on such a petition, the director may require the applicant to establish to the satisfaction of the director that the applicant actually intends, if found qualified, to engage in the business or activity that would require the issuance of the license or the determination of qualification status.

(2) Any person who must be qualified pursuant to the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.) in order to hold the securities of a casino licensee or any holding or intermediary company of a casino licensee may, prior to the acquisition of any such securities, request the issuance of a statement of compliance by the commission that the person is qualified to hold such securities. Any request for the issuance of a statement of compliance pursuant to this paragraph shall be initiated by the person filing a petition with the division in which the person shall be required to establish that there is a reasonable likelihood that, if qualified, the person will obtain and hold the securities of a casino licensee or any holding or intermediary company thereof to such extent as to require the qualification of the person. If, after an investigation by the division, the director finds that this reasonable likelihood exists and that the qualifications of the person have been established by clear and convincing evidence, the director may, in the director's

discretion, recommend to the commission that it issue a statement of compliance that the person is qualified to hold such securities. Any person who requests a statement of compliance pursuant to this paragraph shall be subject to the provisions of section 80 of P.L.1977, c.110 (C.5:12-80) and shall pay for the costs of all investigations and proceedings in relation to the request unless the person provides an agreement with one or more casino licensees which states that the licensee or licensees will pay those costs.

(3) A statement of compliance shall not be issued indicating that an applicant or any other person required to qualify in conjunction with a casino license or casino license applicant that is a corporation or other form of business organization has established by clear and convincing evidence its good character, honesty and integrity unless the corporate officers; each director; each person who directly or indirectly holds any beneficial or ownership interest in the applicant of 5% or greater, to the extent such person would be required to qualify under section 85 of P.L.1977, c.110 (C.5:12-85); and any other person whom the division may consider appropriate for approval or qualification, would, but for residence, individually be qualified for approval as a casino key employee pursuant to the provisions of section 89 of P.L.1977, c.110 (C.5:12-89).

b. Any statement of compliance issued under P.L.1977, c.110 (C.5:12-1 et seq.) shall specify:

(1) the particular eligibility criterion satisfied by the applicant or person;

(2) the date as of which such satisfaction was determined by the commission;

(3) the continuing obligation of the applicant or person to file any information required by the division as part of any application for a license or qualification status, including information related to the eligibility criterion for which the statement of compliance was issued; and

(4) the obligation of the applicant or person to reestablish its satisfaction of the eligibility criterion should there be a change in any material fact or circumstance that is relevant to the eligibility criterion for which the statement of compliance was issued.

c. (Deleted by amendment, P.L.2011, c.19)

d. Any statement of compliance issued pursuant to this section shall be withdrawn by the commission if:

(1) the applicant or person otherwise fails to satisfy the standards for licensure or qualification;

(2) the applicant or person fails to comply with any condition imposed; or

(3) the commission finds, on recommendation of the division, cause to revoke the statement of compliance for any other reason.

e. Notwithstanding any other provision of this section, unless otherwise extended by the commission upon application by the recipient and for good cause shown, any statement of compliance issued by the commission pursuant to this section shall expire 48 months after its date of issuance.

f. (Deleted by amendment, P.L.2011, c.19)

5. Section 82 of P.L.1977, c.110 (C.5:12-82) is amended to read as follows:

C.5:12-82 Casino license – applicant eligibility.

82. a. No casino shall operate unless all necessary licenses and approvals therefor have been obtained in accordance with law.

b. Only the following persons shall be eligible to hold a casino license; and, unless otherwise determined by the commission with the concurrence of the Attorney General which may not be unreasonably withheld in accordance with subsection c. of this section, each of the following persons shall be required to hold a casino license prior to the operation of a casino in the casino hotel with respect to which the casino license has been applied for:

(1) Any person who either owns an approved casino hotel or owns or has a contract to purchase or construct a casino hotel which in the judgment of the commission can become an approved casino hotel within 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish;

(2) Any person who, whether as lessor or lessee, either leases an approved casino hotel or leases or has an agreement to lease a casino hotel which in the judgment of the commission can become an approved casino hotel within 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish;

(3) Any person who has a written agreement with a casino licensee or with an eligible applicant for a casino license for the complete management of a casino and, if applicable, any authorized games in a casino simulcasting facility; and

(4) Any other person who has control over either an approved casino hotel or the land thereunder or the operation of a casino.

c. Prior to the operation of a casino and, if applicable, a casino simulcasting facility, every agreement to lease an approved casino hotel or the land thereunder and every agreement for the management of the casino and, if applicable, any authorized games in a casino simulcasting facility, shall be in writing and filed with the commission and the division. No such agreement shall be effective unless expressly approved by the commission.

The commission may require that any such agreement include within its terms any provision reasonably necessary to best accomplish the policies of this act. Consistent with the policies of this act:

(1) The commission, with the concurrence of the Attorney General which may not be unreasonably withheld, may determine that any person who does not have the ability to exercise any significant control over either the approved casino hotel or the operation of the casino contained therein shall not be eligible to hold or required to hold a casino license;

(2) The commission, with the concurrence of the Attorney General which may not be unreasonably withheld, may determine that any owner, lessor or lessee of an approved casino hotel or the land thereunder who does not own or lease a significant portion of an approved casino hotel shall not be eligible to hold or required to hold a casino license;

(3) The commission shall require that any person or persons eligible to apply for a casino license organize itself or themselves into such form or forms of business association as the commission shall deem necessary or desirable in the circumstances to carry out the policies of this act;

(4) The commission may issue separate casino licenses to any persons eligible to apply therefor;

(5) As to agreements to lease an approved casino hotel or the land thereunder, unless it expressly and by formal vote for good cause determines otherwise, the commission shall require that each party thereto hold either a casino license or casino service industry enterprise license and that such an agreement shall include within its terms a buy-out provision conferring upon the casino licensee-lessee who controls the operation of the approved casino hotel the absolute right to purchase for an expressly set forth fixed sum the entire interest of the lessor or any person associated with the lessor in the approved casino hotel or the land thereunder in the event that said lessor or said person associated with the lessor is found by the commission or director, as the case may be, to be unsuitable to be associated with a casino enterprise;

(6) The commission shall not permit an agreement for the leasing of an approved casino hotel or the land thereunder to provide for the payment of an interest, percentage or share of money gambled at the casino or derived from casino gaming activity or of revenues or profits of the casino unless the party receiving payment of such interest, percentage or share is a party to the approved lease agreement; unless each party to the lease agreement holds either a casino license or casino service industry enterprise license, and includes within its terms a buy-out provision conforming to that described in paragraph (5) above;

(7) As to agreements for the management of a casino and, if applicable, the authorized games in a casino simulcasting facility, the commission shall require that each party thereto hold a casino license or a casino service industry enterprise license pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), that the party thereto who is to manage the casino gaming operations own at least 10% of all outstanding equity securities of any casino licensee or of any eligible applicant for a casino license if the said licensee or applicant is a corporation and the ownership of an equivalent interest in any casino licensee or in any eligible applicant for a casino license if same is not a corporation, and that such an agreement be for the complete management of all casino space in the casino hotel and, if applicable, all authorized games in a casino simulcasting facility, provide for the sole and unrestricted power to direct the casino gaming operations of the casino hotel which is the subject of the agreement, and be for such a durational term as to assure reasonable continuity, stability and independence in the management of the casino gaming operations, provided that the provisions of this paragraph shall not apply to a slot system agreement between a group of casino licensees and a casino service industry enterprise licensed pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), or an eligible applicant for such license, and that, with regard to such agreements, the casino service industry enterprise licensee or applicant may operate and administer the multi-casino progressive slot machine system, including, but not limited to, the operation of a monitor room or the payment of progressive, including annuity, jackpots, or both, and further provided that the obligation to pay a progressive jackpot or establish an annuity jackpot guarantee shall be the sole responsibility of the casino licensee or casino service industry enterprise licensee or applicant designated in the slot system agreement and that no other party shall be jointly or severally liable for the payment or funding of such jackpots or guarantees unless such liability is specifically established in the slot system agreement;

(8) The commission may permit an agreement for the management of a casino and, if applicable, the authorized games in a casino simulcasting facility to provide for the payment to the managing party of an interest, percentage or share of money gambled at all authorized games or derived from casino gaming activity or of revenues or profits of casino gaming operations;

(9) Notwithstanding any other provision of P.L.1977, c.110 (C.5:12-1 et seq.) to the contrary, the commission may permit an agreement between a casino licensee and a casino service industry enterprise licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) for the conduct of casino simulcasting in a simulcasting facility or for the

operation of a multi-casino progressive slot machine system, to provide for the payment to the casino service industry enterprise of an interest, percentage or share of the money derived from the casino licensee's share of proceeds from simulcast wagering activity or the operation of a multi-casino progressive slot machine system; and

(10) As to agreements to lease an approved casino hotel or the land thereunder, agreements to jointly own an approved casino hotel or the land thereunder and agreements for the management of casino gaming operations or for the conduct of casino simulcasting in a simulcasting facility, the commission shall require that each party thereto, except for a banking or other chartered or licensed lending institution or any subsidiary thereof, or any chartered or licensed life insurance company or property and casualty insurance company, or the State of New Jersey or any political subdivision thereof or any agency or instrumentality of the State or any political subdivision thereof, shall be jointly and severally liable for all acts, omissions and violations of this act by any party thereto regardless of actual knowledge of such act, omission or violation and notwithstanding any provision in such agreement to the contrary. Notwithstanding the foregoing, nothing in this paragraph shall require a casino licensee to be jointly and severally liable for any acts, omissions or violations of this act, P.L.1977, c.110 (C.5:12-1 et seq.), committed by any casino service industry enterprise licensee or applicant performing as a slot system operator pursuant to a slot system agreement.

d. No corporation shall be eligible to apply for a casino license unless:

(1) The corporation shall be incorporated in the State of New Jersey, although such corporation may be a wholly or partially owned subsidiary of a corporation which is organized pursuant to the laws of another state of the United States or of a foreign country;

(2) The corporation shall maintain an office of the corporation in the casino hotel licensed or to be licensed;

(3) The corporation shall comply with all the requirements of the laws of the State of New Jersey pertaining to corporations;

(4) The corporation shall maintain a ledger in the principal office of the corporation in New Jersey which shall at all times reflect the current ownership of every class of security issued by the corporation and shall be available for inspection by the commission or the division and authorized agents of the commission and the division at all reasonable times without notice;

(5) The corporation shall maintain all operating accounts required by the commission in a bank in New Jersey, except that a casino licensee may

establish deposit-only accounts in any jurisdiction in order to obtain payment of any check described in section 101 of P.L.1977, c.110 (C.5:12-101);

(6) The corporation shall include among the purposes stated in its certificate of incorporation the conduct of casino gaming and provide that the certificate of incorporation includes all provisions required by this act;

(7) The corporation, if it is not a publicly traded corporation, shall file with the division and the commission such adopted corporate charter provisions as may be necessary to establish the right of the commission pursuant to subsection a. of section 105 of P.L.1977, c.110 (C.5:12-105) to disapprove transfers of securities, shares, and other interests in the applicant corporation; and, if it is a publicly traded corporation, provide in its corporate charter that any securities of such corporation are held subject to the condition that if a holder thereof is found to be disqualified pursuant to the provisions of this act, such holder shall dispose of his interest in the corporation; provided, however, that, notwithstanding the provisions of N.J.S.14A:7-12 and N.J.S.12A:8-101 et seq., nothing herein shall be deemed to require that any security of such corporation bear any legend to this effect;

(8) The corporation, if it is not a publicly traded corporation, shall establish to the satisfaction of the division that appropriate charter provisions create the absolute right of such non-publicly traded corporations and companies to repurchase at the market price or the purchase price, whichever is the lesser, any security, share or other interest in the corporation in the event that the commission disapproves a transfer in accordance with the provisions of this act;

(9) Any publicly traded holding, intermediary, or subsidiary company of the corporation, whether the corporation is publicly traded or not, shall contain in its corporate charter the same provisions required under paragraph (7) for a publicly traded corporation to be eligible to apply for a casino license; and

(10) Any non-publicly traded holding, intermediary or subsidiary company of the corporation, whether the corporation is publicly traded or not, shall establish to the satisfaction of the commission that its charter provisions are the same as those required under paragraphs (7) and (8) for a non-publicly traded corporation to be eligible to apply for a casino license.

The provisions of this subsection shall apply with the same force and effect with regard to casino license applicants and casino licensees which have a legal existence that is other than corporate to the extent which is appropriate.

e. No person shall be issued or be the holder of a casino license if the issuance or the holding results in undue economic concentration in Atlantic

City casino operations by that person. For the purpose of this subsection, "undue economic concentration" means that a person would have such actual or potential domination of the casino gaming market in Atlantic City as to substantially impede or suppress competition among casino licensees or adversely impact the economic stability of the casino industry in Atlantic City. In determining whether the issuance or holding of a casino license by a person will result in undue economic concentration, the commission shall consider the following criteria:

(1) The percentage share of the market presently controlled by the person in each of the following categories:

The total number of licensed casinos in this State;

Total casino and casino simulcasting facility square footage;

Number of guest rooms;

Number of slot machines;

Number of table games;

Net revenue;

Table game win;

Slot machine win;

Table game drop;

Slot machine drop; and

Number of persons employed by the casino hotel;

(2) The estimated increase in the market shares in the categories in (1) above if the person is issued or permitted to hold the casino license;

(3) The relative position of other persons who hold casino licenses, as evidenced by the market shares of each such person in the categories in (1) above;

(4) The current and projected financial condition of the casino industry;

(5) Current market conditions, including level of competition, consumer demand, market concentration, any consolidation trends in the industry and any other relevant characteristics of the market;

(6) Whether the licensed casinos held or to be held by the person have separate organizational structures or other independent obligations;

(7) The potential impact of licensure on the projected future growth and development of the casino industry and Atlantic City;

(8) The barriers to entry into the casino industry, including the licensure requirements of this act, P.L.1977, c.110 (C.5:12-1 et seq.), and whether the issuance or holding of a casino license by the person will operate as a barrier to new companies and individuals desiring to enter the market;

(9) Whether the issuance or holding of the license by the person will adversely impact on consumer interests, or whether such issuance or hold-

ing is likely to result in enhancing the quality and customer appeal of products and services offered by casino licensees in order to maintain or increase their respective market shares;

(10) Whether a restriction on the issuance or holding of an additional license by the person is necessary in order to encourage and preserve competition and to prevent undue economic concentration in casino operations; and

(11) Any other evidence deemed relevant by the commission.

The commission shall, after conducting public hearings thereon, promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) defining any additional criteria the commission will use in determining what constitutes undue economic concentration.

For the purpose of this subsection a person shall be considered the holder of a casino license if such license is issued to such person or if such license is held by any holding, intermediary or subsidiary company thereof, or by any person required to be qualified in conjunction with such casino license.

6. Section 92 of P.L.1977, c.110 (C.5:12-92) is amended to read as follows:

C.5:12-92 Licensing of casino service industry enterprises.

92. Licensing of casino service industry enterprises. a. (1) Any business to be conducted with a casino applicant or licensee by a vendor offering goods or services which directly relate to casino or gaming activity, including gaming equipment and simulcast wagering equipment manufacturers, suppliers, repairers, and independent testing laboratories, shall require licensure as a casino service industry enterprise in accordance with the provisions of this act prior to conducting any business whatsoever with a casino applicant or licensee, its employees or agents; provided, however, that upon a showing of good cause by a casino applicant or licensee, the director may permit an applicant for a casino service industry enterprise license to conduct business transactions with such casino applicant or licensee prior to the licensure of that casino service industry enterprise applicant under this subsection for such periods as the division may establish by regulation.

(2) In addition to the requirements of paragraph (1) of this subsection, any casino service industry enterprise intending to manufacture, sell, distribute, test or repair slot machines within New Jersey, other than antique slot machines as defined in N.J.S.2C:37-7, shall be licensed in accordance with the provisions of this act prior to engaging in any such activities; pro-

vided, however, that upon a showing of good cause by a casino applicant or licensee, the director may permit an applicant for a casino service industry enterprise license to conduct business transactions with the casino applicant or licensee prior to the licensure of that casino service industry enterprise applicant under this subsection for such periods as the division may establish by regulation; and provided further, however, that upon a showing of good cause by an applicant required to be licensed as a casino service industry enterprise pursuant to this paragraph, the director may permit the casino service industry enterprise applicant to initiate the manufacture of slot machines or engage in the sale, distribution, testing or repair of slot machines with any person other than a casino applicant or licensee, its employees or agents, prior to the licensure of that casino service industry enterprise applicant under this subsection.

(3) Vendors providing goods and services to casino licensees or applicants ancillary to gaming, including, without limitation, junket enterprises and junket representatives, and any person employed by a junket enterprise or junket representative in a managerial or supervisory position, non-casino applicants or licensees required to hold a casino hotel alcoholic beverage license pursuant to section 103 of P.L.1977, c.110 (C.5:12-103), lessors of casino property not required to hold a casino license pursuant to section 82 of P.L.1977, c.110 (C.5:12-82), and licensors of authorized games shall be required to be licensed as an ancillary casino service industry enterprise and shall comply with the standards set forth in paragraph (4) of subsection c. of this section.

b. Each casino service industry enterprise required to be licensed pursuant to paragraph (1) of subsection a. of this section, as well as its owners; management and supervisory personnel; and employees if such employees have responsibility for services to a casino applicant or licensee, must qualify under the standards, except residency, established for qualification of a casino key employee under this act.

c. (1) Any vendor that offers goods or services to a casino applicant or licensee that is not included in subsection a. of this section including, but not limited to casino site contractors and subcontractors, shopkeepers located within the approved hotels, gaming schools that possess slot machines for the purpose of instruction, and any non-supervisory employee of a junket enterprise licensed under paragraph (3) of subsection a. of this section, shall be required to register with the division in accordance with the regulations promulgated under this act, P.L.1977, c.110 (C.5:12-1 et seq.).

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the director may, consistent with the public interest and the policies of this act, direct that individual vendors registered pursuant to paragraph (1) of

this subsection be required to apply for either a casino service industry enterprise license pursuant to paragraph (1) of subsection a. of this section, or an ancillary casino service industry enterprise license pursuant to paragraph (3) of subsection a. of this section, as directed by the division, including, without limitation, in-State and out-of-State sending tracks as defined in section 2 of the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-192); shopkeepers located within the approved hotels; and gaming schools that possess slot machines for the purpose of instruction. The director may also order that any enterprise licensed as or required to be licensed as an ancillary casino service industry enterprise pursuant to paragraph (3) of subsection a. of this section be required to apply for a casino service industry enterprise license pursuant to paragraph (1) of subsection a. of this section. The director may also, in his discretion, order that an independent software contractor not otherwise required to be registered be either registered as a vendor pursuant to subsection c. of this section or be licensed pursuant to either paragraph (1) or (3) of subsection a. of this section.

(3) (Deleted by amendment, P.L.2011, c.19)

(4) Each ancillary casino service industry enterprise required to be licensed pursuant to paragraph (3) of subsection a. of this section, as well as its owners, management and supervisory personnel, and employees if such employees have responsibility for services to a casino applicant or licensee, shall establish their good character, honesty and integrity by clear and convincing evidence and shall provide such financial information as may be required by the division. Any enterprise required to be licensed as an ancillary casino service industry enterprise pursuant to this section shall be permitted to transact business with a casino licensee upon filing of the appropriate vendor registration form and application for such licensure.

d. Any applicant, licensee or qualifier of a casino service industry enterprise license or of an ancillary casino service industry enterprise license under subsection a. of this section, and any vendor registrant under subsection c. of this section shall be disqualified in accordance with the criteria contained in section 86 of this act, except that no such ancillary casino service industry enterprise license under paragraph (3) of subsection a. of this section or vendor registration under subsection c. of this section shall be denied or revoked if such vendor registrant can affirmatively demonstrate rehabilitation as provided in subsection d. of section 91 of P.L.1977, c.110 (C.5:12-91).

e. No casino service industry enterprise license or ancillary casino service industry enterprise license shall be issued pursuant to subsection a. of this section to any person unless that person shall provide proof of valid

business registration with the Division of Revenue in the Department of the Treasury.

f. (Deleted by amendment, P.L.2011, c.19)

g. For the purposes of this section, each applicant shall submit to the division the name, address, fingerprints and a written consent for a criminal history record background check to be performed, for each person required to qualify as part of the application. The division is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the division in the event a current or prospective qualifier, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

h. (1) Subsequent to the licensure of any entity pursuant to subsection a. of this section, including any finding of qualification as may be required as a condition of licensure, or the registration of any vendor pursuant to subsection c. of this section, the director may revoke, suspend, limit, or otherwise restrict the license, registration or qualification status upon a finding that the licensee, registrant or qualifier is disqualified on the basis of the criteria set forth in section 86 of P.L.1977, c.110 (C.5:12-86).

(2) A hearing prior to the suspension of any license, registration or qualification issued pursuant to this section shall be a limited proceeding at which the division shall have the affirmative obligation to demonstrate that there is a reasonable possibility that the licensee, registrant or qualifier is disqualified on the basis of the criteria set forth in section 86 of P.L.1977, c.110 (C.5:12-86).

7. Section 100 of P.L.1977, c.110 (C.5:12-100) is amended to read as follows:

C.5:12-100 Games and gaming equipment.

100. a. This act shall not be construed to permit any gaming except the conduct of authorized games in a casino room in accordance with this act and the regulations promulgated hereunder and in a simulcasting facility to the extent provided by the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-191 et al.). Notwithstanding the foregoing, if the division approves

the game of keno as an authorized game pursuant to section 5 of P.L.1977, c.110 (C.5:12-5), as amended, keno tickets may be sold or redeemed in accordance with division regulations.

b. Gaming equipment shall not be possessed, maintained or exhibited by any person on the premises of a casino hotel except in a casino room, in the simulcasting facility, or in restricted casino areas used for the inspection, repair or storage of such equipment and specifically designated for that purpose by the casino licensee with the approval of the division. Gaming equipment which supports the conduct of gaming in a casino or simulcasting facility but does not permit or require patron access, such as computers, may be possessed and maintained by a casino licensee or a qualified holding or intermediary company of a casino licensee in restricted areas specifically approved by the division. No gaming equipment shall be possessed, maintained, exhibited, brought into or removed from a casino room or simulcasting facility by any person unless such equipment is necessary to the conduct of an authorized game, has permanently affixed, imprinted, impressed or engraved thereon an identification number or symbol authorized by the division, is under the exclusive control of a casino licensee or casino licensee's employees, or of any individually qualified employee of a holding company or casino licensee and is brought into or removed from the casino room or simulcasting facility following 24-hour prior notice given to an authorized agent of the division.

Notwithstanding any other provision of this section, computer equipment used by the slot system operator of a multi-casino progressive slot system to link and communicate with the slot machines of two or more casino licensees for the purpose of calculating and displaying the amount of a progressive jackpot, monitoring the operation of the system, and any other purpose that the division deems necessary and appropriate to the operation or maintenance of the multi-casino progressive slot machine system may, with the prior approval of the division, be possessed, maintained and operated by the slot system operator either in a restricted area on the premises of a casino hotel or in a secure facility inaccessible to the public and specifically designed for that purpose off the premises of a casino hotel but within the territorial limits of Atlantic County, New Jersey.

Notwithstanding the foregoing, a person may, with the prior approval of the division and under such terms and conditions as may be required by the division, possess, maintain or exhibit gaming equipment in any other area of the casino hotel, provided that such equipment is used for nongaming purposes.

Notwithstanding any other provision of this act to the contrary, the division may, by regulation, authorize the linking of slot machines of one or more casino licensees and slot machines located in casinos licensed by another state of the United States. Wagering and account information for a multi-state slot system shall be transmitted by the operator of such multi-state slot system to either a restricted area on the premises of a casino hotel or to a secure facility inaccessible to the public and specifically designed for that purpose off the premises of a casino hotel but within the territorial limits of Atlantic County, New Jersey, and from there to slot machines of New Jersey casino licensees, provided all locations are approved by the division.

Notwithstanding any other provision of this act to the contrary, the division may authorize electronic versions of authorized games to be played within an approved hotel facility on mobile gaming devices to be approved by the division, provided the player has established an account with the casino licensee, the wager is placed by and the winnings are paid to the patron in person within the approved hotel facility, the mobile gaming device is inoperable outside the approved hotel facility, and the division authorizes the device for mobile gaming; provided that the division may establish any additional or more stringent licensing and other regulatory requirements necessary for the proper implementation and conduct of mobile gaming as authorized herein. For the purposes of this provision, the approved hotel facility shall include any area located within the property boundaries of the casino hotel facility, including the swimming pool area and an outdoor recreation area, where mobile gaming devices may be used by patrons in accordance with this provision, but excluding parking garages or parking areas of a casino hotel facility, provided that the division shall ascertain and ensure, pursuant to rules and regulations issued by it to implement mobile gaming pursuant to this provision, that mobile gaming shall not extend outside of the property boundaries of the casino hotel facility.

c. Each casino hotel shall contain a count room and such other secure facilities as may be required by the division for the counting and storage of cash, coins, tokens, checks, plaques, gaming vouchers, coupons, and other devices or items of value used in wagering and approved by the division that are received in the conduct of gaming and for the inspection, counting and storage of dice, cards, chips and other representatives of value. The division shall promulgate regulations for the security of drop boxes and other devices in which the foregoing items are deposited at the gaming tables or in slot machines, and all areas wherein such boxes and devices are kept while in use, which regulations may include certain locking devices. Said drop boxes and other devices shall not be brought into or removed

from a casino room or simulcasting facility, or locked or unlocked, except at such times, in such places, and according to such procedures as the division may require.

d. All chips used in gaming shall be of such size and uniform color by denomination as the division shall require by regulation.

e. All gaming shall be conducted according to rules promulgated by the division. All wagers and pay-offs of winning wagers shall be made according to rules promulgated by the division, which shall establish such limitations as may be necessary to assure the vitality of casino operations and fair odds to patrons. Each slot machine shall have a minimum payout of 83%.

f. Each casino licensee shall make available in printed form to any patron upon request the complete text of the rules of the division regarding games and the conduct of gaming, pay-offs of winning wagers, an approximation of the odds of winning for each wager, and such other advice to the player as the division shall require. Each casino licensee shall prominently post within a casino room and simulcasting facility, as appropriate, according to regulations of the division such information about gaming rules, pay-offs of winning wagers, the odds of winning for each wager, and such other advice to the player as the division shall require.

g. Each gaming table shall be equipped with a sign indicating the permissible minimum and maximum wagers pertaining thereto. It shall be unlawful for a casino licensee to require any wager to be greater than the stated minimum or less than the stated maximum; provided, however, that any wager actually made by a patron and not rejected by a casino licensee prior to the commencement of play shall be treated as a valid wager.

h. (1) Except as herein provided, no slot machine shall be used to conduct gaming unless it is identical in all electrical, mechanical and other aspects to a model thereof which has been specifically tested and licensed for use by the division. The division shall also test any other gaming device, gaming equipment, gaming-related device or gross-revenue related device, such as a slot management system, electronic transfer credit system or gaming voucher system as it deems appropriate. In its discretion and for the purpose of expediting the approval process, the division may utilize the services of a private testing laboratory that has obtained a plenary license as a casino service industry enterprise pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) to perform the testing, and may also utilize applicable data from any such private testing laboratory or from a governmental agency of a state other than New Jersey authorized to regulate slot machines and other gaming devices, gaming equipment, gaming-related devices and gross-revenue related devices used in casino gaming, if the private

testing laboratory or governmental agency uses a testing methodology substantially similar to the methodology utilized by the division. The division, in its discretion, may rely upon the data provided by the private testing laboratory or governmental agency and adopt the conclusions of such private testing laboratory or governmental agency regarding any submitted device.

(2) Except as otherwise provided in paragraph (5) of subsection h. of this section, the division shall, within 60 days of its receipt of a complete application for the testing of a slot machine or other gaming equipment model, approve or reject the slot machine or other gaming equipment model. In so doing, the division shall specify whether and to what extent any data from a private testing laboratory or governmental agency of a state other than New Jersey was used in reaching its conclusions and recommendation. If the division is unable to complete the testing of a slot machine or other gaming equipment model within this 60-day period, the division may conditionally approve the slot machine or other gaming equipment model for test use by a casino licensee provided that the division represents that the use of the slot machine or other gaming equipment model will not have a direct and materially adverse impact on the integrity of gaming or the control of gross revenue. The division shall give priority to the testing of slot machines or other gaming equipment which a casino licensee has certified it will use in its casino in this State.

(3) The division shall, by regulation, establish such technical standards for licensure of slot machines, including mechanical and electrical reliability, security against tampering, the comprehensibility of wagering, and noise and light levels, as it may deem necessary to protect the player from fraud or deception and to insure the integrity of gaming. The denominations of such machines shall be set by the licensee; the licensee shall simultaneously notify the division of the settings.

(4) The division shall, by regulation, determine the permissible number and density of slot machines in a licensed casino so as to:

(a) promote optimum security for casino operations;

(b) avoid deception or frequent distraction to players at gaming tables;

(c) promote the comfort of patrons;

(d) create and maintain a gracious playing environment in the casino; and

(e) encourage and preserve competition in casino operations by assuring that a variety of gaming opportunities is offered to the public.

Any such regulation promulgated by the division which determines the permissible number and density of slot machines in a licensed casino shall provide that all casino floor space and all space within a casino licensee's

casino simulcasting facility shall be included in any calculation of the permissible number and density of slot machines in a licensed casino.

(5) Any new gaming equipment or simulcast wagering equipment that is submitted for testing to the division or to an independent testing laboratory licensed pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) prior to or simultaneously with submission of such new equipment for testing in a jurisdiction other than New Jersey, may, consistent with regulations promulgated by the division, be deployed by a casino licensee on the casino floor 14 days after submission of such equipment for testing. If the casino or casino service industry enterprise licensee has not received approval for the equipment 14 days after submission for testing, any interested casino licensee may, consistent with division regulations, deploy the equipment on a field test basis, unless otherwise directed by the director.

i. (Deleted by amendment, P.L.1991, c.182).

j. (Deleted by amendment, P.L.1991, c.182).

k. It shall be unlawful for any person to exchange or redeem chips for anything whatsoever, except for currency, negotiable personal checks, negotiable counter checks, other chips, coupons, slot vouchers or complimentary vouchers distributed by the casino licensee, or, if authorized by regulation of the division, a valid charge to a credit or debit card account. A casino licensee shall, upon the request of any person, redeem that licensee's gaming chips surrendered by that person in any amount over $100 with a check drawn upon the licensee's account at any banking institution in this State and made payable to that person.

l. It shall be unlawful for any casino licensee or its agents or employees to employ, contract with, or use any shill or barker to induce any person to enter a casino or simulcasting facility or play at any game or for any purpose whatsoever.

m. It shall be unlawful for a dealer in any authorized game in which cards are dealt to deal cards by hand or other than from a device specifically designed for that purpose, unless otherwise permitted by the rules of the division.

n. (1) It shall be unlawful for any casino key employee licensee to wager in any casino or simulcasting facility in this State.

(2) It shall be unlawful for any other employee of a casino licensee who, in the judgment of the division, is directly involved with the conduct of gaming operations, including but not limited to dealers, floor persons, box persons, security and surveillance employees, to wager in any casino or simulcasting facility in the casino hotel in which the employee is employed

or in any other casino or simulcasting facility in this State which is owned or operated by an affiliated licensee.

(3) The prohibition against wagering set forth in paragraphs (1) and (2) of this subsection shall continue for a period of 30 days commencing upon the date that the employee either leaves employment with a casino licensee or is terminated from employment with a casino licensee.

o. (1) It shall be unlawful for any casino key employee or boxman, floorman, or any other casino employee who shall serve in a supervisory position to solicit or accept, and for any other casino employee to solicit, any tip or gratuity from any player or patron at the casino hotel or simulcasting facility where he is employed.

(2) A dealer may accept tips or gratuities from a patron at the table at which such dealer is conducting play, subject to the provisions of this subsection. All such tips or gratuities shall be immediately deposited in a lockbox reserved for that purpose, unless the tip or gratuity is authorized by a patron utilizing an automated wagering system approved by the division. All tips or gratuities shall be accounted for, and placed in a pool for distribution pro rata among the dealers, with the distribution based upon the number of hours each dealer has worked, except that the division may, by regulation, permit a separate pool to be established for dealers in the game of poker, or may permit tips or gratuities to be retained by individual dealers in the game of poker.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, a casino licensee may require that a percentage of the prize pool offered to participants pursuant to an authorized poker tournament be withheld for distribution to the tournament dealers as tips or gratuities as the division by regulation may approve.

p. Any slot system operator that offers an annuity jackpot shall secure the payment of such jackpot by establishing an annuity jackpot guarantee in accordance with the requirements of P.L.1977, c.110 (C.5:12-1 et seq.), and the rules of the division.

8. Section 101 of P.L.1977, c.110 (C.5:12-101) is amended to read as follows:

C.5:12-101 Credit.

101. a. Except as otherwise provided in this section, no casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, shall:

(1) Cash any check, make any loan, or otherwise provide or allow to any person any credit or advance of anything of value or which represents value to enable any person to take part in gaming or simulcast wagering activity as a player; or

(2) Release or discharge any debt, either in whole or in part, or make any loan which represents any losses incurred by any player in gaming or simulcast wagering activity, without maintaining a written record thereof in accordance with the rules of the division.

b. No casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, may accept a check, other than a recognized traveler's check or other cash equivalent from any person to enable such person to take part in gaming or simulcast wagering activity as a player, or may give cash or cash equivalents in exchange for such check unless:

(1) The check is made payable to the casino licensee;

(2) The check is dated, but not postdated;

(3) The check is presented to the cashier or the cashier's representative at a location in the casino approved by the division and is exchanged for cash or slot tokens which total an amount equal to the amount for which the check is drawn, or the check is presented to the cashier's representative at a gaming table in exchange for chips which total an amount equal to the amount for which the check is drawn; and

(4) The regulations concerning check cashing procedures are observed by the casino licensee and its employees and agents.

Nothing in this subsection shall be deemed to preclude the establishment of an account by any person with a casino licensee by a deposit of cash, recognized traveler's check or other cash equivalent, or a check which meets the requirements of subsection g. of this section, or to preclude the withdrawal, either in whole or in part, of any amount contained in such account.

c. When a casino licensee or other person licensed under this act, or any person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, cashes a check in conformity with the requirements of subsection b. of this section, the casino licensee shall cause the deposit of such check in a bank for collection or payment, or shall require an attorney or casino key employee with no incompatible functions to present such check to the drawer's bank for payment, within (1) seven calendar days of the date of the transaction for a check in an amount of $1,000.00 or less; (2) 14 calendar days of the date of the transaction for a check in an amount greater than $1,000.00 but less than or equal to $5,000.00; or (3) 45 calendar days of the date of the transaction for a check

in an amount greater than $5,000.00. Notwithstanding the foregoing, the drawer of the check may redeem the check by exchanging cash, cash equivalents, chips, or a check which meets the requirements of subsection g. of this section in an amount equal to the amount for which the check is drawn; or he may redeem the check in part by exchanging cash, cash equivalents, chips, or a check which meets the requirements of subsection g. of this section and another check which meets the requirements of subsection b. of this section for the difference between the original check and the cash, cash equivalents, chips, or check tendered; or he may issue one check which meets the requirements of subsection b. of this section in an amount sufficient to redeem two or more checks drawn to the order of the casino licensee. If there has been a partial redemption or a consolidation in conformity with the provisions of this subsection, the newly issued check shall be delivered to a bank for collection or payment or presented to the drawer's bank for payment by an attorney or casino key employee with no incompatible functions within the period herein specified. No casino licensee or any person licensed or registered under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, shall accept any check or series of checks in redemption or consolidation of another check or checks in accordance with this subsection for the purpose of avoiding or delaying the deposit of a check in a bank for collection or payment or the presentment of the check to the drawer's bank within the time period prescribed by this subsection.

In computing a time period prescribed by this subsection, the last day of the period shall be included unless it is a Saturday, Sunday, or a State or federal holiday, in which event the time period shall run until the next business day.

d. No casino licensee or any other person licensed or registered under this act, or any other person acting on behalf of or under any arrangement with a casino licensee or other person licensed or registered under this act, shall transfer, convey, or give, with or without consideration, a check cashed in conformity with the requirements of this section to any person other than:

(1) The drawer of the check upon redemption or consolidation in accordance with subsection c. of this section;

(2) A bank for collection or payment of the check;

(3) A purchaser of the casino license as approved by the commission; or

(4) An attorney or casino key employee with no incompatible functions for presentment to the drawer's bank.

The limitation on transferability of checks imposed herein shall apply to checks returned by any bank to the casino licensee without full and final payment.

e. No person other than a casino key employee licensed under this act or a casino employee registered under this act may engage in efforts to collect upon checks that have been returned by banks without full and final payment, except that an attorney-at-law representing a casino licensee may bring action for such collection.

f. Notwithstanding the provisions of any law to the contrary, checks cashed in conformity with the requirements of this act shall be valid instruments, enforceable at law in the courts of this State. Any check cashed, transferred, conveyed or given in violation of this act shall be invalid and unenforceable for the purposes of collection but shall be included in the calculation of gross revenue pursuant to section 24 of P.L.1977, c.110 (C.5:12-24).

g. Notwithstanding the provisions of subsection b. of this section to the contrary, a casino licensee may accept a check from a person to enable the person to take part in gaming or simulcast wagering activity as a player, may give cash or cash equivalents in exchange for such a check, or may accept a check in redemption or partial redemption of a check issued in accordance with subsection b., provided that:

(1) (a) The check is issued by a casino licensee, is made payable to the person presenting the check, and is issued for a purpose other than employment compensation or as payment for goods or services rendered;

(b) The check is issued by a banking institution which is chartered in a country other than the United States on its account at a federally chartered or state-chartered bank and is made payable to "cash," "bearer," a casino licensee, or the person presenting the check;

(c) The check is issued by a banking institution which is chartered in the United States on its account at another federally chartered or state-chartered bank and is made payable to "cash," "bearer," a casino licensee, or the person presenting the check;

(d) The check is issued by a slot system operator or pursuant to an annuity jackpot guarantee as payment for winnings from a multi-casino progressive slot machine system jackpot; or

(e) The check is issued by an entity that holds a gaming license in any jurisdiction, is made payable to the person presenting the check, and is issued for a purpose other than employment compensation or as payment for goods or services rendered;

(2) The check is identifiable in a manner approved by the division as a check authorized for acceptance pursuant to paragraph (1) of this subsection;

(3) The check is dated, but not postdated;

(4) The check is presented to the cashier or the cashier's representative by the original payee and its validity is verified by the drawer in the case of a check drawn pursuant to subparagraph (a) of paragraph (1) of this subsection, or the check is verified in accordance with regulations promulgated under this act in the case of a check issued pursuant to subparagraph (b), (c), (d) or (e) of paragraph (1) of this subsection; and

(5) The regulations concerning check cashing procedures are observed by the casino licensee and its employees and agents.

No casino licensee shall issue a check for the purpose of making a loan or otherwise providing or allowing any advance or credit to a person to enable the person to take part in gaming or simulcast wagering activity as a player.

h. Notwithstanding the provisions of subsection b. and subsection c. of this section to the contrary, a casino licensee may, at a location outside the casino, accept a personal check or checks from a person for up to $5,000 in exchange for cash or cash equivalents, and may, at such locations within the casino or casino simulcasting facility as may be permitted by the division, accept a personal check or checks for up to $5,000 in exchange for cash, cash equivalents, tokens, chips, or plaques to enable the person to take part in gaming or simulcast wagering activity as a player, provided that:

(a) The check is drawn on the patron's bank or brokerage cash management account;

(b) The check is for a specific amount;

(c) The check is made payable to the casino licensee;

(d) The check is dated but not post-dated;

(e) The patron's identity is established by examination of one of the following: valid credit card, driver's license, passport, or other form of identification credential which contains, at a minimum, the patron's signature;

(f) The check is restrictively endorsed "For Deposit Only" to the casino licensee's bank account and deposited on the next banking day following the date of the transaction;

(g) The total amount of personal checks accepted by any one licensee pursuant to this subsection that are outstanding at any time, including the current check being submitted, does not exceed $5,000;

(h) The casino licensee has a system of internal controls in place that will enable it to determine the amount of outstanding personal checks received from any patron pursuant to this subsection at any given point in time; and

(i) The casino licensee maintains a record of each such transaction in accordance with regulations established by the division.

i. (Deleted by amendment, P.L.2004, c.128).

j. A person may request the division to put that person's name on a list of persons to whom the extension of credit by a casino as provided in this section would be prohibited by submitting to the division the person's name, address, and date of birth. The person does not need to provide a reason for this request. The division shall provide this list to the credit department of each casino; neither the division nor the credit department of a casino shall divulge the names on this list to any person or entity other than those provided for in this subsection. If such a person wishes to have that person's name removed from the list, the person shall submit this request to the division, which shall so inform the credit departments of casinos no later than three days after the submission of the request.

k. (Deleted by amendment, P.L.2004, c.128).

9. Section 102 of P.L.1977, c.110 (C.5:12-102) is amended to read as follows:

C.5:12-102 Junkets and complimentary services.

102. Junkets and Complimentary Services.

a. No junkets may be organized or permitted except in accordance with the provisions of this act. No person may act as a junket representative or junket enterprise except in accordance with this section.

b. A junket representative employed by a casino licensee, an applicant for a casino license or an affiliate of a casino licensee shall be licensed as a casino key employee in accordance with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.); provided, however, that said licensee need not be a resident of this State. No casino licensee or applicant for a casino license may employ or otherwise engage a junket representative who is not so licensed.

c. Junket enterprises that, and junket representatives not employed by a casino licensee or an applicant for a casino license or by a junket enterprise who, engage in activities governed by this section shall be licensed as an ancillary casino service industry enterprise in accordance with paragraph (3) of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), unless otherwise directed by the division; provided, however, that any such junket enterprise or junket representative who is disqualified pursuant to section 86 of P.L.1977, c.110 (C.5:12-86) shall not be entitled to establish his rehabilitation from such disqualification. Any non-supervisory employee of a junket enterprise or junket representative licensed as an ancillary casino service industry enterprise in accordance with paragraph (3) of subsection

a. of section 92 of P.L.1977, c.110 (C.5:12-92) shall be registered in accordance with subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92).

d. Prior to the issuance of any license required by this section, an applicant for licensure shall submit to the jurisdiction of the State of New Jersey and shall demonstrate that he is amenable to service of process within this State. Failure to establish or maintain compliance with the requirements of this subsection shall constitute sufficient cause for the denial, suspension or revocation of any license issued pursuant to this section.

e. Upon petition by the holder of a casino license, an applicant for a casino key employee license intending to be employed as a junket representative may be issued a temporary license by the division in accordance with regulations promulgated by the division, provided that:

(1) the applicant for licensure is employed by a casino licensee;

(2) the applicant for licensure has filed a completed application as required by the commission;

(3) the division either certifies to the commission that the completed application for licensure as specified in paragraph (2) of this subsection has been in the possession of the division for at least 60 days or agrees to allow the commission to consider the application in some lesser time; and

(4) the division does not object to the temporary licensure of the applicant; provided, however, that failure of the division to object prior to the temporary licensure of the applicant shall not be construed to reflect in any manner upon the qualifications of the applicant for licensure.

In addition to any other authority granted by P.L.1977, c.110 (C.5:12-1 et seq.), the commission shall have the authority, upon receipt of a representation by the division that it possesses information which raises a reasonable possibility that a junket representative does not qualify for licensure, to immediately suspend, limit or condition any temporary license issued pursuant to this subsection, pending a hearing on the qualifications of the junket representative, in accordance with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.).

Unless otherwise terminated pursuant to P.L.1977, c.110 (C.5:12-1 et seq.), any temporary license issued pursuant to this subsection shall expire 12 months from the date of its issuance, and shall be renewable by the commission, in the absence of an objection by the division, as specified in paragraph (4) of this subsection, for one additional six-month period.

f. Every agreement concerning junkets entered into by a casino licensee and a junket representative or junket enterprise shall be deemed to include a provision for its termination without liability on the part of the casino licensee, if the division orders the termination upon the suspension,

limitation, conditioning, denial or revocation of the licensure of the junket representative or junket enterprise, in accordance with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.). Failure to expressly include such a condition in the agreement shall not constitute a defense in any action brought to terminate the agreement.

g. A casino licensee shall be responsible for the conduct of any junket representative or junket enterprise associated with it and for the terms and conditions of any junket engaged in on its premises, regardless of the fact that the junket may involve persons not employed by such a casino licensee.

h. A casino licensee shall be responsible for any violation or deviation from the terms of a junket. Notwithstanding any other provisions of this act, the division may order restitution to junket participants, assess penalties for such violations or deviations, prohibit future junkets by the casino licensee, junket enterprise or junket representative, and order such further relief as it deems appropriate.

i. The division shall, by regulation, prescribe methods, procedures and forms for the delivery and retention of information concerning the conduct of junkets by casino licensees. Without limitation of the foregoing, each casino licensee, in accordance with the rules of the division, shall:

(1) Maintain on file a report describing the operation of any junket engaged in on its premises;

(2) (Deleted by amendment, P.L.1995, c.18).

(3) Submit to the division a list of all its employees who are acting as junket representatives.

j. Each casino licensee, junket representative or junket enterprise shall, in accordance with the rules of the division, file a report with the division with respect to each list of junket patrons or potential junket patrons purchased directly or indirectly by the casino licensee, junket representative or enterprise.

k. The division shall have the authority to determine, either by regulation, or upon petition by the holder of a casino license, that a type of arrangement otherwise included within the definition of "junket" established by section 29 of P.L.1977, c.110 (C.5:12-29) shall not require compliance with any or all of the requirements of this section. In granting exemptions, the division shall consider such factors as the nature, volume and significance of the particular type of arrangement, and whether the exemption would be consistent with the public policies established by this act. In applying the provisions of this subsection, the division may condition, limit, or restrict any exemption as the commission may deem appropriate.

l. No junket enterprise or junket representative or person acting as a junket representative may:

(1) Engage in efforts to collect upon checks that have been returned by banks without full and final payment;

(2) Exercise approval authority with regard to the authorization or issuance of credit pursuant to section 101 of P.L.1977, c.110 (C.5:12-101);

(3) Act on behalf of or under any arrangement with a casino licensee or a gaming patron with regard to the redemption, consolidation, or substitution of the gaming patron's checks awaiting deposit pursuant to subsection c. of section 101 of P.L.1977, c.110 (C.5:12-101);

(4) Individually receive or retain any fee from a patron for the privilege of participating in a junket;

(5) Pay for any services, including transportation, or other items of value provided to, or for the benefit of, any patron participating in a junket.

m. No casino licensee shall offer or provide any complimentary services, gifts, cash or other items of value to any person unless:

(1) The complimentary consists of room, food, beverage, transportation, or entertainment expenses provided directly to the patron and his guests by the licensee or indirectly to the patron and his guests on behalf of a licensee by a third party; or

(2) (Deleted by amendment, P.L.2009, c.36); or

(3) The complimentary consists of coins, tokens, cash or other complimentary items or services provided through a bus coupon or other complimentary distribution program which, notwithstanding the requirements of section 99 of P.L.1977, c.110 (C.5:12-99), shall be maintained pursuant to regulation and made available for inspection by the division.

Notwithstanding the foregoing, a casino licensee may offer and provide complimentary cash or noncash gifts which are not otherwise included in paragraphs (1) and (3) of this subsection to any person, provided that any such gifts in excess of $2,000.00, or such greater amount as the division may establish by regulation, are supported by documentation regarding the reason the gift was provided to the patron and his guests, including where applicable, a patron's player rating, which documentation shall be maintained by the casino licensee.

Each casino licensee shall maintain a regulated complimentary service account, for those complimentaries which are permitted pursuant to this section, and shall submit a quarterly report to the division based upon such account and covering all complimentary services offered or engaged in by the licensee during the immediately preceding quarter. Such reports shall include identification of the regulated complimentary services and their

respective costs, the number of persons by category of service who received the same, and such other information as the division may require.

n. As used in this subsection, "person" means any State officer or employee subject to financial disclosure by law or executive order and any other State officer or employee with responsibility for matters affecting casino activity; any special State officer or employee with responsibility for matters affecting casino activity; the Governor; any member of the Legislature or full-time member of the Judiciary; any full-time professional employee of the Office of the Governor, or the Legislature; members of the Casino Reinvestment Development Authority; the head of a principal department; the assistant or deputy heads of a principal department, including all assistant and deputy commissioners; the head of any division of a principal department; any member of the governing body, or the municipal judge or the municipal attorney of a municipality wherein a casino is located; any member of or attorney for the planning board or zoning board of adjustment of a municipality wherein a casino is located, or any professional planner or consultant regularly employed or retained by such planning board or zoning board of adjustment.

No casino applicant or licensee shall provide directly or indirectly to any person any complimentary service or discount which is other than such service or discount that is offered to members of the general public in like circumstance.

o. (Deleted by amendment, P.L.2011, c.19)

10. Section 104 of P.L.1977, c.110 (C.5:12-104) is amended to read as follows:

C.5:12-104 Casino licensee leases and contracts.

104. a. Unless otherwise provided in this subsection, no agreement shall be lawful which provides for the payment, however defined, of any direct or indirect interest, percentage or share of: any money or property gambled at a casino or simulcasting facility; any money or property derived from casino gaming activity or wagering at a simulcasting facility; or any revenues, profits or earnings of a casino or simulcasting facility. Notwithstanding the foregoing:

(1) Agreements which provide only for the payment of a fixed sum which is in no way affected by the amount of any such money, property, revenues, profits or earnings shall not be subject to the provisions of this subsection; and receipts, rentals or charges for real property, personal property or services shall not lose their character as payments of a fixed sum

because of contract, lease, or license provisions for adjustments in charges, rentals or fees on account of changes in taxes or assessments, cost-of-living index escalations, expansion or improvement of facilities, or changes in services supplied.

(2) Agreements between a casino licensee and a junket enterprise or junket representative licensed, qualified or registered in accordance with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.) and the regulations of the division which provide for the compensation of the junket enterprise or junket representative by the casino licensee based upon the actual casino gaming or simulcast wagering activities of a patron procured or referred by the junket enterprise or junket representative shall be lawful if filed with the division prior to the conduct of any junket that is governed by the agreement.

(3) Agreements between a casino licensee and its employees which provide for casino employee or casino key employee profit sharing shall be lawful if the agreement is in writing and filed with the division prior to its effective date. Such agreements may be reviewed by the division under any relevant provision of P.L.1977, c.110 (C.5:12-1 et seq.).

(4) Agreements to lease an approved casino hotel or the land thereunder and agreements for the complete management of all casino gaming operations in a casino hotel shall not be subject to the provisions of this subsection but shall rather be subject to the provisions of subsections b. and c. of section 82 of this act.

(5) Agreements which provide for percentage charges between the casino licensee and a holding company or intermediary company of the casino licensee shall be in writing and filed with the division but shall not be subject to the provisions of this subsection.

(6) Agreements relating to simulcast racing and wagering between a casino licensee and an in-State or out-of-State sending track licensed or exempt from licensure in accordance with section 92 of P.L.1977, c.110 (C.5:12-92) shall be in writing, be filed with the division, and be lawful and effective only if expressly approved as to their terms by the division and the New Jersey Racing Commission, except that any such agreements which provide for a percentage of the parimutuel pool wagered at a simulcasting facility to be paid to the sending track shall not be subject to the provisions of this subsection.

(7) Agreements relating to simulcast racing and wagering between a casino licensee and a casino service industry enterprise licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) as a hub facility, as defined in joint regulations of the Division of Gaming Enforcement and the New Jersey Racing Commission, shall be in writing,

be filed with the commission, and be lawful and effective only if expressly approved as to their terms by the commission and the New Jersey Racing Commission, except that any such agreements which provide for a percentage of the casino licensee's share of the parimutuel pool wagered at a simulcasting facility to be paid to the hub facility shall not be subject to the provisions of this subsection.

(8) Agreements relating to simulcast racing and wagering between a casino licensee and a casino service industry enterprise licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) to conduct casino simulcasting in a simulcasting facility shall be in writing, be filed with the commission, and be lawful and effective only if expressly approved as to their terms by the commission, except that any such agreements which provide for a percentage of the casino licensee's share of the parimutuel pool wagered at a simulcasting facility to be paid to the casino service industry enterprise shall not be subject to the provisions of this subsection.

(9) Written agreements relating to the operation of multi-casino or multi-state progressive slot machine systems between one or more casino licensees and a casino service industry enterprise licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), or an eligible applicant for such license, which provide for an interest, percentage or share of the casino licensee's revenues, profits or earnings from the operation of such multi-casino or multi-state progressive slot machines to be paid to the casino service industry enterprise licensee or applicant shall not be subject to the provisions of this subsection if the agreements are filed with and approved by the division.

(10) A written agreement between a casino licensee and a casino service industry enterprise licensed pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), or an eligible applicant for such license, relating to the construction, renovation or operation of qualifying sleeping units, as defined in section 27 of P.L.1977, c.110 (C.5:12-27), or of non-gaming amenities, as defined by the division, within the limits of the city of Atlantic City, regardless of whether such qualifying sleeping units or non-gaming amenities are connected to a casino hotel facility, which provides for an interest, percentage or share of the casino licensee's revenues, profits or earnings, not to exceed 5% of the casino licensee's revenues, to be paid to the casino service industry enterprise licensee or applicant in return for the construction, renovation or operation of such qualifying sleeping units or non-gaming amenities shall not be subject to the provisions of this subsection provided that: (i) the agreement requires a capital investment, at least 10% of which shall be made by the casino service industry enterprise licen-

see or applicant over the term of the agreement, of not less than $30 million, which minimum amount shall be adjusted periodically by the division for inflation; (ii) the division finds that the total amount of casino revenues, profits or earnings that can be paid to the casino service industry enterprise licensee or applicant pursuant to this agreement is commercially reasonable under the circumstances; and (iii) the agreement is filed with and approved by the division.

b. Each casino applicant or licensee shall maintain, in accordance with the rules of the division, a record of each written or unwritten agreement regarding the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility. The foregoing obligation shall apply regardless of whether the casino applicant or licensee is a party to the agreement. Any such agreement may be reviewed by the division on the basis of the reasonableness of its terms, including the terms of compensation, and of the qualifications of the owners, officers, employees, and directors of any enterprise involved in the agreement, which qualifications shall be reviewed according to the standards enumerated in section 86 of P.L.1977, c.110 (C.5:12-86). If the division disapproves such an agreement or the owners, officers, employees, or directors of any enterprise involved therein, the division may require its termination.

Every agreement required to be maintained, and every related agreement the performance of which is dependent upon the performance of any such agreement, shall be deemed to include a provision to the effect that, if the commission shall require termination of an agreement pursuant to its authority under P.L.1977, c.110 (C.5:12-1 et seq.), such termination shall occur without liability on the part of the casino applicant or licensee or any qualified party to the agreement or any related agreement. Failure expressly to include such a provision in the agreement shall not constitute a defense in any action brought to terminate the agreement. If the agreement is not maintained or presented to the commission in accordance with division regulations, or the disapproved agreement is not terminated, the division may pursue any remedy or combination of remedies provided in this act.

For the purposes of this subsection, "casino applicant" includes any person required to hold a casino license pursuant to section 82 of P.L.1977, c.110 (C.5:12-82) who has applied to the division for a casino license or any approval required under P.L.1977, c.110 (C.5:12-1 et seq.).

c. Nothing in this act shall be deemed to permit the transfer of any license, or any interest in any license, or any certificate of compliance or any commitment or reservation.

11. Section 55 of P.L.1977, c.110 (C.5:12-55) is amended to read as follows:

C.5:12-55 Division of gaming enforcement.

55. Division of gaming enforcement. There is hereby established in the Department of Law and Public Safety the Division of Gaming Enforcement. The division shall be under the immediate supervision of a director who shall also be sworn as an Assistant Attorney General and who shall administer the work of the division under the direction and supervision of the Attorney General. The director shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve during the term of office of the Governor, except that the first director shall be appointed for a term of 2 years. The director may be removed from office by the Attorney General for cause upon notice and opportunity to be heard.

The director and any employee or agent of the division shall be subject to the duty to appear and testify and to removal from his office, position or employment in accordance with the provisions of P.L.1970, c.72 (C.2A:81-17.2a et seq.). The Attorney General shall be responsible for the exercise of the duties and powers assigned to the division.

The division shall be located in Atlantic City, except that the division may maintain a secondary satellite office in Trenton, which shall not be the primary office, if deemed necessary for the effective performance of its duties and responsibilities.

If, as a result of the transfer of duties and responsibilities from the Casino Control Commission to the division in accordance with P.L.2011, c.19 (C.5:12-6.1 et al.), the division needs to employ an individual to fill a position, former employees of the commission who performed the duties of the position to be filled shall be given a one-time right of first refusal offer of employment with the division, and such employees may be removed by the division for cause or if deemed unqualified to hold the position, notwithstanding any other provision of law to the contrary. An individual formerly employed by the commission who becomes employed by the division shall retain as an employee of the division the seniority, and all rights related to seniority, that the employee had with the commission as of the last day of employment with the commission; provided, however, that such seniority and seniority rights shall be retained only by an employee who was transferred from employment with the commission to employment with the division, and shall not be retained by an employee who was removed from employment with the commission due to layoff procedures or who resigned from a position with the commission prior to being hired by the division.

12. Section 5 of P.L.2011, c.18 (C.5:12-219) is amended to read as follows:

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

5. a. (1) There shall be established by resolution of the authority the Atlantic City Tourism District, which shall consist of those lands within Atlantic City that comprise an area to be designated by the resolution. The area so designated shall include the facilities comprising licensed Atlantic City casinos, casino hotels, and any appurtenant property, any property under the ownership or control of the authority, the Atlantic City Special Improvement District established by ordinance of the City of Atlantic City, any property under the ownership or control of the convention center authority prior to the transfer date, any property within Atlantic City under the ownership or control of the New Jersey Sports and Exposition Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.) prior to the transfer date, the Atlantic City Convention Center, Boardwalk Hall and any part of the property consisting of the Atlantic City convention center project prior to the transfer date, and any specified part of Atlantic City which the authority finds by resolution to be an area in which the majority of private entities are engaged primarily in the tourism trade, and the majority of public entities, if any, serve the tourism industry. Notwithstanding section 7 of P.L.1984, c.218 (C.5:12-155), the authority shall adopt the resolution by an affirmative vote of two-thirds of the voting members of the authority no more than 90 days after the effective date of P.L.2011, c.18 (C.5:12-218 et al.). Notwithstanding section 7 of P.L.1984, c.218, adoption by the authority of any subsequent resolution to revise, in a manner consistent with this subsection, the area designated as comprising the tourism district shall also be by an affirmative vote of two-thirds of the voting members of the authority.

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

(a) the area known as Bader Field;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

New Jersey State Library

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

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

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

(3) the development of the boardwalk area;

(4) the development of the Marina District; and

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

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

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

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

l. The authority shall coordinate and collaborate with the city of Atlantic City Planning and Zoning Departments with respect to code enforcement, planning and zoning. The authority shall coordinate and collaborate with any of the city's departments, agencies, and authorities with respect to administrative operations relating to the implementation of the tourism district master plan. If the city determines that it is unable to coor-

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

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

C.5:12A-4.1 Use of mobile gaming devices permitted under certain circumstances.

13. a. Notwithstanding the provisions of any other law to the contrary, the Division of Gaming Enforcement may authorize the use of mobile gaming devices approved by the division within an approved hotel facility that operates a sports pool pursuant to the provisions of P.L.2011, c.231 (C.5:12A-1 et seq.), to enable a player to place wagers on sports or athletic events, provided the player has established an account with the casino licensee, the wager is placed by and the winnings are paid to the patron in person within the approved hotel facility, the mobile gaming device is inoperable outside the approved hotel facility, and provided that the division may establish any additional or more stringent licensing or other regulatory requirements necessary for the proper implementation and conduct of mobile gaming as authorized by this section.

For the purposes of this subsection, the approved hotel facility shall include any area located within the property boundaries of the casino hotel facility, including any outdoor recreation area or swimming pool, where mobile gaming devices may be used by patrons in accordance with this section, but excluding parking garages or parking areas, provided that mobile gaming shall not extend outside of the property boundaries of the casino hotel facility.

b. Notwithstanding the provisions of any other law to the contrary, the Division of Gaming Enforcement and the New Jersey Racing Commission may authorize the use of mobile gaming devices approved by the division and the commission within a racetrack that operates a sports pool pursuant to the provisions of P.L.2011, c.231 (C.5:12A-1 et seq.), to enable a player to place wagers on sports or athletic events, provided the player has established an account with the permitholder, the wager is placed by and the winnings are paid to the patron in person within the racetrack, the mobile gaming device is inoperable outside the racetrack, and provided that the division and the commission may establish any additional or more stringent licensing or other regulatory requirements necessary for the proper implementation and conduct of mobile gaming as authorized by this section.

For the purposes of this subsection, a racetrack shall include any area located within the property boundaries of the racetrack facility where mobile gaming devices may be used by patrons in accordance with this subsection, but excluding parking garages or parking areas, provided that mobile gaming shall not extend outside of the property boundaries of the racetrack.

14. This act shall take effect immediately.

Approved August 7, 2012.

CHAPTER 35

AN ACT increasing the amount of tax credits authorized to be issued under the Urban Transit Hub Tax Credit program, extending the application deadline, and amending various parts of the statutory law.

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

1. Section 3 of P.L.2007, c.346 (C.34:1B-209) is amended to read as follows:

C.34:1B-209 Credit for qualified business facilities, conditions for eligibility; allowance.

3. a. (1) A business, upon application to and approval from the authority, shall be allowed a credit of 100 percent of its capital investment, made after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified business facility within an eligible municipality, pursuant to the restrictions and requirements of this section. To be eligible for any tax credits authorized under this section, a business shall demonstrate to the authority, at the time of application, that the State's financial support of the proposed capital investment in a qualified business facility will yield a net positive benefit to both the State and the eligible municipality. The value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) shall not exceed $1,750,000,000.

(2) A business, other than a tenant eligible pursuant to paragraph (3) of this subsection, shall make or acquire capital investments totaling not less than $50,000,000 in a qualified business facility, at which the business shall employ not fewer than 250 full-time employees to be eligible for a credit under this section. A business that acquires a qualified business facility shall also be deemed to have acquired the capital investment made or acquired by the seller.

(3) A business that is a tenant in a qualified business facility, the owner of which has made or acquired capital investments in the facility totaling not less than $50,000,000, shall occupy a leased area of the qualified business facility that represents at least $17,500,000 of the capital investment in the facility at which the tenant business and up to two other tenants in the qualified business facility shall employ not fewer than 250 full-time employees in the aggregate to be eligible for a credit under this section. The amount of capital investment in a facility that a leased area represents shall be equal to that percentage of the owner's total capital investment in the facility that the percentage of net leasable area leased by the tenant is of the total net leasable area of the qualified business facility. Capital investments made by a tenant shall be deemed to be included in the calculation of the capital investment made or acquired by the owner, but only to the extent necessary to meet the owner's minimum capital investment of $50,000,000. Capital investments made by a tenant and not allocated to meet the owner's minimum capital investment threshold of $50,000,000 shall be added to the amount of capital investment represented by the tenant's leased area in the qualified business facility.

(4) A business shall not be allowed tax credits under this section if the business participates in a business employment incentive grant relating to the same capital and employees that qualify the business for this credit, or if the business receives assistance pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is allowed a tax credit under this section shall not be eligible for incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.). A business shall not qualify for a tax credit under this section, based upon capital investment and employment of full-time employees, if that capital investment or employment was the basis for which a grant was provided to the business pursuant to the "InvestNJ Business Grant Program Act," P.L.2008, c.112 (C.34:1B-237 et seq.).

(5) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

(6) The capital investment of the owner of a qualified business facility is that percentage of the capital investment made or acquired by the owner of the building that the percentage of net leasable area of the qualified business facility not leased to tenants is of the total net leasable area of the qualified business facility.

(7) A business shall be allowed a tax credit of 100 percent of its capital investment, made after the effective date of P.L.2011, c.89 but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified business facility that is part of a mixed use project, provided that (a) the qualified business facility represents at least $17,500,000 of the total capital investment in the mixed use project, (b) the business employs not fewer than 250 full-time employees in the qualified business facility, and (c) the total capital investment in the mixed use project of which the qualified business facility is a part is not less than $50,000,000. The allowance of credits under this paragraph shall be subject to the restrictions and requirements, to the extent that those are not inconsistent with the provisions of this paragraph, set forth in paragraphs (1) through (6) of this subsection, including but not limited to the requirement that the business shall demonstrate to the authority, at the time of application, that the State's financial support of the proposed capital investment in a qualified business facility will yield a net positive benefit to both the State and the eligible municipality.

(8) In determining whether a proposed capital investment will yield a net positive benefit, the authority shall not consider the transfer of an existing job from one location in the State to another location in the State as the creation of a new job, unless (a) the business proposes to transfer existing jobs to a municipality in the State as part of a consolidation of business op-

erations from two or more other locations that are not in the same municipality whether in-State or out-of-State, or (b) the business's chief executive officer, or equivalent officer, submits a certification to the authority indicating that the existing jobs are at risk of leaving the State and that the business's chief executive officer, or equivalent officer, has reviewed the information submitted to the authority and that the representations contained therein are accurate, and the business intends to employ not fewer than 500 full-time employees in the qualified business facility. In the event that this certification by the business's chief executive officer, or equivalent officer, is found to be willfully false, the authority may revoke any award of tax credits in their entirety, which revocation shall be in addition to any other criminal or civil penalties that the business and the officer may be subject to. When considering an application involving intra-State job transfers, the authority shall require the company to submit the following information as part of its application: a full economic analysis of all locations under consideration by the company; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on this information, and any other information deemed relevant by the authority, the authority shall independently verify and confirm, by way of making a factual finding by separate vote of the authority's board, the business's assertion that the jobs are actually at risk of leaving the State, before a business may be awarded any tax credits under this section.

b. A business shall apply for the credit prior to July 1, 2014, and shall submit its documentation for approval of its credit amount no later than July 28, 2017.

c. (1) The amount of credit allowed shall, except as otherwise provided, be equal to the capital investment made by the business, or the capital investment represented by the business' leased area, or area owned by the business as a condominium, and shall be taken over a 10-year period, at the rate of one-tenth of the total amount of the business' credit for each tax accounting or privilege period of the business, beginning with the tax period in which the business is first certified by the authority as having met the investment capital and employment qualifications, subject to any reduction or disqualification as provided by subsection d. of this section as determined by annual review by the authority. In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review.

The credit amount for any tax period ending after July 28, 2017 during which the documentation of a business' credit amount remains uncertified shall be forfeited, although credit amounts for the remainder of the years of the 10-year credit period shall remain available to it.

The credit amount that may be taken for a tax period of the business that exceeds the final liabilities of the business for the tax period may be carried forward for use by the business in the next 20 successive tax periods, and shall expire thereafter, provided that the value of all credits approved by the authority against tax liabilities pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year shall not exceed $150,000,000.

The amount of credit allowed for a tax period to a business that is a tenant in a qualified business facility shall not exceed the business' total lease payments for occupancy of the qualified business facility for the tax period.

(2) A business that is a partnership shall not be allowed a credit under this section directly, but the amount of credit of an owner of a business shall be determined by allocating to each owner of the partnership that proportion of the credit of the business that is equal to the owner of the partnership's share, whether or not distributed, of the total distributive income or gain of the partnership for its tax period ending within or with the owner's tax period, or that proportion that is allocated by an agreement, if any, among the owners of the partnership that has been provided to the Director of the Division of Taxation in the Department of the Treasury by such time and accompanied by such additional information as the director may require.

(3) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

d. (1) If, in any tax period, fewer than 200 full-time employees of the business at the qualified business facility are employed in new full-time positions, the amount of the credit otherwise determined pursuant to final calculation of the award of tax credits pursuant to subsection c. of this section shall be reduced by 20 percent for that tax period and each subsequent tax period until the first period for which documentation demonstrating the restoration of the 200 full-time employees employed in new full-time positions at the qualified business facility has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed; provided, however, that for businesses applying before January 1, 2010, there shall be no reduction if a

business relocates to an urban transit hub from another location or other locations in the same municipality. For the purposes of this paragraph, a "new full-time position" means a position created by the business at the qualified business facility that did not previously exist in this State.

(2) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax accounting or privilege period prior to the credit amount approval under subsection a. of this section, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business' Statewide workforce to the threshold levels required by this paragraph has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(3) If, in any tax period, (a) the number of full-time employees employed by the business at the qualified business facility located in an urban transit hub within an eligible municipality drops below 250, or (b) the number of full-time employees, who are not the subject of intra-State job transfers, pursuant to paragraph (8) of subsection a. of this section, employed by the business at any other business facility in the State, whether or not located in an urban transit hub within an eligible municipality, drops by more than 20 percent from the number of full-time employees in its workforce in the last tax accounting or privilege period prior to the credit amount approval under this section, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to 250 or an increase above the 20 percent reduction has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(4) (i) If the qualified business facility is sold in whole or in part during the 10-year eligibility period the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided however that any credits of tenants shall remain unaffected.

(ii) If a tenant subleases its tenancy in whole or in part during the 10-year eligibility period the new tenant shall not acquire the credit of the sublessor, and the sublessor tenant shall forfeit all credits for the tax period of its sublease and all subsequent tax periods.

e. (1) The Executive Director of the New Jersey Economic Development Authority, in consultation with the Director of the Division of Taxation in the Department of the Treasury, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement this act, including but not limited to: examples of and the determination of capital investment; the enumeration of eligible municipalities; specific delineation of urban transit hubs; the determination of the limits, if any, on the expense or type of furnishings that may constitute capital improvements; the promulgation of procedures and forms necessary to apply for a credit, including the enumeration of the certification procedures and allocation of tax credits for different phases of a qualified business facility or mixed use project; and provisions for credit applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the credit.

(2) Through regulation, the Economic Development Authority shall establish standards based on the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction.

2. Section 35 of P.L.2009, c.90 (C.34:1B-209.3) is amended to read as follows:

C.34:1B-209.3 Developer allowed certain tax credits.

35. a. (1) A developer, upon application to and approval from the authority, shall be allowed a credit of up to 35 percent of its capital investment, made after the effective date of P.L.2009, c.90 (C.52:27D-489a et al.) but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified residential project, pursuant to the restrictions and requirements of this section. To be eligible for any tax credits authorized under this section, a developer shall demonstrate to the authority, through a project pro forma analysis at the time of application, that the qualified residential project is likely to be realized with the provision of tax credits at the level requested but is not likely to be accomplished by private enterprise without the tax credits. The value of all credits approved by the authority pursuant to P.L.2009, c.90 (C.52:27D-489a et al.) for qualified residential projects may be up to $150,000,000, except as may be increased by the authority as set forth below; provided, however, that the combined value of all credits approved by the authority pursuant to both P.L.2007,

c.346 (C.34:1B-207 et seq.) and P.L.2009, c.90 (C.52:27D-489a et al.) shall not exceed $1,750,000,000. The authority shall monitor application and allocation activity under P.L.2007, c.346 (C.34:1B-207 et seq.), and if sufficient credits are available after taking into account allocation under P.L.2007, c.346 (C.34:1B-207 et seq.) to those qualified business facilities for which applications have been filed or for which applications are reasonably anticipated, and if the executive director judges certain qualified residential projects to be meritorious, the aforementioned $150,000,000 cap may, in the discretion of the executive director, be exceeded for allocation to qualified residential projects in such amounts as the executive director deems reasonable, justified, and appropriate. In allocating all credits to qualified residential projects under this section, the executive director shall take into account, together with other factors deemed relevant by the executive director: input from the municipality in which the project is to be located, whether the project furthers specific State or municipal planning and development objectives, or both, and whether the project furthers a public purpose, such as catalyzing urban development or maximizing the value of vacant, dilapidated, outmoded, government-owned, or underutilized property, or both.

(2) A developer shall make or acquire capital investments totaling not less than $50,000,000 in a qualified residential project to be eligible for a credit under this section. A developer that acquires a qualified residential project shall also be deemed to have acquired the capital investment made or acquired by the seller.

(3) The capital investment requirement may be met by the developer or by one or more of its affiliates.

(4) A developer of a mixed use project shall be allowed a credit pursuant to subparagraph (a) or (b) of this paragraph, but not both.

(a) A developer shall be allowed a credit in accordance with this section for a qualified residential project that includes a mixed use project.

(b) A developer shall be allowed a credit of up to 35 percent of its capital investment, made after the effective date of P.L.2011, c.89 but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified residential project that is part of a mixed use project, provided that: (a) the capital investment in the qualified residential project represents at least $17,500,000 of the total capital investment in the mixed use project; and (b) the total capital investment in the mixed use project of which the qualified residential project is a part is not less than $50,000,000. The allowance of credits under this paragraph shall be subject to the restrictions and requirements, to the extent that those are not inconsistent with the

provisions of this paragraph, set forth in paragraphs (1) through (3) of this subsection, including but not limited to the requirement prescribed in paragraph (1) of this subsection that the developer shall demonstrate to the authority, through a project pro forma analysis at the time of application, that the qualified residential project is likely to be realized with the provision of tax credits at the level requested but is not likely to be accomplished by private enterprise without the tax credits.

As used in this subparagraph:

"Mixed use project" means a project comprising both a qualified residential project and a qualified business facility.

b. A developer shall apply for the credit prior to July 1, 2014, and a developer shall submit its documentation for approval of its credit amount no later than July 28, 2017.

c. The credit shall be administered in accordance with the provisions of subsections c. and e. of section 3 of P.L.2007, c.346 (C.34:1B-209), as amended by section 32 of P.L.2009, c.90, and section 33 of P.L.2009, c.90 (C.34:1B-209.1), except that (1) all references therein to "business" and "qualified business facility" shall be deemed to refer respectively to "developer" and "qualified residential project," as such terms are defined in section 34 of P.L.2009, c.90 (C.34:1B-209.2) and (2) all references therein to credits claimed by tenants and to reductions or disqualifications in credits as determined by annual review of the authority shall be disregarded. Provided however, for purposes of a "mixed use project" as that term is used and defined pursuant to subparagraph (b) of paragraph (4) of subsection a. of this section, "qualified business facility" means that term as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).

3. Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is amended to read as follows:

C.34:1B-209.4 Credit to business for wind energy facility; eligibility.

6. a. (1) A business, upon application to and approval from the authority, shall be allowed a credit of 100 percent of its capital investment, made after the effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified wind energy facility located within an eligible wind energy zone, pursuant to the restrictions and requirements of this section. To be eligible for any tax credits authorized under this section, a business shall demonstrate to the authority, at the time of application, that the State's financial support of the proposed capital investment in a qualified wind energy facil-

ity will yield a net positive benefit to the State. The value of all credits approved by the authority pursuant to this section may be up to $100,000,000, except as may be increased by the authority as set forth below; provided, however, that the combined value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.), P.L.2009, c.90 (C.52:27D-489a et al.), and P.L.2010, c.57 (C.48:3-87.1 et al.) shall not exceed $1,750,000,000. The authority shall monitor application and allocation activity under P.L.2007, c.346 after taking into account the allocation under P.L.2007, c.346 and if sufficient credits are available to those qualified business facilities for which applications have been filed or for which applications are reasonably anticipated, and if the chief executive officer judges certain qualified offshore wind projects to be meritorious, the aforementioned cap may, in the discretion of the chief executive officer, be exceeded for allocation to qualified wind energy facilities in such amounts as the chief executive officer deems reasonable, justified and appropriate.

(2) (a) A business, other than a tenant eligible pursuant to subparagraph (b) of this paragraph, shall make or acquire capital investments totaling not less than $50,000,000 in a qualified wind energy facility, at which the business, including tenants at the qualified wind energy facility, shall employ at least 300 new, full-time employees, to be eligible for a credit under this section. A business that acquires a qualified wind energy facility after the effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) shall also be deemed to have acquired the capital investment made or acquired by the seller.

(b) A business that is a tenant in the qualified wind energy facility, the owner of which has made or acquired capital investments in the facility totaling more than $50,000,000, shall occupy a leased area of the qualified wind energy facility that represents at least $17,500,000 of the capital investment in the qualified wind energy facility at which at least 300 new, full-time employees in the aggregate are employed, to be eligible for a credit under this section. The amount of capital investment in a facility that a leased area represents shall be equal to that percentage of the owner's total capital investment in the facility that the percentage of net leasable area leased by the tenant is of the total net leasable area of the qualified business facility. Capital investments made by a tenant shall be deemed to be included in the calculation of the capital investment made or acquired by the owner, but only to the extent necessary to meet the owner's minimum capital investment of $50,000,000. Capital investments made by a tenant and not allocated to meet the owner's minimum capital investment threshold of $50,000,000 shall be added to the amount of capital investment represented by the tenant's leased area in the qualified wind energy facility.

(c) The calculation of the number of new, full-time employees required pursuant to subparagraphs (a) and (b) of this paragraph may include the number of new, full-time positions resulting from an equipment supply coordination agreement with equipment manufacturers, suppliers, installers and operators associated with the supply chain required to support the qualified wind energy facility.

For the purposes of this paragraph, "full time employee" shall not include an employee who is a resident of another state and whose income is not subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., unless that state has entered into a reciprocity agreement with the State of New Jersey, provided that any employee whose work is provided pursuant to a collective bargaining agreement with the port district in the wind energy zone may be included.

(3) A business shall not be allowed a tax credit pursuant to this section if the business participates in a business employment incentive grant relating to the same capital and employees that qualify the business for this credit, or if the business receives assistance pursuant to the "Business Retention and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is allowed a tax credit under this section shall not be eligible for incentives authorized pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).

(4) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

b. A business shall apply for the credit within five years after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.), and a business shall submit its documentation for approval of its credit amount within eight years after the effective date of P.L.2007, c.346.

c. The credit allowed pursuant to this section shall be administered in accordance with the provisions of subsection c. of section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to "qualified business facility" shall be deemed to refer to "qualified wind energy facility," as that term is defined in subsection f. of this section.

d. The amount of the credit allowed pursuant to this section shall, except as otherwise provided, be equal to the capital investment made by the business, or the capital investment represented by the business' leased area, and shall be taken over a 10-year period, at the rate of one-tenth of the total amount of the business' credit for each tax accounting or privilege period of the business, beginning with the tax period in which the business is first

approved by the authority as having met the investment capital and employment qualifications, subject to any disqualification as determined by annual review by the authority. In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review. The credit amount for any tax period ending after the date eight years after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) during which the documentation of a business' credit amount remains unapproved shall be forfeited, although credit amounts for the remainder of the years of the 10-year credit period shall remain available. The amount of the credit allowed for a tax period to a business that is a tenant in a qualified wind energy facility shall not exceed the business' total lease payments for occupancy of the qualified wind energy facility for the tax period.

e. The authority shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement this section, including but not limited to: examples of and the determination of capital investment; nature of businesses and employment positions constituting and participating in an equipment supply coordination agreement; determination of the types of businesses that may be eligible and expenses that may constitute capital improvements; promulgation of procedures and forms necessary to apply for a credit; and provisions for applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the credit.

The rules established by the authority pursuant to this subsection shall be effective immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 12 months and may, thereafter, be amended, adopted or readopted in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

f. As used in this section: the terms "authority," "business," and "capital investment" shall have the same meanings as defined in section 2 of the "Urban Transit Hub Tax Credit Act," P.L.2007, c.346 (C.34:1B-208), except that all references therein to "qualified business facility" shall be deemed to refer to "qualified wind energy facility" as defined in this subsection.

In addition, as used in this section:

"Equipment supply coordination agreement" means an agreement between a business and equipment manufacturer, supplier, installer, and operator that supports a qualified offshore wind project, or other wind energy project as determined by the authority, and that indicates the number of new, full-time jobs to be created by the agreement participants towards the

employment requirement as set forth in paragraph (2) of subsection a. of this section.

"Qualified offshore wind project" means the same as the term is defined in section 3 of P.L.1999, c.23 (C.48:3-51).

"Qualified wind energy facility" means any building, complex of buildings, or structural components of buildings, including water access infrastructure, and all machinery and equipment used in the manufacturing, assembly, development or administration of component parts that support the development and operation of a qualified offshore wind project, or other wind energy project as determined by the authority, and that are located in a wind energy zone.

"Wind energy zone" means property located in the South Jersey Port District established pursuant to "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).

4. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to read as follows:

C.34:1B-247 Limit on value of approved credits.

6. a. (1) The value of all credits approved by the authority pursuant to P.L.2011, c.149 (C.34:1B-242 et al.) shall not exceed $200,000,000, except that the value of all credits approved by the authority pursuant to this section may exceed $200,000,000 if the board of the authority determines the credits to be reasonable, justifiable, and appropriate; provided, however, the combined value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) shall not exceed $1,750,000,000.

(2) A business, including any affiliate of the business or any business that is a tenant within any qualified business facility, shall make or acquire capital investments totaling not less than $20,000,000 in a qualified business facility, at which the business shall employ not fewer than 100 full-time employees to be eligible for a credit pursuant to P.L.2011, c.149. A business that acquires or leases a qualified business facility shall also be deemed to have acquired the capital investment made or acquired by the seller or landlord, as the case may be.

(3) A business shall not be allowed tax credits pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) or P.L.1996, c.26 (C.34:1B-124 et seq.) relating to the same capital and employees that qualify the business for tax credits pursuant to P.L.2011, c.149. A business that is allowed a tax credit under this section shall not be eligible for incentives authorized pursuant to

P.L.2002, c.43 (C.52:27BBB-1 et al.). A business shall not qualify for a tax credit under this section, based upon capital investment and employment of full-time employees, if that capital investment or employment was the basis for which a grant was provided to the business pursuant to the "Urban Transit Hub Tax Credit Act," P.L.2007, c.346 (C.34:1B-207 et seq.).

(4) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

(5) The capital investment of the owner of a qualified business facility is that percentage of the capital investment made or acquired by the owner of the building that the percentage of net leasable area of the qualified business facility not leased to tenants is of the total net leasable area of the qualified business facility. For a business that is a tenant, the amount of capital investment in a facility that a leased area represents shall be equal to that percentage of the owner's total capital investment in the facility that the percentage of net leasable area leased by the tenant is of the total net leasable area of the qualified business facility. Capital investments made by a tenant shall be deemed to be included in the calculation of the capital investment made or acquired by the owner, but only to the extent necessary to meet the owner's minimum capital investment of $20,000,000. Capital investments made by a tenant and not allocated to meet the owner's minimum capital investment threshold of $20,000,000 shall be added to the amount of capital investment represented by the tenant's leased area in the qualified business facility.

b. A business shall apply for the tax credit prior to July 1, 2014, and shall submit its documentation indicating that it has met the capital investment and employment specified in the project agreement for certification of its credit amount no later than July 28, 2017.

c. (1) The amount of credit allowed shall not exceed the capital investment made by the business or the capital investment represented by the business' leased area, as certified by the authority pursuant to subsection b. of this section, as having met the investment capital and employment qualifications, subject to any reduction or disqualification as provided by subsection d. of this section as determined by annual review by the authority. In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review.

The credit amount for any tax period ending after July 28, 2017, during which the documentation of a business' credit amount remains uncertified

shall be forfeited, although credit amounts for the remainder of the years of the 10-year credit period shall remain available to it.

The credit amount that may be taken for a tax period of the business that exceeds the final liabilities of the business for the tax period may be carried forward for use by the business in the next 20 successive tax periods, and shall expire thereafter, provided that the value of all credits approved by the authority against tax liabilities pursuant to P.L.2011, c.149, in any fiscal year shall not exceed $150,000,000 and the combined value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) shall not exceed $1,750,000,000.

The amount of credit allowed for a tax period to a business that is a tenant in a qualified business facility shall not exceed the business' total lease payments for occupancy of the qualified business facility for the tax period.

(2) A business that is a partnership shall not be allowed a credit under this section directly, but the amount of credit of an owner of a business shall be determined by allocating to each owner of the partnership that proportion of the credit of the business that is equal to the owner of the partnership's share, whether or not distributed, of the total distributive income or gain of the partnership for its tax period ending within or with the owner's tax period, or that proportion that is allocated by an agreement, if any, among the owners of the partnership that has been provided to the Director of the Division of Taxation in the Department of the Treasury by such time and accompanied by such additional information as the director may require.

(3) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

d. (1) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax period prior to the credit amount approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business' Statewide workforce to the threshold levels required by this paragraph

has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(2) If, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area drops below 100 or 80 percent of the number of new and retained full-time jobs specified in the project agreement, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to 100.

(3) (a) If the qualified business facility is sold in whole or in part during the 10-year eligibility period the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided however that any credits of tenants shall remain unaffected.

(b) If a tenant subleases its tenancy in whole or in part during the 10-year eligibility period the new tenant shall not acquire the credit of the sublessor, and the sublessor tenant shall forfeit all credits for the tax period of its sublease and all subsequent tax periods.

5. This act shall take effect immediately.

Approved August 7, 2012.

CHAPTER 36

AN ACT concerning adult guardianship proceedings and revising various parts of the statutory law and supplementing Title 3B of the New Jersey Statutes.

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

C.3B:12B-1 Short title.

1. This act shall be known and may be cited as the "New Jersey Adult Guardianship and Protective Proceedings Jurisdiction Act."

C.3B:12B-2 Scope of act.

2. Scope of Act.

a. P.L.2012, c.36 (C.3B:12B-1 et al.) governs the exercise of jurisdiction over guardianship or protective orders, as those terms are defined in P.L.2012, c.36 (C.3B:12B-1 et al.), when there are interstate conflicts or uncertainty regarding whether a court of this State or a court of another state should act. The act establishes uniform procedures that are intended to be used to facilitate proceedings between courts in different states and to resolve uncertainty about appropriate jurisdiction.

b. P.L.2012, c.36 (C.3B:12B-1 et al.) is not intended to and does not alter substantive law pertaining to guardianship, conservatorship and protective proceedings, or arrangements and protective orders as defined elsewhere in Title 3B of the New Jersey Statutes or the original general jurisdiction of the Superior Court throughout the State in all causes.

C.3B:12B-3 Definitions.

3. Definitions.

As used in P.L.2012, c.36 (C.3B:12B-1 et al.), unless otherwise defined:

a. "Adult" means a person at least 18 years of age.

b. "Conservatee" means, as used in this State, a person who has not been adjudicated incapacitated but who by reason of advanced age, illness, or physical infirmity, is unable to care for or manage his property or has become unable to provide for himself or others dependent upon him for support.

c. "Conservator" means a person appointed by the court to administer the property of an adult who has not been adjudicated incapacitated, including a person appointed, as appropriate, under N.J.S.3B:13A-1 et seq.

d. "Court of this State" means the Superior Court of New Jersey.

e. "Guardian" means a person appointed by the court to make decisions regarding the person or estate of an incapacitated adult, including a person who has qualified as a guardian of the person or estate, or both, of an incapacitated person pursuant to court appointment in accordance with N.J.S.3B:12-1 et seq. or its equivalent in a state other than New Jersey.

f. "Guardianship order" means an order declaring a person incapacitated and appointing a guardian.

g. "Guardianship proceeding" means a judicial proceeding in which an order for the appointment of a guardian is sought or has been issued to declare a person incapacitated and to appoint a guardian.

h. "Home state" means the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of a petition for the ap-

pointment of a guardian or a protective order; or if none, the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of the petition.

i. "Incapacitated person" means an adult declared incapacitated and for whom a guardian has been appointed.

j. "Party" means the respondent, petitioner or plaintiff, as applicable, guardian, conservator or conservatee, or any other person authorized by the court to participate in a guardianship or protective proceeding.

k. "Petition" means an initiating court document for proceedings under P.L.2012, c.36 (C.3B:12B-1 et al.). In New Jersey, a petition shall mean a verified complaint filed with the Superior Court pursuant to the Rules of Court of the State of New Jersey.

l. "Protected person" means an adult for whom a protective order has been issued.

m. "Protective order" means:

(1) An order related to an adult who has been declared incapacitated by a court or for whom such a declaration is sought, including, but not limited to, an arrangement or order related to management of the incapacitated person's property, which is issued pursuant to N.J.S.3B:12-1 and N.J.S.3B:12-2; or

(2) An order appointing a conservator, including, but not limited to, an order which is issued pursuant to N.J.S.3B:13A-1 et seq.; or

(3) An order to protect a "vulnerable adult" as that term is defined in section 2 of P.L.1993, c.249 (C.52:27D-407), including, but not limited to, an order which is issued pursuant to the "Adult Protective Services Act," P.L.1993, c.249 (C.52:27D-406 et seq.); or

(4) An order or arrangement, pursuant to N.J.S.3B:12-1, for a person for whom a declaration of incapacity is not sought.

The term "protective order," as used in P.L.2012, c.36 (C.3B:12B-1 et al.), shall not be construed to conflict with the provisions of N.J.S.3B:12-1 through N.J.S.3B:12-4.

n. "Protective proceeding" means a judicial proceeding in which a protective order is sought or has been issued.

o. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

p. "Registration" means a filing in this State of a guardianship or conservatorship order of another state, pursuant to the Rules of Court of the

State of New Jersey and in accordance with the provisions of section 19 of P.L.2012, c.36 (C.3B:12B-19).

q. "Respondent" means an adult for whom the appointment of a guardian or the issuance of a protective order is sought.

r. "Significant-connection state" means a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

s. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

C.3B:12B-4 International application of the act.

4. International application of the act.

A court of this State may treat a foreign country as if it were a state for the purpose of applying all sections of P.L.2012, c.36 (C.3B:12B-1 et al.) except for sections 19 and 20 of P.L.2012, c.36 (C.3B:12B-19 and C.3B:12B-20) pertaining to registration.

C.3B:12B-5 Which act governs; exclusive jurisdictional basis; applicability.

5. Which act governs; exclusive jurisdictional basis; applicability.

P.L.2012, c.36 (C.3B:12B-1 et al.) governs jurisdiction of guardianship proceedings and provides the exclusive jurisdictional basis for a court of this State to appoint a guardian or issue a protective order. The appointment of a guardian shall continue to be governed by N.J.S.3B:12-1 et seq. and the appointment of a conservator shall continue to be governed by N.J.S.3B:13A-1 et seq.

P.L.2012, c.36 (C.3B:12B-1 et al.) shall be construed and applied in conjunction with N.J.S.3B:12-1 et seq. and N.J.S.3B:13A-1 et seq.

C.3B:12B-6 Communication between courts.

6. Communication between courts.

a. A court of this State may communicate with a court of another state concerning a proceeding arising pursuant to P.L.2012, c.36 (C.3B:12B-1 et al.). The court may allow the parties to participate in the communication in accordance with the Rules Governing the Courts of the State of New Jersey.

b. Except as otherwise provided in subsection c., the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.

c. Courts may communicate concerning schedules, calendars, court records, and other administrative matters without making a record.

C.3B:12B-7 Cooperation between courts.

7. Cooperation between courts.

a. In a guardianship or protective proceeding, a court of this State may request the appropriate court of another state to do any of the following:

(1) hold an evidentiary hearing;

(2) order a person in that state to produce evidence or give testimony pursuant to procedures of that state;

(3) order that an evaluation or assessment be made of the respondent;

(4) order any appropriate investigation of a person involved in a proceeding;

(5) forward to the court of this State a certified copy of the transcript or other record of a hearing under paragraph (1) or any other proceeding, any evidence otherwise produced under paragraph (2), and any evaluation or assessment prepared in compliance with an order under paragraph (3) or (4);

(6) issue any order necessary to assure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the respondent or the incapacitated or protected person; and

(7) issue an order authorizing the release of medical, financial, criminal, or other relevant information in that state, including protected health information which meets federal and state laws.

b. If a court of another state in which a guardianship or protective proceeding is pending requests assistance of the kind provided in subsection a., a court of this State has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

C.3B:12B-8 Taking testimony in another state; documentary evidence.

8. Taking testimony in another state; documentary evidence.

a. A court of this State may permit a witness located in another state to be deposed or to testify by any means permitted by the Rules Governing the Courts of the State of New Jersey. A court of this State shall cooperate with the court of another state in designating an appropriate location for the deposition or testimony.

b. Documentary evidence transmitted from another state to a court of this State may be admitted into evidence consistent with the New Jersey Rules of Evidence.

C.3B:12B-9 Jurisdiction; determination.

9. Jurisdiction; determination.

a. A court of this State has jurisdiction to declare a person incapacitated and appoint a guardian or issue a protective order for a respondent if:

(1) This State is the respondent's home state as defined in section 3 of P.L.2012, c.36 (C.3B:12B-3); or

(2) On the date the petition is filed, this State is a significant-connection state, as defined in section 3 of P.L.2012, c.36 (C.3B:12B-3) and determined in accordance with section 10 of P.L.2012, c.36 (C. 3B:12B-10), and:

(a) the respondent either does not have a home state or a court of the respondent's home state has declined to exercise jurisdiction because this State is a more appropriate forum; or

(b) the respondent has a home state, a petition for an appointment or order is not pending in a court of another state or another significant-connection state, and, before this State's court acts:

(i) a petition for an appointment or order is not filed in the respondent's home state;

(ii) an objection to the court's jurisdiction is not filed by a person required to be notified of the proceeding; and

(iii) the court concludes that it is an appropriate forum under the factors set forth in section 13 of P.L.2012, c.36 (C.3B:12B-13);

(3) Although this State does not have jurisdiction under either subsection a. or b. of this section, the home state and all significant-connection states have declined to exercise jurisdiction because this State is the more appropriate forum, and jurisdiction in this State is consistent with the New Jersey and United States Constitutions; or

b. A court of this State may assume emergency jurisdiction under section 11 of P.L.2012, c.36 (C.3B:12B-11).

C.3B:12B-10 Significant-connection state; determination.

10. Significant-connection state; determination.

In determining whether a respondent has a significant connection with a particular state, the court shall consider:

a. the location of the respondent's family and other persons required to be notified of the guardianship or protective proceeding;

b. the length of time the respondent at any time was physically present in the state and the duration of any absence;

c. the location of the respondent's property; and

d. the extent to which the respondent has ties to the state such as voting registration, state or local tax return filing, vehicle registration, driver's license, social relationship, and receipt of services.

C.3B:12B-11 Emergency jurisdiction.

11. Emergency jurisdiction.

a. A court of this State lacking jurisdiction under section 9 of P.L.2012, c.36 (C.3B:12B-9) has emergency jurisdiction to do any of the following:

(1) appoint a guardian or issue a protective order in an emergency, in accordance with subsection c. of section 12 of P.L.2005, c.304 (C.3B:12-24.1) and this section, for a respondent who is physically present in this State;

(2) appoint a guardian of real or tangible personal property located in this State for which the respondent has an ownership interest;

(3) issue a protective order with respect to real or tangible personal property in this State; or

(4) appoint, under procedures similar to section 17 of P.L.2012, c.36 (C.3B:12B-17), a guardian or conservator for an incapacitated or protected person for whom a provisional order to transfer the proceeding from another state has been issued.

b. If a petition for the appointment of a guardian or issuance of a protective order in an emergency in accordance with subsection c. of section 12 of P.L.2005, c.304 (C.3B:12-24.1) and this section is brought in this State and this State was not the respondent's home state on the date the petition was filed, the court shall dismiss the proceeding at the request of the court of the home state, if any, whether dismissal is requested before or after the emergency appointment.

C.3B:12B-12 Exclusive and continuing jurisdiction.

12. Exclusive and continuing jurisdiction.

Except as otherwise provided in section 11 of P.L.2012, c.36 (C.3B:12B-11), a court that has appointed a guardian or issued a protective order consistent with P.L.2012, c.36 (C.3B:12B-1 et al.) has exclusive and continuing jurisdiction over the proceeding until the proceeding is terminated by the court, or the appointment or order expires by its own terms.

C.3B:12B-13 Appropriate forum.

13. Appropriate forum.

a. A court of this State having jurisdiction under section 9 of P.L.2012, c.36 (C.3B:12B-9) to declare a person incapacitated, appoint a guardian, or issue a protective order, may decline to exercise jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

b. If a court of this State declines to exercise jurisdiction under subsection a. of this section, it shall either dismiss or stay the proceeding. The court may impose any condition it deems just and proper, including the

condition that a petition for the appointment of a guardian or issuance of a protective order be filed promptly in another state.

c. In determining whether it is an appropriate forum, the court shall consider all relevant factors, including:

(1) any expressed preference of the respondent;

(2) whether abuse, neglect, or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect, or exploitation;

(3) the length of time the respondent was physically present in or was a legal resident of this or another state;

(4) the distance of the respondent from the court of each state;

(5) the financial circumstances of the respondent's estate;

(6) the nature and location of the evidence;

(7) the ability of the court of each state to decide the issue expeditiously and the procedures necessary to present evidence;

(8) the familiarity of the court of each state with the facts and issues in the proceeding; and

(9) if an appointment were to be made, the court's ability to monitor the conduct of the guardian or the conservator.

C.3B:12B-14 Jurisdiction declined by reason of conduct.

14. Jurisdiction declined by reason of conduct.

a. If, at any time, a court of this State determines that it acquired jurisdiction to declare a person incapacitated, appoint a guardian, or issue a protective order because of unjustifiable conduct, the court may:

(1) decline to exercise jurisdiction;

(2) exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the respondent or the protection of the respondent's property or prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction; or

(3) continue to exercise jurisdiction after considering:

(a) the extent to which the respondent and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction;

(b) whether it is a more appropriate forum than the court of any other state under the factors set forth in subsection c. of section 13 of P.L.2012, c.36 (C.3B:12B-13); and

(c) whether the court of any other state would have jurisdiction under factual circumstances in substantial conformity with the jurisdictional standards of section 9 of P.L.2012, c.36 (C.3B:12B-9).

b. If a court of this State determines that it acquired jurisdiction to appoint a guardian or issue a protective order because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, it may assess against that party necessary and reasonable expenses, including attorneys' fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses. The court may not assess fees, costs, or expenses of any kind against this State or a governmental subdivision, agency, or instrumentality of this State unless authorized by law other than P.L.2012, c.36 (C.3B:12B-1 et al.).

C.3B:12B-15 Notice of proceeding.

15. Notice of proceeding.

If this State was not the respondent's home state on the date a petition to declare a person incapacitated for the appointment of a guardian or issuance of a protective order is filed in this State, notice of the petition shall be given, in the same manner as notice is required to be given in this State, to the respondent and to the persons who would be entitled to notice if the regular procedures for appointment of a guardian or a conservator under the Rules Governing the Courts of the State of New Jersey were applicable.

C.3B:12B-16 Proceedings in more than one state.

16. Proceedings in more than one state.

Except for a petition for the appointment of a guardian or issuance of a protective order in an emergency under paragraph (1) of subsection a. of section 11 of P.L.2012, c.36 (C.3B:12B-11), or appointment of a guardian of estate or issuance of a protective order limited to property located in this State under paragraph (2) or (3) of subsection a. of section 11 of P.L.2012, c.36 (C.3B:12B-11), if a petition for the appointment of a guardian or issuance of a protective order is filed in this State and in another state and neither petition has been dismissed or withdrawn, the following shall apply:

a. A court of this State with jurisdiction under section 9 of P.L.2012, c.36 (C.3B:12B-9) may proceed unless a court of another state acquires jurisdiction under similar provisions before the appointment or issuance of the order.

b. A court of this State without jurisdiction under section 9 of P.L.2012, c.36 (C.3B:12B-9), whether at the time the petition is filed or at any time before the appointment or issuance of a judgment or order, shall

stay the proceeding and communicate with the court of another state. If the court in the other state has jurisdiction, the court of this State shall dismiss the petition unless the court in the other state determines that the court of this State is a more appropriate forum.

C.3B:12B-17 Transfer of guardianship or conservatorship to another state.

17. Transfer of guardianship or conservatorship to another state.

a. A guardian or conservator appointed, or a conservatee, in this State may petition the court to transfer the guardianship or conservatorship to another state.

b. Notice of a petition for transfer shall be given to the persons that would be entitled to notice of a petition in this State for the appointment of a guardian or conservator.

c. On the court's own motion or upon request of the guardian or conservator or conservatee, or other person required to be notified of the petition, the court shall hold a hearing on a petition to transfer.

d. The court shall issue an order provisionally granting a petition to transfer a guardianship and direct the guardian to petition for guardianship in the other state if the court is satisfied that the guardianship will be accepted by the court of the other state and the court finds that:

(1) in the case of a guardianship of the person, the incapacitated person is physically present in or is reasonably expected to move permanently to the other state, or in the case of a guardianship of estate, the incapacitated person is physically present in or is reasonably expected to move permanently to, or has a significant connection to, the other state; and

(2) an objection to the transfer has not been made or, that the transfer would not be contrary to the interests of the incapacitated person; and

(3) in the case of a guardianship of the person, plans for care and services for the incapacitated person in the other state are reasonable and sufficient, or in the case of a guardianship of the estate, adequate arrangements are made for management of the incapacitated person's property.

e. The court shall issue a provisional order granting a transfer of a conservatorship and shall direct the conservator to petition for conservatorship in the other state if the court is satisfied that the conservatorship will be accepted by the court of the other state and the court finds that:

(1) the protected person is physically present in or is reasonably expected to move permanently to the other state, or the protected person has a significant connection to the other state considering the factors in section 10 of P.L.2012, c.36 (C.3B:12B-10);

(2) an objection to the transfer has not been made or, that the transfer would not be contrary to the interests of the incapacitated person; and

(3) adequate arrangements will be made for management of the protected person's property.

f. The court shall issue a final order confirming the transfer and terminating the guardianship or conservatorship upon receipt of:

(1) a provisional order accepting the guardianship or conservatorship from the court to which the guardianship or conservatorship is to be transferred under provisions similar to section 18 of P.L.2012, c.36 (C.3B:12B-18); and

(2) the documents required to terminate a guardianship or conservatorship in this State.

C.3B:12B-18 Accepting guardianship or conservatorship transferred from another state.

18. Accepting guardianship or conservatorship transferred from another state.

a. To confirm transfer of a guardianship or conservatorship to this State under provisions similar to section 17 of P.L.2012, c.36 (C.3B:12B-17), the guardian or conservator in the other state shall file a petition in the court of this State to accept the guardianship of the person or the person's estate, or both, or the conservatorship. The petition shall include a certified copy of the other state's provisional order of transfer.

b. Notice of a petition under this section shall be given, in the same manner as notice is required to be given in this State, to those persons that would be entitled to notice if the for the appointment of a guardian or issuance of a protective order in both the transferring state and this State.

c. On the court's own motion or upon request of the guardian or of the conservator or conservatee, or other person required to be notified of the proceeding, the court shall hold a hearing on a petition filed pursuant to this section.

d. The court shall issue an order provisionally granting relief under this section unless:

(1) an objection is made and the court determines that transfer of the proceeding would be contrary to the interests of the incapacitated or protected person or conservatee; or

(2) the guardian or conservator is ineligible for appointment in this State.

e. The final order accepting the proceeding and appointing the guardian or conservator from the other state as guardian of the person or estate, or both, or conservator in this State shall be issued upon the receipt by this

State's court of a final order issued under provisions similar to section 17 of P.L.2012, c.36 (C.3B:12B-17) transferring the proceeding to this State.

f. Upon application of a party or upon the court's own motion, the court shall determine whether the guardianship of the person or estate, or both, or the conservatorship needs to be modified to conform to the law of this State.

g. In granting an application under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the incapacitated person's incapacity and the appointment of the guardian of the person or estate, or both, or of the conservator.

h. The denial by a court of this State of an application to accept a guardianship or conservatorship transferred from another state does not affect the ability of the guardian or conservator to seek appointment as guardian of the person or estate, or both, in this State under N.J.S.3B:12-25 or as conservator under N.J.S.3B:13A-1 et seq., if the court has jurisdiction to make an appointment other than by reason of the provisional order of transfer.

C.3B:12B-19 Registration of guardianship or conservatorship orders.

19. Registration of guardianship or conservatorship orders.

If a guardian has been appointed in another state and an application for the appointment of a guardian of the person or estate, or both, is not pending in this State, or if a conservator has been appointed in another state and an application for the appointment of a conservator is not pending in this State, the guardian or conservator appointed in the other state, after giving notice to the appointing court of an intent to register, may register the guardianship or conservatorship order in this State with the Surrogate, as Deputy Clerk of the Superior Court, Chancery Division, Probate Part, in an appropriate county of this State, pursuant to the Rules of Court of the State of New Jersey, by filing certified copies of the order and letters of office, and of any bond, as appropriate. For purposes of a guardian of the person, an appropriate county is any county where the guardian seeks to maintain an action or proceeding on behalf of the incapacitated person; for purposes of a guardian of the property or of a conservatorship, an appropriate county is the county where the property belonging to the incapacitated person or conservatee is located.

C.3B:12B-20 Effect of registration.

20. Effect of registration.

a. Upon registration of a guardianship or protective order from another state, the guardian or conservator may exercise in this State all pow-

ers authorized in the order of appointment except as prohibited under the laws of this State, including maintaining actions and proceedings in this State and, if the guardian or conservator is not a resident of this State, subject to any conditions imposed upon nonresident parties.

b. A court of this State may grant any relief available under P.L.2012, c.36 (C.3B:12B-1 et al.) and other law of this State to enforce a registered order.

c. A court of this State shall recognize and enforce, but may not modify, except in accordance with P.L.2012, c.36 (C.3B:12B-1 et al.), a registered order.

C.3B:12B-21 Uniformity of application and construction.

21. Uniformity of application and construction.

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

22. Section 48 of P.L.2005, c.304 (C.3B:12-66.1) is amended to read as follows:

C.3B:12-66.1 Removal from New Jersey after appointment of guardian.

48. Removal from New Jersey after Appointment of Guardian.

a. A guardian appointed in this State desiring to move to another state with his ward who is a minor shall obtain an order from the Superior Court of this State consenting to the minor's removal and if applicable, the guardian's discharge. The Superior Court may transfer the guardianship to another state if the court is satisfied that a transfer will serve the best interest of the minor.

b. The minor's removal and discharge of the guardian shall be on such terms as the Superior Court deems necessary, including requiring filing and settlement of the guardian's account and filing of an exemplified copy of the order evidencing the other state court's acceptance of jurisdiction over the guardianship and the guardian.

23. Section 49 of P.L.2005, c.304 (C.3B:12-66.2) is amended to read as follows:

C.3B:12-66.2 Transfer into New Jersey of guardianship established in another state.

49. Transfer into New Jersey of Guardianship Established in Another State.

a. A guardian or like fiduciary of a minor appointed in another state may file a summary action in the Superior Court for the transfer of the guardianship and the appointment as a guardian in this State if domicile in this State is or will be established.

b. Notice of hearing shall be given to the minor and to the persons who would be entitled to notice if the regular procedures for appointment of a guardian under the New Jersey Rules of Court were applicable.

c. The Superior Court shall grant an application for the transfer of a guardianship established in another state unless the court determines that the proposed guardianship is a collateral attack on an existing or proposed guardianship or the transfer and appointment would not be in the best interest of the minor.

d. An exemplified record of a court of competent jurisdiction evidencing the original proceeding adjudicating the minor's incapacity and any amendment or modification orders entered subsequent to the original judgment shall be filed with the Superior Court. Subject to due process principles, full faith and credit may be accorded to a court of another state's determination of the minor's incapacity. The Superior Court may fix the rights, powers, and duties of the guardian that the court determines are necessary to administer the minor's person or estate, or both person and estate, in this State.

e. The guardian shall give notice of the application to transfer guardianship to the court of the other state.

C.3B:12B-22 Transitional provision.

24. Transitional provision.

a. P.L.2012, c.36 (C.3B:12B-1 et al.) applies to guardianship and protective proceedings filed on or after the effective date.

b. Sections 1 through 4 of P.L.2012, c.36 (C.3B:12B-1 through C.3B:12B-4); sections 6 through 8 of P.L.2012, c.36 (C.3B:12B-6 through C.3B:12B-8); sections 17 through 21 of P.L.2012, c.36 (C.3B:12B-17 through C.3B:12B-21); apply to proceedings begun before the effective date of P.L.2012, c.36 (C.3B:12B-1 et al.), regardless of whether a guardianship or protective order has been issued.

Repealer.

25. N.J.S.3B:12-29 is repealed.

26. This act shall take effect on the 120 day after enactment.

Approved August 7, 2012.

CHAPTER 37

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).

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.2011, c. 85, there is appropriated out of the Property Tax Relief Fund the following sum for the purpose specified:

34 DEPARTMENT OF EDUCATION
30 Educational, Cultural, and Intellectual Development
31 Direct Educational Services and Assistance
STATE AID

01-5120 General Formula Aid $4,141,000
(From Property Tax Relief Fund..... $4,141,000)
Total State Aid Appropriation,
Direct Educational Services and Assistance..... $4,141,000
(From Property Tax Relief Fund..... $4,141,000)

State Aid:
01 Supplemental Enrollment Growth Aid (PTRF)....($4,141,000)

The amount hereinabove appropriated for Supplemental Enrollment Growth Aid shall be used to provide additional aid to a school district, other than a non-operating or a county vocational school district, in which the projected October 2011 resident enrollment exceeds the October 2008 resident enrollment by at least 13%. The amount of additional aid awarded to a school district shall equal the difference between the projected October 2011 resident enrollment and the actual October 2008 resident enrollment, multiplied by the per pupil amount of equalization aid, special education categorical aid, security categorical aid, and adjustment aid received in the 2008-2009 school year.

2. This act shall take effect immediately.

Approved August 7, 2012.

CHAPTER 38

AN ACT authorizing the expenditure of funds by the New Jersey Environmental Infrastructure Trust for the purpose of making loans to eligible

project sponsors to finance a portion of the cost of construction of environmental infrastructure projects, and making an appropriation.

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

1. a. The New Jersey Environmental Infrastructure Trust, established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.), as amended and supplemented by P.L.1997, c.224 and amended by P.L.2004, c.111, is authorized to expend the aggregate sum of up to $534,000,000 and any unexpended balance of the aggregate expenditures authorized pursuant to section 1 of P.L.2000, c.93, section 1 of P.L.2001, c.224, section 1 of P.L.2002, c.71, section 1 of P.L.2003, c.159, section 1 of P.L.2004, c.110, section 1 of P.L.2005, c.197, section 1 of P.L.2006, c.67, section 1 of P.L.2007, c.140, section 1 of P.L.2008, c.67, section 1 of P.L.2009, c.101, section 1 of P.L.2010, c.62, and section 1 of P.L.2011, c.95 for the purpose of making loans, to the extent sufficient funds are available, to or on behalf of local government units or public water utilities (hereinafter referred to as "project sponsors") to finance all or a portion of the cost of construction of environmental infrastructure projects listed in sections 2 and 4 of this act.

b. The trust is authorized to increase the aggregate sums specified in subsection a. of this section by:

(1) the amounts of capitalized interest and the bond issuance expenses as provided in subsection b. of section 7 of this act;

(2) the amounts of reserve capacity expenses and debt service reserve fund requirements as provided in subsection c. of section 7 of this act;

(3) the interest earned on amounts deposited for project costs pending their distribution to project sponsors as provided in subsection d. of section 7 of this act;

(4) the amounts of the loan origination fee as provided in subsection e. of section 7 of this act; and

(5) the amount appropriated to the Department of Environmental Protection for the purpose of making zero interest and principal forgiveness loans pursuant to section 3 of P.L.2012, c.43 in connection with the project costs of a particular project sponsor, to the extent the priority ranking and an insufficiency of funding prevents the department from making the loan as provided in subsection f. of section 7 of this act.

c. (1) Of the sums made available to the trust from the "Water Supply Trust Fund" established pursuant to subsection a. of section 15 of the "Water Supply Bond Act of 1981" (P.L.1981, c.261) pursuant to P.L.1997,

c.223, the trust is authorized to transfer such amounts to the Department of Environmental Protection as needed for drinking water project loans pursuant to the "Safe Drinking Water Act Amendments of 1996," Pub.L.104-182, and any amendatory and supplementary acts thereto (hereinafter referred to as the "Federal Safe Drinking Water Act"), under terms and conditions established by the Commissioner of Environmental Protection and trust, and approved by the State Treasurer, which loans shall be jointly administered by the trust and department.

(2) Of the sums appropriated to the trust from the "Wastewater Treatment Trust Fund" established pursuant to section 15 of the "Wastewater Treatment Bond Act of 1985," (P.L.1985, c.329) pursuant to P.L.1987, c.198, the trust is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund established pursuant to section 1 of P.L.2009, c.77 for the purposes of issuing loans or providing the State match as required for the award of the capitalization grants made available to the State for clean water projects pursuant to the "Water Quality Act of 1987" (33 U.S.C.s.1251 et seq.), and any amendatory and supplementary acts thereto (hereinafter referred to as the "Federal Clean Water Act").

(3) Of the sums appropriated to the trust from the "1992 Wastewater Treatment Trust Fund" established pursuant to section 27 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992" (P.L.1992, c.88) pursuant to P.L.1996, c.86, the trust is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund for the purpose of providing the State match as required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(4) Of the sums appropriated to the trust from the "Stormwater Management and Combined Sewer Overflow Abatement Fund" created pursuant to section 14 of the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989" (P.L.1989, c.181) pursuant to P.L.1998, c.87, the trust is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund for the purpose of providing the State match as required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(5) Of the sums appropriated to the trust from the "2003 Water Resources and Wastewater Treatment Trust Fund" established pursuant to subsection b. of section 19 of the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003" (P.L.2003, c.162) pursuant to P.L.2004, c.110, the trust is authorized to

transfer such amounts as needed to the Clean Water State Revolving Fund for the purpose of providing the State match as required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(6) Of the sums appropriated to the trust from repayments of loans deposited in any account, including the "Clean Water State Revolving Fund," "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," the "Water Supply Fund," the "Stormwater Management and Combined Sewer Overflow Abatement Fund" or the Drinking Water State Revolving Fund, as appropriate, pursuant to sections 11 and 12 of P.L.1995, c.219, sections 11 and 12 of P.L.1996, c.85, sections 11 and 12 of P.L.1997, c.221, sections 12 and 13 of P.L.1998, c.84, section 11 of P.L.1999, c.174, section 11 of P.L.2000, c.92, section 11 of P.L.2001, c.222, section 11 of P.L.2002, c.70, section 11 of P.L.2003, c.158, section 11 of P.L.2004, c.109, section 11 of P.L.2005, c.196, section 11 of P.L.2006, c.68, section 10 of P.L.2007, c.140, section 10 of P.L.2008, c.67, section 10 of P.L.2009, c.101, section 10 of P.L.2010, c.62, and section 10 of P.L.2011, c.95 for deposit into one or more reserve funds established by the trust pursuant to section 11 of P.L.1985, c.334 (C.58:11B-11), the trust shall transfer to the respective fund of origin the unexpended balance of all such moneys no longer utilized by the trust for reserve fund purposes.

d. For the purposes of this act:

(1) "capitalized interest" means the amount equal to interest paid on trust bonds which is funded with trust bond proceeds and the earnings thereon;

(2) "issuance expenses" means and includes, but need not be limited to, the costs of financial document printing, bond insurance premiums or other credit enhancement, underwriters' discount, verification of financial calculations, the services of bond rating agencies and trustees, the employment of accountants, attorneys, financial advisors, loan servicing agents, registrars, and paying agents, and any other costs related to the issuance of trust bonds;

(3) "reserve capacity expenses" means those project costs for reserve capacity not eligible for loans under rules and regulations governing zero interest loans adopted by the Commissioner of Environmental Protection pursuant to section 4 of P.L.1985, c.329 but which are eligible for loans from the trust in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27);

(4) "debt service reserve fund expenses" means the debt service reserve fund costs associated with reserve capacity expenses, water supply

projects for which the project sponsors are public water utilities as provided in section 9 of P.L.1985, c.334 (C.58:11B-9), other drinking water projects not eligible for, or interested in, State or federal debt service reserve funds pursuant to the "Water Supply Bond Act of 1981," P.L.1981, c.261, as amended and supplemented by P.L.1997, c.223, and any clean water projects not eligible for, or interested in, State or federal debt service reserve funds from the Clean Water State Revolving Fund; and

(5) "loan origination fee" means the fee charged by the Department of Environmental Protection and financed under the trust loan to pay a portion of the costs incurred by the department in the implementation of the New Jersey Environmental Infrastructure Financing Program.

e. The trust is authorized to increase the loan amount in the future to compensate for a refunding of the issue, provided adequate savings are achieved, for the loans issued pursuant to P.L.1995, c.218, P.L.1996, c.87, P.L.1997, c.222, P.L.1998, c.85, P.L.1999, c.173, P.L.2000, c.93, P.L.2001, c.224, P.L.2002, c.71, P.L.2003, c.159, P.L.2004, c.110, P.L.2005, c.197, P.L.2006, c.67, P.L.2007, c.140, P.L.2008, c.67, P.L.2009, c.101, P.L.2010, c.62, P.L.2011, c.95 and P.L.2012, c.38.

2. a. (1) The New Jersey Environmental Infrastructure Trust is authorized to expend funds for the purpose of making supplemental loans to or on behalf of the project sponsors listed below for the following clean water environmental infrastructure projects:

Project Sponsor	**Project Number**	**Estimated Allowable Trust Loan Amount**	**Estimated Total Allowable Loan Amount**
Caldwell Borough	S340523-04-1	$664,500	$886,000
North Bergen MUA	S340399-21-1	$2,484,750	$3,313,000
North Hudson SA	S340952-12-1	$3,385,500	$4,514,000
Milltown Borough	S340102-02-1	$591,000	$788,000
Newark City	S340815-05-1	$7,587,750	$10,117,000
Passaic Valley SC	S340689-03-1	$14,485,500	$19,314,000
Passaic Valley SC	S340689-10-1	$10,015,500	$13,354,000
Camden County MUA	S340640-10-1	$7,875,000	$10,500,000
Total	8 Projects	$47,089,500	$62,786,000

(2) The loans authorized in this subsection shall be made for the difference between the allowable loan amounts required by these projects based upon final building costs pursuant to subsection a. of section 7 of this act and the loan amounts certified by the chairman of the trust in State fiscal

years State fiscal years 2006, 2007, 2008, 2010, and 2012 and for increased allowable costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27). The loans authorized in this subsection shall be made to or on behalf of the project sponsors listed, up to the individual amounts indicated and in the priority stated, to the extent sufficient funds are available, except as a project fails to meet the requirements of section 6 of this act.

(3) The loans authorized in this subsection shall have priority over the environmental infrastructure projects listed in subsection a. of section 4 of this act.

b. The trust is authorized to adjust the allowable trust loan amount for projects authorized in this section to between 25% and 75% of the total allowable loan amount.

3. a. The New Jersey Environmental Infrastructure Trust is authorized to make loans to or on behalf of the project sponsors for the clean water projects listed in subsection a. of section 2 and subsection a. of section 4 of this act up to the individual amounts indicated and in the priority stated, except as any such amount may be reduced by the trust pursuant to subsection a. of section 7 of this act, or if a project fails to meet the requirements of section 6 of this act. The trust is authorized to increase any such amount pursuant to subsection b., c., d., e. or f. of section 7 or section 8 of this act.

b. The trust is authorized to make loans to project sponsors for the drinking water projects listed in subsection b. of section 4 of this act up to the individual amounts indicated and in the priority stated, except as any such amount may be reduced by the trust pursuant to subsection a. of section 7 of this act, or if a project fails to meet the requirements of section 6 of this act. The trust is authorized to increase any such amount pursuant to subsection b., c., d., e. or f. of section 7 or section 8 of this act.

4. a. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2013 Clean Water Project Priority List":

Project Sponsor	**Project Number**	**Estimated Allowable Trust Loan Amount**	**Estimated Total Allowable Loan Amount**
Stafford Township	SB344100-02	$742,500	$990,000
Ocean County	SB344080-02	$3,816,750	$5,089,000
Ocean Gate Borough	SB344180-01	$1,542,000	$2,056,000
Newark City	S340815-21	$8,926,500	$11,902,000

Elizabeth City	S340942-13	$8,851,500	$11,802,000
Elizabeth City	S340942-14	$2,286,000	$3,048,000
Jersey City MUA	S340928-09	$2,087,250	$2,783,000
Jersey City MUA	S340928-10	$2,568,000	$3,424,000
Jersey City MUA	S340928-11	$3,236,250	$4,315,000
Ocean County UA	S340372-49	$1,311,750	$1,749,000
Camden County MUA	S340640-13	$4,180,500	$5,574,000
Warren County MUA (Pequest)	S340454-04	$11,853,750	$15,805,000
Morris Township	S340724-05	$4,884,750	$6,513,000
Hanover SA	S340388-05	$7,587,000	$10,116,000
Cinnaminson SA	S340170-06	$1,614,750	$2,153,000
Evesham MUA	S340838-04	$1,938,750	$2,585,000
Passaic Valley SC	S340689-20	$3,902,250	$5,203,000
Bergen County UA	S340386-11	$12,575,250	$16,767,000
Atlantic County UA	S340809-22	$1,197,000	$1,596,000
Gloucester County UA	S340902-09	$2,508,750	$3,345,000
Maple Shade Township	S340710-08	$1,496,250	$1,995,000
Passaic Valley SC	S340689-21	$882,000	$1,176,000
Asbury Park City	S340883-05	$1,866,000	$2,488,000
Cinnaminson SA	S340170-04	$1,341,750	$1,789,000
Ocean Township	S340112-03	$787,500	$1,050,000
Atlantic Highlands Borough	S340857-03	$2,355,000	$3,140,000
Cranford Township	S340858-01	$743,250	$991,000
Middlesex County UA	S340699-10	$7,698,750	$10,265,000
Ocean County UA	S340372-51	$4,224,750	$5,633,000
Ocean County UA	S340372-52	$212,250	$283,000
Gloucester County UA	S340902-10	$317,250	$423,000
Toms River Township MUA	S340145-03	$1,981,500	$2,642,000
Toms River Township MUA	S340145-04	$2,505,000	$3,340,000
Perth Amboy City	S340435-09	$2,529,750	$3,373,000
Jackson Township MUA	S340953-03	$614,250	$819,000
National Park Borough	S340419-01	$1,285,500	$1,714,000
Ocean Gate Borough	S340151-01	$264,750	$353,000
Point Pleasant Borough	S340428-01	$1,596,750	$2,129,000
Ocean County UA	S340372-48	$13,863,000	$18,484,000
Ocean County UA	S340372-50	$744,000	$992,000
Watchung Borough	S340823-02	$982,500	$1,310,000
Clifton City	S340844-03	$3,897,000	$5,196,000
Harrison Township	S340362-06	$14,439,000	$19,252,000

Middletown Township	S340097-01	$2,906,250	$3,875,000
Gloucester Township	S340364-08	$552,750	$737,000
NJ Water Supply Authority	S340421-01	$23,328,000	$31,104,000
Linwood City	S340217-01	$618,000	$824,000
Highlands Borough	S340901-03	$3,379,500	$4,506,000
Bellmawr Borough	S342011-02	$7,365,750	$9,821,000
NJ Water Supply Authority	S343054-09	$2,047,500	$2,730,000
New Jersey City University	S340111-02	$12,825,000	$17,100,000
Carteret Borough	S340939-07	$10,424,250	$13,899,000
Cumberland County UA	S340550-06	$1,511,250	$2,015,000
Stafford Township	S344100-03	$3,685,500	$4,914,000
Seaside Park Borough	S344200-02	$1,059,750	$1,413,000
Bay Head Borough	S344120-02	$204,750	$273,000
Long Beach Township	S344170-02	$507,000	$676,000
Winslow Township	S340895-08	$1,460,250	$1,947,000
Secaucus MUA	S340154-02	$315,000	$420,000
Burlington Township	S340712-10	$953,250	$1,271,000
Gloucester County UA	S340902-11	$375,000	$500,000
Rockaway Valley RSA	S340821-06	$5,134,500	$6,846,000
Oradell Borough	S340835-01	$959,250	$1,279,000
Middlesex County UA	S340699-11	$15,222,750	$20,297,000
Old Bridge Township	S340945-12	$7,879,500	$10,506,000
Fanwood Borough	S340429-01	$1,698,000	$2,264,000
Total	66 Projects	$258,651,750	$344,869,000

b. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2013 Drinking Water Project Priority List":

Project Sponsor	**Project Number**	**Estimated Allowable Trust Loan Amount**	**Estimated Total Allowable Loan Amount**
Vineland City	0614003-010	$2,979,750	$3,973,000
Sea Village Marina	0108021-002	$504,000	$672,000
Newark City	0714001-016	$7,023,750	$9,365,000
Newark City	0714001-017	$1,109,250	$1,479,000
Newark City	0714001-015	$8,418,750	$11,225,000
Jersey City/Jersey City MUA	0906001-008	$6,524,250	$8,699,000

Jersey City/Jersey City MUA	0906001-007	$10,897,500	$14,530,000
Manchester Utilities Authority	1603001-011	$570,750	$761,000
Southeast Monmouth MUA	1352005-005	$6,615,750	$8,821,000
Aqua NJ – Southern	0415002-008	$1,096,500	$1,462,000
Manchester Utilities Authority	1603001-006	$1,119,750	$1,493,000
Manchester Utilities Authority	1603001-012	$232,500	$310,000
Collingswood Borough	0412001-002	$262,500	$350,000
Jersey City MUA	0906001-006	$12,860,250	$17,147,000
New Jersey City University/Jersey City MUA	0906001-005	$716,250	$955,000
Ocean Township	1520001-004	$669,750	$893,000
Fountainhead Properties, Inc.	1511013-001	$182,250	$243,000
Collingswood Borough	0412001-003	$654,750	$873,000
Ventnor City	0122001-001	$1,575,000	$2,100,000
Woodbury City	0822001-001	$2,638,500	$3,518,000
Evesham MUA	0313001-001	$1,401,750	$1,869,000
Fountainhead Properties, Inc.	1511013-002	$57,000	$76,000
Manchester Utilities Authority	1603001-013	$190,500	$254,000
Middlesex Water Company	1225001-014	$3,150,000	$4,200,000
Clayton Borough	0801001-001	$3,000,750	$4,001,000
Millville City	0610001-002	$2,953,500	$3,938,000
Independence MUA	2112001-001	$196,500	$262,000
Collingswood Borough	0412001-004	$829,500	$1,106,000
Collingswood Borough	0412001-005	$436,500	$582,000
Hampton Borough	1013001-001	$358,500	$478,000
Jackson Township MUA	1511001-009	$591,000	$788,000
Fountainhead Properties, Inc.	1511013-004	$176,250	$235,000
Fountainhead Properties, Inc.	1511013-003	$18,000	$24,000
Pine Beach Borough	1522001-001	$543,750	$725,000
Marlboro Township	1328002-001	$5,772,750	$7,697,000
Pine Beach Borough	1522001-002	$353,250	$471,000

Hammonton Town	0113001-005	$1,630,500	$2,174,000
Merchantville-Pennsauken Water Commission	0424001-007	$2,008,500	$2,678,000
Flemington Borough	1009001-006	$1,111,500	$1,482,000
Flemington Borough	1009001-007	$555,750	$741,000
Matawan Borough	1329001-005	$740,250	$987,000
Flemington Borough	1009001-008	$126,000	$168,000
Montclair Township	0713001-008	$1,573,500	$2,098,000
Total	43 Projects	$94,427,250	$125,903,000

c. The trust is authorized to adjust the allowable trust loan amount for projects authorized in this section to between 25% and 75% of the total allowable loan amount.

5. In accordance with and subject to the provisions of sections 5, 6 and 23 of P.L.1985, c.334 (C.58:11B-5, 58:11B-6, and 58:11B-23) and as set forth in the financial plan required pursuant to section 21 of P.L.1985, c.334 (C.58:11B-21), or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1), any proceeds from bonds issued by the trust to make loans for priority environmental infrastructure projects listed in sections 2 and 4 of this act which are not expended for that purpose may be applied for the payment of all or any part of the principal of and interest and premium on the trust bonds whether due at stated maturity, the interest payment dates or earlier upon redemption. A portion of the proceeds from bonds issued by the trust to make loans for priority environmental infrastructure projects pursuant to this act may be applied for the payment of capitalized interest and for the payment of any issuance expenses; for the payment of reserve capacity expenses; for the payment of debt service reserve fund expenses for the payment of the loan origination fees; and for the payment of increased costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

6. Any loan made by the New Jersey Environmental Infrastructure Trust pursuant to this act shall be subject to the following requirements:

a. The chairman of the trust has certified that the project is in compliance with the provisions of P.L.1977, c.224, P.L.1985, c.334, P.L.1992, c.88, P.L.1997, c.223, P.L.1997, c.224, P.L.1997, c.225, P.L.1999, c.175 or P.L.2003, c.162, and any rules and regulations adopted pursuant thereto, and any amendatory and supplementary acts thereto, as applicable. In making this certification, the chairman may conclusively rely on the project

review conducted by the Department of Environmental Protection without any independent review thereof by the trust;

b. The loan shall be conditioned upon inclusion of the project on a project priority list approved pursuant to section 20 of P.L.1985, c.334 (C.58:11B-20) or section 24 of P.L.1997, c.224 (C.58:11B-20.1);

c. The loan shall be repaid within a period not to exceed 20 years of the making of the loan;

d. The loan, including any portion thereof made by the trust pursuant to subsection f. of section 7 of this act, shall not exceed the allowable project cost of the environmental infrastructure facility, exclusive of capitalized interest and issuance expenses as provided in subsection b. of section 7 of this act, reserve capacity expenses and the debt service reserve fund expenses as provided in subsection c. of section 7 of this act, interest earned on project costs as provided in subsection d. of section 7 of this act, the amounts of the loan origination fee as provided in subsection e. of section 7 of this act, refunding increases as provided in section 8 of this act and increased costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27);

e. The loan shall bear interest, exclusive of any late charges or administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5) by the project sponsors receiving trust loans, at or below the interest rate paid by the trust on the bonds issued to make or refund the loans authorized by this act, adjusted for underwriting discount and original issue discount or premium, in accordance with the terms and conditions set forth in the financial plan required pursuant to section 21 of P.L.1985, c.334 (C.58:11B-21) or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1); and

f. The loan shall be subject to all other terms and conditions as the trust shall determine to be consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) and any rules and regulations adopted pursuant thereto, and with the financial plan required by section 21 of P.L.1985, c.334 (C.58:11B-21) or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1).

The priority lists and authorization for the making of loans pursuant to this act shall expire on July 1, 2013, and any project sponsor which has not executed and delivered a loan agreement with the trust for a loan authorized in this act shall no longer be entitled to that loan.

7. a. The New Jersey Environmental Infrastructure Trust is authorized to reduce the individual amount of loan funds made available to or on be-

half of project sponsors pursuant to sections 2 and 4 of this act based upon final building costs defined in and determined in accordance with rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) or rules and regulations adopted by the Commissioner of Environmental Protection pursuant to section 4 of P.L.1985, c.329, section 11 of P.L.1977, c.224 (C.58:12A-11) or section 5 of P.L.1981, c.261. The trust is authorized to use any such reduction in the loan amount made available to a project sponsor to cover that project sponsor's increased costs due to differing site conditions or other allowable expenses as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

b. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the amount of capitalized interest and issuance expenses allocable to each loan made by the trust pursuant to this act; provided that the increase for issuance expenses, excluding underwriters' discount, original issue discount or premiums, municipal bond insurance premiums and bond rating agency fees, shall not exceed 0.4% of the principal amount of trust bonds issued to make loans authorized by this act.

c. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the amount of reserve capacity expenses, and by the debt service reserve fund expenses associated with the costs identified in paragraphs (3) and (4) of subsection d. of section 1 of this act.

d. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the interest earned on amounts deposited for project costs pending their distribution to project sponsors.

e. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the loan origination fee.

f. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the amount appropriated to the Department of Environmental Protection for the purpose of making the corresponding zero interest loan pursuant to section 3 of P.L.2012, c.43 in connection with the project costs of the project sponsor, to the extent the priority ranking and an insufficiency of funding prevents the department from making the loan.

8. The New Jersey Environmental Infrastructure Trust is authorized to increase the individual amount of loan funds made available to project sponsors by the trust pursuant to P.L.1989, c.190, P.L.1990, c.97, P.L.1991, c.324, P.L.1992, c.37, P.L.1993, c.192, P.L.1994, c.105, P.L.1995, c.218, P.L.1996, c.87, P.L.1997, c.222, P.L.1998, c.85, P.L.1999, c.173, P.L.2000, c.93, P.L.2001, c.224, P.L.2002, c.71, P.L.2003, c.159, P.L.2004, c.110,

P.L.2005, c.197, P.L.2006, c.67, P.L.2007, c.140, P.L.2008, c.67, P.L.2009, c.101, P.L.2010, c.62, P.L.2011, c.95, or P.L.2012, c.38, provided that adequate savings are achieved, to compensate for a refunding of trust bonds issued to make loans authorized by the aforementioned acts.

9. The expenditure of funds authorized pursuant to this act is subject to the provisions of P.L.1977, c.224 (C.58:12A-1 et al.), P.L.1985, c.329, P.L.1985, c.334 (C.58:11B-1 et seq.), as amended and supplemented by P.L.1997, c.224, P.L.1992, c.88, P.L.1989, c.181, P.L.1997, c.223, P.L.1997, c.225, P.L.1999, c.175 or P.L.2003, c.162, and the rules and regulations adopted pursuant thereto or the Federal Safe Drinking Water Act, as appropriate.

10. a. There is appropriated to the New Jersey Environmental Infrastructure Trust as needed from repayments of loans deposited in any account, including the "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," the "Water Supply Fund," the "Stormwater Management and Combined Sewer Overflow Abatement Fund," or the Drinking Water State Revolving Fund, as appropriate, and from any net earnings received from the investment and reinvestment of such deposits, the sum of $200,000,000 consisting of:

(1) The unexpended balance of $100,000,000 currently on deposit in the special fund (hereinafter referred to as the "Interim Financing Program Fund") created and established by the trust for the short-term or temporary loan financing or refinancing program (hereinafter referred to as the "Interim Financing Program") authorized pursuant to subsection d. of section 9 of P.L.1985, c.334 (C.58:11B-9), which balance previously had been appropriated to the trust for such purpose pursuant to section 12 of P.L.2004, c.109, less any Interim Financing Program Fund amounts appropriated to the Department of Environmental Protection to supplement the sums appropriated from the Clean Water State Revolving Fund for clean water projects pursuant to the Federal Clean Water Act; and

(2) such other amounts to be deposited in the Interim Financing Program Fund, provided that the amount so reappropriated and appropriated to the trust for deposit in the Interim Financing Program Fund shall be utilized by the trust to make short-term or temporary loans pursuant to the Interim Financing Program to any one or more of the project sponsors, for the respective projects thereof, identified in the interim financing project priority list (hereinafter referred to as the "Interim Financing Program Eligibility

List") in the form provided to the Legislature by the Commissioner of Environmental Protection.

b. The Interim Financing Program Eligibility List shall be submitted to the Legislature on or before June 18, 2012 on a day when both Houses are meeting. The President of the Senate and the Speaker of the General Assembly shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively. Any environmental infrastructure project or the project sponsor thereof not identified in the Interim Financing Program Eligibility List shall not be eligible for a short-term or temporary loan from the Interim Financing Program Fund.

11. This act shall take effect immediately.

Approved August 7, 2012.

CHAPTER 39

AN ACT authorizing the State Treasurer to sell certain surplus real properties and improvements thereon owned by the State located in the Township of Woodbridge, Middlesex County.

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

1. a. The Department of the Treasury, on behalf of the Department of Corrections, is authorized to sell and convey all of the State's right, title and interest in and to the 4.3 + acre parcel of land and any improvements thereon, located on the grounds of the East Jersey State Prison and situated on Block 905, part of Lot 10, in Woodbridge Township, Middlesex County, which has been declared as surplus to the needs of the State.

b. The sale and conveyance authorized by subsection a. of this section shall be executed in accordance with the terms and conditions approved by the State House Commission at its meeting of November 22, 2010.

2. a. The Department of the Treasury, on behalf of the Department of Corrections, is authorized to sell and convey all of the State's right, title and interest in and to the 8.06 + acre parcel of land and any improvements thereon, located on the grounds of the East Jersey State Prison and situated on Block 905, part of Lot 11, in Woodbridge Township, Middlesex County, which has been declared as surplus to the needs of the State.

b. The sale and conveyance authorized by section a. of this section shall be executed in accordance with the terms and conditions approved by the State House Commission at its meeting on March 15, 2012.

3. This act shall take effect immediately.

Approved August 7, 2012.

CHAPTER 40

AN ACT establishing a grant program to provide a rebate of sales and use tax paid for the purchase of certain materials and supplies used for the construction of certain off-track wagering facilities, supplementing P.L.1966, c.30 (C.54:32B-1 et seq.).

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

1. a. Notwithstanding the provisions of any law, rule or regulation to the contrary, an amount equal to the tax collected pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) from the retail sale or use of construction materials and construction supplies used by a contractor of a person who is, as of January 1, 2012, a lessee of a racetrack owned by the New Jersey Sports and Exposition Authority or a contractor of a joint venture entered into between or among two or more persons who are lessees, or their affiliates, of the New Jersey Sports and Exposition Authority for the construction of an off-track wagering facility shall be credited by the Director of the Division of Taxation in the Department of the Treasury to a special non-lapsing account in the General Fund as shall be established by the State Treasurer for the purpose prescribed by subsection c. of this section.

b. A contractor purchasing construction materials and construction supplies for the construction of an off-track wagering facility shall complete a form or certification prescribed by the director. The contractor shall identify the type and location of the construction work and the construction materials, construction supplies, purchase price and New Jersey sales or use tax paid for the purchase of construction materials and construction supplies, and shall provide such other information and documentation as the director may require to verify that New Jersey sales or use tax was paid.

The form or certifications shall be filed with the director on a quarterly basis as documentation for determining the amounts to be credited by the director to the special non-lapsing account and the grant that may be made pursuant to subsection c. of this section.

c. Upon certification by the New Jersey Sports and Exposition Authority of the completion of the construction of an off-track wagering facility, the amounts credited by the director to the special non-lapsing account in the General Fund pursuant to this section shall be paid by the State Treasurer in the form of a one-time grant to the lessee or joint venture to rebate to the lessee or joint venture the amounts credited in the account for the completed construction of that off-track wagering facility. A grant shall not be paid except as shall be appropriated by law. A lessee or joint venture shall not be allowed more than one grant for the construction of each off-track wagering facility. A grant shall not be paid for the construction of an off-track wagering facility that is completed after June 30, 2022.

d. For purposes of this section,

"Construction materials" means items of tangible personal property purchased by a contractor for incorporation into property as a physical component of such property.

"Construction supplies" means items of tangible personal property consumed in the fulfillment of a construction contract, which items do not become a physical component part of the property upon which work is performed.

"Off-track wagering facility" means a licensed off-track wagering facility at which parimutuel wagering is conducted in accordance with the "Off-Track and Account Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.).

e. Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the director may adopt immediately upon filing with the Office of Administrative Law such regulations as the director deems necessary to effectuate the purposes of this section, which regulations shall be effective for a period of not more than 180 days following the effective date of P.L.2012, c.40 and may thereafter be amended, adopted or readopted by the director in accordance with P.L.1968, c.410 (C.52:14B-1 et seq.).

2. This act shall take effect immediately.

Approved August 7, 2012.

CHAPTER 41

AN ACT authorizing the creation of a debt of the State of New Jersey by providing for the issuance of bonds of the State in the aggregate principal amount of $750,000,000 for the purpose of capital project grants for increasing of academic capacity at New Jersey's public institutions and private institutions of higher education; authorizing the issuance of refunding bonds; 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 "Building Our Future Bond Act."

2. The Legislature finds and declares that:

a. New Jersey's economic competitiveness and prosperity are directly related to the quality and capacity of its colleges and universities. Higher education is the foundation of this State's economic well-being as well as being critical in the realization of individual success;

b. According to The Report of the Governor's Task Force on Higher Education issued in December, 2010, New Jersey's workforce will require more baccalaureate degrees than the workforce of any other state except Massachusetts;

c. Also according to the task force report, New Jersey leads the nation in the net outmigration of college-bound students, losing about 30,000 first-year students a year while admitting only about 4,000 students from other states; and the task force highlighted the urgent need to stem the tide of the brightest high school graduates leaving the State to attend college;

d. Demographic projections indicate that New Jersey will experience significant growth in its population of 18 to 24-year olds, and the lack of adequate facilities has left institutions of higher education in the State entirely unprepared to accommodate the anticipated growth in student population;

e. There has not been a voter-approved higher education bond issue since 1988 and the deferral of State support for the construction and capital maintenance needs of higher education buildings has left the institutions with a critical lack of the academic facilities, such as classrooms, laboratories, and libraries, which are necessary to educate this increased student body, provide the capacity necessary to stem the outmigration of talented

students, and ensure the educated workforce necessary to retain and attract business and industry; and

f. This convergence of economic competitiveness, increased workforce demands, and demographic trends makes increasing the facilities capacity of institutions of higher education an issue that deserves immediate attention, and requires the investment of the State resources that are necessary to ensure and advance the State's economic growth and prosperity in this knowledge-based global economy.

3. As used in this act:

"Bonds" mean the bonds authorized to be issued, or issued, under this act.

"Construct" and "construction" mean the planning, erecting, altering, repairing, purchasing, improving, developing, constructing, reconstructing, extending, rehabilitating, renovating, upgrading, demolishing, and equipping of higher education buildings at public institutions and private institutions of higher education.

"Cost" means the expenses incurred in connection with: the acquisition by purchase, lease, or otherwise, the development, and the construction of any project authorized by this act; the acquisition by purchase, lease, or otherwise, and the development of any real or personal property for use in connection with a project authorized by this act, including any rights of interest therein; the execution of any agreements and franchises deemed by the Secretary of Higher Education to be necessary or useful and convenient in connection with any project; the procurement or provision of engineering, architectural design, surveying, inspection, planning, legal, financial, or other professional services, estimates, studies, reports, or advice, including the services of a bond registrar or an authenticating agent; feasibility studies; the issuance of bonds, or any interest or discount thereon; the administrative, organizational, operating, or other expenses incident to the financing and completing of any project authorized by this act; the establishment of a reserve fund or funds for working capital, operating, maintenance, or replacement expenses and for the payment or security of principal or interest on bonds, as the Director of the Division of Budget and Accounting in the Department of the Treasury may determine; and reimbursement to any fund of the State of moneys which may have been transferred or advanced therefrom to any fund created by this act, or of any moneys which may have been expended therefrom for, or in connection with, any project authorized by this act.

"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.

"Higher education buildings" means buildings, structures and facilities required for the operation of public institutions and private institutions of higher education.

"Private institutions of higher education" means institutions of higher education organized as nonprofit corporations under N.J.S.15A:1-1 et seq., and acting under the authority of and licensed by the State to confer degrees pursuant to N.J.S.18A:68-1 et seq.

"Project" means the establishment and construction of higher education buildings and the expansion and construction of additional facilities at, and the acquisition and installation of additional and upgraded equipment for, existing higher education buildings for the purpose of increasing academic capacity, which shall include, but not be limited to, classrooms, laboratories, libraries, computer facilities, and other academic buildings and all property appurtenant thereto, but shall not include dormitories, administrative buildings, athletic facilities, or other revenue-producing facilities.

"Public institutions of higher education" means Rutgers, the State University of New Jersey, the State colleges and universities established pursuant to chapter 64 of Title 18A of the New Jersey Statutes, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, the county colleges, and any other public university or college now or hereinafter established or authorized by law.

"Public research universities" means Rutgers University-Newark, Rutgers University-New Brunswick, Rutgers University-Camden, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, and any other public research university now or hereinafter established or authorized by law.

"Secretary" means the Secretary of Higher Education appointed pursuant to section 2 of P.L.2009, c.308 (C.18A:3B-47).

4. The Secretary of Higher Education shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968 c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this act.

5. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $750,000,000 to be allocated as grants for the costs of projects as follows:

a. $300,000,000 for the public research universities;

b. $247,500,000 for the State colleges and universities established pursuant to chapter 64 of Title 18A of the New Jersey Statutes;

c. $150,000,000 for the county colleges; and

d. $52,500,000 for the private institutions of higher education, other than a private institution having a total endowment of more than $1,000,000,000.

e. (1) For any project approved by the secretary which is financed by bond funds set forth in subsections a. and b. of this section, the grant shall support 75% of the cost of the project and the public research university or the State college or university shall provide funds to support 25% of the cost of the project.

(2) For any project approved by the secretary which is financed by bond funds set forth in subsections c. and d. of this section, the grant shall support 75% of the cost of the project and the county college or the private institution of higher education shall provide funds to support 25% of the cost of the project.

f. Procedures for the review and approval of, and eligibility criteria for, grants shall be established by the secretary. An institution of higher education shall submit a long-range facilities plan that details the facilities needs of the institution and the institution's plans to address those needs. The institution shall demonstrate how the project to be financed through bond funds advances the goals of the long-range facilities plan, increases the academic capacity of the institution, and provides a direct benefit to students.

g. The secretary shall prepare a list of eligible projects. Projects that are deemed construction-ready shall receive priority. The secretary shall submit to the presiding officers of each House of the Legislature on a date that both Houses are in session a copy of the list of eligible projects along with the amount of the grant for each project. The list shall be deemed to be approved in its entirety unless the Legislature adopts a concurrent resolution stating that the Legislature is not in agreement with the list within 60 days following the date of transmittal of the list to the Legislature. The payment of project grants on the list of projects shall be subject to the prior appropriation of sufficient funds pursuant to section 15 of this act for total project amounts so listed.

6. The bonds authorized under this act shall be serial bonds, term bonds, or a combination thereof, and shall be known as "Building Our Future Bonds." They shall be issued from time to time as the issuing officials herein named shall determine and may be issued in coupon form, fully-registered form or book-entry form. The bonds may be subject to redemption prior to maturity and shall mature and be paid not later than 35 years from the respective dates of their issuance.

7. The Governor, the State Treasurer and the Director of the Division of Budget and Accounting in the Department of the Treasury, or any two of these officials, herein referred to as "the issuing officials," are authorized to carry out the provisions of this act relating to the issuance of bonds, and shall determine all matters in connection therewith, subject to the provisions of this act. If an issuing official is absent from the State or incapable of acting for any reason, the powers and duties of that issuing official shall be exercised and performed by the person authorized by law to act in an official capacity in the place of that issuing official.

8. Bonds issued in accordance with the provisions of this act shall be a direct obligation of the State of New Jersey, and the faith and credit of the State are pledged for the payment of the interest and redemption premium thereon, if any, when due, and for the payment of the principal thereof at maturity or earlier redemption date. The principal of and interest on the bonds shall be exempt from taxation by the State or by any county, municipality or other taxing district of the State.

9. The bonds shall be signed in the name of the State by means of the manual or facsimile signature of the Governor under the Great Seal of the State, which seal may be by facsimile or by way of any other form of reproduction on the bonds, and attested by the manual or facsimile signature of the Secretary of 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.

10. a. The bonds shall recite that they are issued for the purposes set forth in section 5 of this act, that they are issued pursuant to this act, that this act was submitted to the people of the State at the general election next occurring at least 70 days after enactment as specified in section 23 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.

11. When the bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the issuing officials. Each series of bonds shall bear such rate or rates of interest as may be determined by the issuing officials, which interest shall be payable semiannually; except that the first and last interest periods may be longer or shorter, in order that intervening semiannual payments may be at convenient dates.

12. The bonds shall be issued and sold at the price or prices and under the terms, conditions and regulations as the issuing officials may prescribe, after notice of the sale, published at least once in at least three newspapers published in this State, and at least once in a publication carrying municipal bond notices and devoted primarily to financial news, published in this State or in the city of New York, the first notice to appear at least five days prior to the day of bidding. The notice of sale may contain a provision to the effect that any bid in pursuance thereof may be rejected. In the event of rejection or failure to receive any acceptable bid, the issuing officials, at any time within 60 days from the date of the advertised sale, may sell the bonds at a private sale at such price or prices under the terms and conditions as the issuing officials may prescribe. The issuing officials may sell all or part of the bonds of any series as issued to any State fund or to the federal government or any agency thereof, at a private sale, without advertisement.

13. Until permanent bonds are prepared, the issuing officials may issue temporary bonds in the form and with those privileges as to their registration and exchange for permanent bonds as may be determined by the issuing officials.

14. The proceeds from the sale of bonds used to provide grants to public institutions and private institutions of higher education as set forth in section 5 of this act shall be paid to the State Treasurer, shall be held by the State Treasurer in a separate fund, and shall be deposited in such depositories as may be selected by the State Treasurer to the credit of the fund, which fund shall be known as the "Building Our Future Fund."

15. a. The moneys in the "Building Our Future Fund" are specifically dedicated and shall be applied to the cost of providing grants to New Jersey's public institutions and private institutions of higher education for projects as set forth in section 5 of this act. However, no moneys in the fund shall be expended for those purposes, except as otherwise authorized by this act, without the appropriation thereof by the Legislature, but bonds may be issued as herein provided, notwithstanding that the Legislature shall not have then adopted an act making an appropriation of any of the moneys.

b. At any time prior to the issuance and sale of bonds under this act, the State Treasurer is authorized to transfer from any available moneys in any fund of the treasury of the State to the credit of the "Building Our Future 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.

c. Pending their application to the purposes provided in this act, the moneys in the "Building Our Future 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, reinvestment, or deposit of moneys in the "Building Our Future Fund" shall be paid into the General Fund.

16. If any coupon bond, coupon or registered bond is lost, mutilated or destroyed, a new bond or coupon shall be executed and delivered of like tenor, in substitution for the lost, mutilated or destroyed bond or coupon, upon the owner furnishing to the issuing officials evidence satisfactory to them of the loss, mutilation or destruction of the bond or coupon, the ownership thereof, and security, indemnity and reimbursement for expenses connected therewith, as the issuing officials may require.

17. The accrued interest, if any, received upon the sale of the bonds shall be applied to the discharge of a like amount of interest upon the bonds when due. Any expense incurred by the issuing officials for advertising, engraving, printing, clerical, authenticating, registering, legal or other services necessary to carry out the duties imposed upon them by the provisions of this act shall be paid from the proceeds of the sale of the bonds by the State Treasurer, upon the warrant of the Director of the Division of Budget and Accounting in the Department of the Treasury, in the same manner as other obligations of the State are paid.

18. Bonds of each series issued hereunder shall mature, including any sinking fund redemptions, not later than the 35th year from the date of issue of that series, and in amounts as shall be determined by the issuing officials. The issuing officials may reserve to the State by appropriate provision in the bonds of any series the power to redeem any of the bonds prior to maturity at the price or prices and upon the terms and conditions as may be provided in the bonds.

19. Any bond or bonds issued hereunder which are subject to refinancing pursuant to the "Refunding Bond Act of 1985," P.L.1985, c.74 as amended by P.L.1992, c.182 (C.49:2B-1 et seq.), shall no longer be deemed to be outstanding, shall no longer constitute a direct obligation of the State of New Jersey, and the faith and credit of the State shall no longer be pledged to the payment of the principal of, redemption premium, if any, and interest on the bonds, and the bonds shall be secured solely by and payable solely from moneys and government securities deposited in trust with one or more trustees or escrow agents, which trustees and escrow agents shall be trust companies or national or state banks having powers of a trust company, located either within or without the State, as provided herein, whenever there shall be deposited in trust with the trustees or escrow agents, as provided herein, either moneys or government securities, including government securities issued or held in book-entry form on the books of the Department of Treasury of the United States, the principal of and interest on which when due will provide money which, together with the moneys, if any, deposited with the trustees or escrow agents at the same time, shall be sufficient to pay when due the principal of, redemption premium, if any, and interest due and to become due on the bonds on or prior to the redemption date or maturity date thereof, as the case may be; provided the government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. The State of New Jersey

hereby covenants with the holders of any bonds for which government securities or moneys shall have been deposited in trust with the trustees or escrow agents as provided in this section that, except as otherwise provided in this section, neither the government securities nor moneys so deposited with the trustees or escrow agents shall be withdrawn or used by the State for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest to become due on the bonds; provided that any cash received from the principal or interest payments on the government securities deposited with the trustees or escrow agents, to the extent the cash will not be required at any time for that purpose, shall be paid over to the State, as received by the trustees or escrow agents, free and clear of any trust, lien, pledge or assignment securing the bonds; and to the extent the cash will be required for that purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due the principal of, redemption premium, if any, and interest to become due on the bonds on and prior to the redemption date or maturity date thereof, as the case may be, and interest earned from the reinvestments shall be paid over to the State, as received by the trustees or escrow agents, free and clear of any trust, lien or pledge securing the bonds. Notwithstanding anything to the contrary contained herein: a. the trustees or escrow agents shall, if so directed by the issuing officials, apply moneys on deposit with the trustees or escrow agents pursuant to the provisions of this section, and redeem or sell government securities so deposited with the trustees or escrow agents, and apply the proceeds thereof to (1) the purchase of the bonds which were refinanced by the deposit with the trustees or escrow agents of the moneys and government securities and immediately thereafter cancel all bonds so purchased, or (2) the purchase of different government securities; provided however, that the moneys and government securities on deposit with the trustees or escrow agents after the purchase and cancellation of the bonds or the purchase of different government securities shall be sufficient to pay when due the principal of, redemption premium, if any, and interest on all other bonds in respect of which the moneys and government securities were deposited with the trustees or escrow agents on or prior to the redemption date or maturity date thereof, as the case may be; and b. in the event that on any date, as a result of any purchases and cancellations of bonds or any purchases of different government securities, as provided in this sentence, the total amount of moneys and government securities remaining on deposit with the trustees or escrow agents is in excess of the total amount which would have been required to be deposited with

the trustees or escrow agents on that date in respect of the remaining bonds for which the deposit was made in order to pay when due the principal of, redemption premium, if any, and interest on the remaining bonds, the trustees or escrow agents shall, if so directed by the issuing officials, pay the amount of the excess to the State, free and clear of any trust, lien, pledge or assignment securing the refunding bonds.

20. Refunding bonds issued pursuant to P.L.1985, c.74 as amended by P.L.1992, c.182 (C.49:2B-1 et seq.) may be consolidated with bonds issued pursuant to section 5 of this act or with bonds issued pursuant to any other act for purposes of sale.

21. To provide funds to meet the interest and principal payment requirements for the bonds and refunding bonds issued under this act and outstanding, there is appropriated in the order following:

a. Revenue derived from the collection of taxes under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), or so much thereof as may be required; and

b. If, at any time, funds necessary to meet the interest, redemption premium, if any, and principal payments on outstanding bonds issued under this act are insufficient or not available, there shall be assessed, levied and collected annually in each of the municipalities of the counties of this State, a tax on the real and personal property upon which municipal taxes are or shall be assessed, levied and collected, sufficient to meet the interest on all outstanding bonds issued hereunder and on the bonds proposed to be issued under this act in the calendar year in which the tax is to be raised and for the payment of bonds falling due in the year following the year for which the tax is levied. The tax shall be assessed, levied and collected in the same manner and at the same time as are other taxes upon real and personal property. The governing body of each municipality shall cause to be paid to the county treasurer of the county in which the municipality is located, on or before December 15 in each year, the amount of tax herein directed to be assessed and levied, and the county treasurer shall pay the amount of the tax to the State Treasurer on or before December 20 in each year.

If on or before December 31 in any year, the issuing officials, by resolution, determine that there are moneys in the General Fund beyond the needs of the State, sufficient to 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.

22. Should the State Treasurer, by December 31 of any year, deem it necessary, because of the insufficiency of funds collected from the sources of revenues as provided in this act, to meet the interest and principal payments for the year after the ensuing year, then the State Treasurer shall certify to the Director of the Division of Budget and Accounting in the Department of the Treasury the amount necessary to be raised by taxation for those purposes, the same to be assessed, levied and collected for and in the 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.

23. For the purpose of complying with the provisions of the State Constitution, this act shall be submitted to the people at the general election 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.

<table>
<tr><td></td><td>YES</td><td rowspan="2">BUILDING OUR FUTURE BOND ACT
Do you approve the "Building Our Future Bond Act"? This bond act authorizes the State to issue bonds in the aggregate principal amount of $750 million to provide matching grants to New Jersey's colleges and universities. Money from the grants will be used to build, equip and expand higher education facilities for the purpose of increasing academic capacity.

INTERPRETIVE STATEMENT
Approval of this act will allow the State to issue bonds in the total principal amount of $750 million. Proceeds from the bonds will be used to provide grants to New Jersey's public and private colleges and universities to construct and equip higher education buildings to increase academic capacity.
Bond proceeds will be allocated as follows:
• $300 million for public research universities;
• $247.5 million for State colleges and other State universities;
• $150 million for county colleges; and
• $52.5 million for private institutions with an endowment of $1 billion or less.
Public and private colleges and universities which receive grants will be required to provide funds to support 25% of a project.</td></tr>
<tr><td></td><td>NO</td></tr>
</table>

The fact and date of the approval or passage of this act, as the case may be, may be inserted in the appropriate place after the title in the ballot. No other requirements of law of any kind or character as to notice or procedure, except as herein provided, need be adhered to.

The votes so cast for and against the approval of this act, by ballot or voting machine, shall be counted and the result thereof returned by the election officer, and a canvass of the election had in the same manner as is provided for by law in the case of the election of a Governor, and the approval or disapproval of this act so determined shall be declared in the same manner as the result of an election for a Governor, and if there is a majority of all the votes cast for and against it at the election in favor of the approval of this act, then all the provisions of this act not made effective theretofore shall take effect forthwith.

24. There is appropriated the sum of $5,000 to the Department of State for expenses in connection with the publication of notice pursuant to section 23 of this act.

25. The Secretary of Higher Education shall submit to the State Treasurer and the New Jersey Commission on Capital Budget and Planning with the secretary's annual budget request a plan for the expenditure of funds from the "Building Our Future Fund" for the upcoming fiscal year. This plan shall include the following information: a performance evaluation of the expenditures made from the funds to date; a description of programs planned during the upcoming fiscal year; a copy of the regulations in force governing the operation of programs that are financed, in part or in whole, by funds from the "Building Our Future Fund"; and an estimate of expenditures for the upcoming fiscal year.

26. Immediately following the submission to the Legislature of the Governor's annual budget message, the secretary 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 plan called for under section 25 of this act, together with such changes therein as may have been required by the Governor's budget message.

27. Except as otherwise provided by this act, all appropriations from the "Building Our Future Fund" 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.

28. This section and sections 23 and 24 of this act shall take effect immediately and the remainder of this act shall take effect as and when provided in section 23 of this act.

Approved August 7, 2012.

CHAPTER 42

AN ACT concerning construction of facilities at institutions of higher education, revising various parts of the statutory law, and supplementing Title 18A of the New Jersey Statutes.

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

1. Section 43 of P.L.2009, c.90 (C.18A:64-85) is amended to read as follows:

C.18A:64-85 State, county college may enter into certain contracts with a private entity.

43. a. (1) A State college or county college may enter into a contract with a private entity, subject to subsection f. of this section, to be referred to as a public-private partnership agreement, that permits the private entity to assume full financial and administrative responsibility for the on-campus construction, reconstruction, repair, alteration, improvement, extension, management, or operation of a building, structure, or facility of, or for the benefit of, the institution, provided that the project is financed in whole by the private entity and that the State or institution of higher education, as applicable, retains full ownership of the land upon which the project is completed.

(2) A public-private partnership agreement may include an agreement under which a State or county college leases to a private entity the operation of a dormitory or other revenue-producing facility to which the college holds title, in exchange for up-front or structured financing by the private entity for the construction of classrooms, laboratories, or other academic buildings. Under the lease agreement, the college shall continue to hold title to the facility, and the private entity shall be responsible for the management, operation, and maintenance of the facility. The private entity shall receive some or all, as per the agreement, of the revenue generated by the facility and shall operate the facility in accordance with college standards. A lease agreement shall not affect the status or employment rights of college employees who are assigned to, or provide services to, the leased facility. At the end of the lease term, subsequent revenue generated by the facility, along with management, operation, and maintenance responsibility, shall revert to the college.

b. (1) A private entity that assumes financial and administrative responsibility for a project pursuant to subsection a. of this section shall not be subject to the procurement and contracting requirements of all statutes applicable to the institution of higher education at which the project is completed, including, but not limited to, the "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.), and the "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.). For the purposes of facilitating the financing of a project pursuant to subsection a. of this section,

a public entity may become the owner or lessee of the project or the lessee of the land, or both, may become the lessee of a dormitory or other revenue-producing facility to which the college holds title, may issue indebtedness in accordance with the public entity's enabling legislation and, notwithstanding any provision of law to the contrary, shall be empowered to enter into contracts with a private entity and its affiliates without being subject to the procurement and contracting requirements of any statute applicable to the public entity provided that the private entity has been selected by the institution of higher education pursuant to a solicitation of proposals or qualifications. For the purposes of this section, a public entity shall include the New Jersey Economic Development Authority, and any project undertaken pursuant to subsection a. of this section of which the authority becomes the owner or lessee, or which is situated on land of which the authority becomes the lessee, shall be deemed a "project" under the "New Jersey Economic Development Authority Act," P.L.1974, c.80 (C.34:1B-1 et seq.).

(2) As the carrying out of any project described pursuant to this section constitutes the performance of an essential public function, all projects predominantly used in furtherance of the educational purposes of the institution undertaken pursuant to this section, provided it is owned by or leased to a public entity, non-profit business entity, foreign or domestic, or a business entity wholly owned by such non-profit business entity, shall at all times be exempt from property taxation and special assessments of the State, or any municipality, or other political subdivision of the State and, notwithstanding the provisions of section 15 of P.L.1974, c.80 (C.34:1B-15) or section 2 of P.L.1977, c.272 (C.54:4-2.2b) or any other section of law to the contrary, shall not be required to make payments in lieu of taxes. The land upon which the project is located shall also at all times be exempt from property taxation. Further, the project and land upon which the project is located shall not be subject to the provisions of section 1 of P.L.1984, c.176 (C.54:4-1.10) regarding the tax liability of private parties conducting for profit activities on tax exempt land, or section 1 of P.L.1949, c.177 (C.54:4-2.3) regarding the taxation of leasehold interests in exempt property that are held by nonexempt parties.

c. Each worker employed in the construction, rehabilitation, or building maintenance services of facilities by a private entity that has entered into a public-private partnership agreement with a State or county college pursuant to subsection a. of this section 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.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

d. (1) All construction projects under a public-private partnership agreement entered into pursuant to this section shall contain a project labor agreement. The project labor agreement shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et seq.), and shall be in a manner that to the greatest extent possible enhances employment opportunities for individuals residing in the county of the project's location. Further, the general contractor, construction manager, design-build team, or subcontractor for a construction project proposed in accordance with this paragraph shall be registered pursuant to the provisions of P.L.1999, c.238 (C.34:11-56.48 et seq.), and shall be classified by the Division of Property Management and Construction to perform work on a public-private partnership higher education project. All construction projects proposed in accordance with this paragraph shall be submitted to the New Jersey Economic Development Authority for its review and approval and, when practicable, are encouraged to adhere to the Leadership in Energy and Environmental Design Green Building Rating System as adopted by the United States Green Building Council.

(2) Where no public fund has been established for the financing of a public improvement, the chief financial officer of the public owner shall require the private entity for whom the public improvement is being made to post, or cause to be posted, a bond guaranteeing prompt payment of moneys due to the contractor, his or her subcontractors and to all persons furnishing labor or materials to the contractor or his or her subcontractors in the prosecution of the work on the public improvement.

e. A general contractor, construction manager, design-build team, or subcontractor shall be registered pursuant to the provisions of P.L.1999, c.238 (C.34:11-56.48 et seq.), and shall be classified by the Division of Property Management and Construction to perform work on a public-private partnership higher education project.

f. (1) On or before August 1, 2013, all projects proposed in accordance with this section shall be submitted to the New Jersey Economic Development Authority for its review and approval; except that in the case of projects proposed in accordance with paragraph (2) of subsection a. of this section, all projects shall be submitted on or before August 1, 2014. The projects are encouraged, when practicable, to adhere to the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6). Any application that is deemed to be incomplete on August 2, 2013, or on August 2, 2014 in the case of an application submitted pursuant to paragraph (2) of subsection a. of this section, shall not be eligible for consideration.

(2) (a) In order for an application to be complete and considered by the authority it shall include, but not be limited to: (i) a public-private partnership agreement between the State or county college and the private developer; (ii) a full description of the project, including a description of any agreement for the lease of a revenue-producing facility related to the project; (iii) the estimated costs and financial documentation for the project; (iv) a timetable for completion of the project extending no more than five years after consideration and approval; and (v) any other requirements that the authority deems appropriate or necessary.

(b) As part of the estimated costs and financial documentation for the project the application shall contain a long-range maintenance plan and shall specify the expenditures that qualify as an appropriate investment in maintenance. This long-range maintenance plan shall be approved by the authority pursuant to regulations promulgated by the authority that reflect national building maintenance standards and other appropriate building maintenance benchmarks. All contracts to implement a long-range maintenance plan pursuant to this paragraph shall contain a project labor agreement. The project labor agreement shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et seq.), and shall be in a manner that to the greatest extent possible enhances employment opportunities for individuals residing in the county of the project's location.

(3) The authority shall review all completed applications, and request additional information as is needed to make a complete assessment of the project. No project shall be undertaken until final approval has been granted by the authority; provided, however, that the authority shall retain the right to revoke approval if it determines that the project has deviated from the plan submitted pursuant to paragraph (2) of this subsection.

(4) The authority may promulgate any rules and regulations necessary to implement this subsection, including provisions for fees to cover administrative costs.

Where no public fund has been established for the financing of a public improvement, the chief financial officer of the public owner shall require the private entity for whom the public improvement is being made to post, or cause to be posted, a bond guaranteeing prompt payment of moneys due to the contractor, his or her subcontractors and to all persons furnishing labor or materials to the contractor or his or her subcontractors in the prosecution of the work on the public improvement.

g. The provisions of P.L.2009, c.136 (C.52:18-42 et al.) shall not apply to any project carried out pursuant to this section.

2. Section 2 of P.L.1993, c.136 (C.18A:72A-41) is amended to read as follows:

C.18A:72A-41 Findings, declarations.

2. The Legislature finds and declares that:

a. Higher education plays a vital role in the economic development of the nation and the State by providing the education and training of the work force of the future and by advancing science and technology through research;

b. The rapid technological changes occurring throughout the world have a considerable impact on the quality of teaching, learning, and research at colleges and universities;

c. The current inventory of instructional and research equipment at the colleges and universities within the State is aging, both chronologically and technologically, and much of it has been rendered obsolete; and

d. The Secretary of Higher Education, who is statutorily responsible for the coordination and planning of higher education in New Jersey, has identified a crucial need to establish a regular financing mechanism for scientific, engineering, technical, computer, communications, and instructional equipment at New Jersey's public and private institutions of higher education.

3. Section 6 of P.L.1993, c.136 (C.18A:72A-43) is amended to read as follows:

C.18A:72A-43 Allocation of moneys.

6. The moneys deposited into the fund created pursuant to section 5 of P.L.1993, c.136 (C.18A:72A-42) shall be allocated in the following manner:

a. A minimum of $24,000,000 for the leasing of higher education equipment at the State colleges;

b. A minimum of $19,440,000 for the leasing of higher education equipment at Rutgers, The State University;

c. A minimum of $10,080,000 for the leasing of higher education equipment at the University of Medicine and Dentistry of New Jersey;

d. A minimum of $6,480,000 for the leasing of higher education equipment at the New Jersey Institute of Technology;

e. A minimum of $22,000,000 for the leasing of higher education equipment at the county colleges;

f. A minimum of $10,500,000 for the leasing of higher education equipment at private institutions of higher education; and

g. A minimum of $7,500,000 for the leasing of higher education equipment for emerging needs programs at public and private institutions of higher education.

The Secretary of Higher Education may apportion the amounts authorized in subsection g. among any other amounts authorized in subsections a. through f.

The Secretary of Higher Education may reallocate any balance in the amounts authorized in subsections a. through g. of this section which have not been fully committed within 18 months of the effective date of this act.

The Secretary of Higher Education shall determine the allocation of moneys deposited into the fund resulting from the issuance by the authority of new bonds because of the retirement of bonds previously issued by the authority.

4. Section 8 of P.L.1993, c.136 (C.18A:72A-45) is amended to read as follows:

C.18A:72A-45 Approval for lease agreements.

8. The authority shall not enter into a lease agreement with an institution of higher education unless the Secretary of Higher Education has approved the purchase of the higher education equipment by the institution. The secretary shall provide a written certification of such approval including the amount approved to the authority.

5. Section 10 of P.L.1993, c.136 (C.18A:72A-47) is amended to read as follows:

C.18A:72A-47 Annual report.

10. The Secretary of Higher Education shall annually submit a report to the Governor and the Legislature on the higher education equipment purchases at public and private institutions of higher education which have been approved by the secretary and financed by the New Jersey Educational Facilities Authority pursuant to lease agreements with the institutions.

6. Section 11 of P.L.1993, c.136 (C.18A:72A-48) is amended to read as follows:

C.18A:72A-48 Rules, regulations.

11. The Secretary of Higher Education, in consultation with the New Jersey Educational Facilities Authority, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and regulations necessary to carry out the provisions of this act.

7. Section 5 of P.L.1993, c.375 (C.18A:72A-53) is amended to read as follows:

C.18A:72A-53 Allocation of initial grants.

5. The initial grants from the trust fund shall be allocated as follows:

a. $48,000,000 for facilities at the State Colleges;

b. $38,880,000 for facilities at Rutgers, The State University;

c. $20,160,000 for facilities at the University of Medicine and Dentistry of New Jersey;

d. $12,960,000 for facilities at the New Jersey Institute of Technology;

e. $44,000,000 for facilities at the county colleges;

f. $21,000,000 for facilities at the private institutions of higher education;

g. $15,000,000 for South Jersey multi-institutional economic development facilities. As used in this section, "South Jersey multi-institutional economic development facilities" means facilities which would promote economic development in the eight southernmost counties of the State and which involve more than one public or private institution of higher education; and

h. $20,000,000 for a new facility for Rutgers, The State University, School of Law, Newark.

The amount authorized in subsection g. may be apportioned among any other amounts authorized in subsections a. through f. of this section.

The Secretary of Higher Education may reallocate any balance in an amount authorized in subsections a. through h. of this section which has not been approved by the secretary for a grant within 18 months of the effective date of this act.

The Secretary of Higher Education shall determine the allocation of moneys deposited into the trust fund resulting from the issuance by the authority of new bonds because of the retirement of bonds previously issued by the authority.

The facilities funded by grants from the trust fund shall follow the principles of affirmative action and equal opportunity employment. In furtherance of these principles, the Secretary of Higher Education shall continue the policy of encouraging institutions to solicit bids from, and award contracts to, minority and women-owned businesses.

8. Section 6 of P.L.1993, c.375 (C.18A:72A-54) is amended to read as follows:

C.18A:72A-54 Application for grant.

6. a. The governing board of a public or private institution of higher education may determine, by resolution, to apply for a grant from the trust fund. Upon adoption of the resolution, the board shall file an application with the Secretary of Higher Education, which application shall include a complete description of the project to be financed and an identification of any additional sources of revenue to be used.

b. The Secretary of Higher Education shall review the application and approve or disapprove the grant. For each grant which is approved, the secretary shall establish the amount and shall send a written certification of such approval including the amount approved to the authority.

c. The Secretary of Higher Education shall submit to the Legislature a copy of the written certification of the approval of the grant and the amount thereof. If the Legislature does not disapprove the grant by the adoption of a concurrent resolution within 60 days, the grant shall be deemed to be authorized. In addition, the resolution approving the grant for the new instructional and research facility for Rutgers, The State University, School of Law, Newark, shall be submitted by the secretary to the Joint Budget Oversight Committee for its approval prior to the commission's submission of the resolution to the Legislature. The secretary shall provide to the committee such information concerning the grant as the committee may require for its consideration.

d. Each grant awarded under this act shall be contingent upon the recipient governing board entering into a contract or contracts for the commencement of the construction, reconstruction, development, extension, or improvement of the facility within one year of the date on which the funds of the grant are made available.

9. Section 7 of P.L.1993, c.375 (C.18A:72A-55) is amended to read as follows:

C.18A:72A-55 List of selection criteria.

7. In order to ensure the most effective utilization of the moneys in the trust fund and to guide governing boards which elect to apply for a grant, the Secretary of Higher Education shall establish a list of selection criteria and shall specify the information to be included in a grant application.

10. Section 8 of P.L.1993, c.375 (C.18A:72A-56) is amended to read as follows:

C.18A:72A-56 "Higher Education Facilities Trust Fund Board."

8. In order to ensure proper oversight and review, there is created the "Higher Education Facilities Trust Fund Board" which shall consist of four members as follows: the Secretary of Higher Education; the State Treasurer or a designee; the President of the Senate or a designee; and the Speaker of the General Assembly or a designee. The board shall ensure that the revenue provided to the trust fund is adequate to support the grants approved by the Secretary of Higher Education. At the end of each three-year period following the approval of this act, the board shall review, in consultation with the Secretary of Higher Education, the physical plant needs of public and private institutions of higher education in the State and shall recommend to the Governor and the Legislature a plan to increase, as necessary, the availability and uses of grants made from the trust fund.

11. Section 11 of P.L.1993, c.375 (C.18A:72A-58) is amended to read as follows:

C.18A:72A-58 Rules, regulations.

11. The Secretary of Higher Education, in consultation with the New Jersey Educational Facilities Authority, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and regulations necessary to carry out the provisions of this act.

12. Section 5 of P.L.1997, c.238 (C.18A:72A-63) is amended to read as follows:

C.18A:72A-63 Grant conditions, allocations.

5. The use of a grant from the technology fund shall require a matching amount from an institution equal to the amount of the grant provided. The initial grants from the technology fund shall be allocated as follows:

a. a minimum of $12,600,000 for the acquisition of higher education technology infrastructure at the State colleges;

b. a minimum of $7,722,000 for the acquisition of higher education technology infrastructure at Rutgers, The State University;

c. a minimum of $4,306,500 for the acquisition of higher education technology infrastructure at the University of Medicine and Dentistry of New Jersey;

d. a minimum of $2,821,500 for the acquisition of higher education technology infrastructure at the New Jersey Institute of Technology;

e. a minimum of $12,600,000 for the acquisition of higher education technology infrastructure at the county colleges;

f. a minimum of $4,950,000 for the acquisition of higher education technology infrastructure at private institutions of higher education;

g. a maximum of $5,000,000 for interconnectivity among the higher education institutions. Expenditures shall be based on an inter-institutional needs assessment. If, as a result of the needs assessment, less than $5,000,000 is expended from the funds allocated in this subsection, the remaining funds shall be allocated among the institutions designated in subsections a. through f. of this section based on the percentage of the total funds allocated in each of the subsections a. through f.; and

h. a minimum of $5,000,000 for non-matching public library grants or for Statewide library technology initiatives through the New Jersey State Library.

The Secretary of Higher Education may reallocate any balance in the amount authorized in subsections a. through g. of this section, which has not been approved by the secretary for a grant within 18 months of the effective date of P.L.1997, c.238 (C.18A:72A-59 et seq.).

The secretary shall determine the allocation of moneys deposited into the technology fund resulting from the issuance by the authority of new bonds because of the retirement of bonds previously issued by the authority.

Acquisition of technology infrastructure funded by grants from the technology fund shall follow the principles of affirmative action and equal opportunity employment. In furtherance of these principles, the secretary shall continue its policy of encouraging institutions to solicit bids from, and award contracts to, minority and women-owned businesses.

13. Section 6 of P.L.1997, c.238 (C.18A:72A-64) is amended to read as follows:

C.18A:72A-64 Application for grant, conditions.

6. a. The governing board of a public or private institution of higher education may determine, by resolution, to apply for a grant from the technology fund. Upon adoption of the resolution, the board shall file an application with the Secretary of Higher Education, which application shall include a complete description of the technology infrastructure to be acquired and an identification of the sources of revenue to be used for the required institutional match.

b. The secretary shall review the application and approve or disapprove the grant. For each grant which is approved, the secretary shall establish the amount and shall send written certification of the approval of the grant including the approved amount to the authority.

c. Each grant awarded under this act shall be contingent upon the recipient governing board entering into a contract or contracts for the acquisition of technology infrastructure within one year of the date on which the funds of the grant are made available to the institution.

14. Section 9 of P.L.1997, c.238 (C.18A:72A-67) is amended to read as follows:

C.18A:72A-67 Approval for entry into agreements.

9. The authority shall not enter into an agreement with an institution of higher education unless the Secretary of Higher Education has approved the acquisition of the higher education technology infrastructure by the institution.

15. Section 11 of P.L.1997, c.238 (C.18A:72A-69) is amended to read as follows:

C.18A:72A-69 Criteria for approval, specific information in grant application.

11. In order to ensure the most effective utilization of the moneys in the technology fund and to guide governing boards which elect to apply for a grant, the Secretary of Higher Education shall establish criteria for approval and shall specify the information to be included in a grant application.

16. Section 12 of P.L.1997, c.238 (C.18A:72A-70) is amended to read as follows:

C.18A:72A-70 Rules, regulations.

12. The Secretary of Higher Education, in consultation with the New Jersey Educational Facilities Authority, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and regulations necessary to carry out the provisions of this act.

17. Section 13 of P.L.1997, c.238 (C.18A:72A-71) is amended to read as follows:

C.18A:72A-71 Report to Governor, Legislature.

13. The Secretary of Higher Education shall annually submit a report to the Governor and the Legislature on the higher education technology infrastructure purchases at public and private institutions of higher education,

which have been approved by the secretary and financed by the New Jersey Educational Facilities Authority pursuant to this act.

18. Section 4 of P.L.1999, c.217 (C.18A:72A-75) is amended to read as follows:

C.18A:72A-75 Use of capital improvement fund.

4. The capital improvement fund shall be used to provide grants to New Jersey's four-year public and private institutions of higher education for the cost, or a portion of the cost, of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure. Each institution shall use the grants for existing renewal and renovations needs at instructional, laboratory, communication, research, and administrative facilities. An institution may use up to 20% of a grant within student-support facilities for renewal and renovation or improvement, expansion, construction, and reconstruction. If all renewal and renovation is completed at instructional, laboratory, communication, research, and administrative facilities or is accounted for through other funding sources, or if an institution is granted an exemption by the Secretary of Higher Education for the purpose of maximizing federal grant fund recoveries or for the purpose of replacing a building when projected renewal and renovation costs exceed the projected cost of replacement, then grant funds may be used for the improvement, expansion, construction, and reconstruction of instructional, laboratory, communication, and research facilities, or technology infrastructure.

As used in this act:

"renewal and renovation" means making the changes necessary to address deferred capital maintenance needs, to meet all State and federal health, safety, fire, and building code standards, or to provide a safe and appropriate educational or working environment;

"student-support facilities" mean student resident halls, student dining facilities, student activity centers, and student health centers; and

"technology infrastructure" means video, voice, and data telecommunications equipment and linkages with a life expectancy of at least 10 years.

19. Section 5 of P.L.1999, c.217 (C.18A:72A-76) is amended to read as follows:

C.18A:72A-76 Allocation of fund.

5. a. An amount not to exceed $550,000,000 in the capital improvement fund shall be allocated as follows:

$169,000,000 for Rutgers, The State University;

$95,062,500 for the University of Medicine and Dentistry of New Jersey;

$60,937,500 for the New Jersey Institute of Technology;

$175,000,000 for the State colleges and universities; and

$50,000,000 for the private institutions of higher education.

b. The secretary may reallocate any balance in an amount authorized in subsection a. of this section which has not been approved by the secretary for grants within 24 months of the adoption of regulations by the secretary. The secretary may allocate any additional moneys in the capital improvement fund to institutions for capital improvement projects as the secretary determines and shall determine the allocation of moneys deposited into the fund resulting from the issuance by the authority of new bonds because of the retirement of bonds previously issued by the authority.

c. The facilities and technology infrastructure funded by grants from the capital improvement fund shall follow the principles of affirmative action and equal opportunity employment. In furtherance of these principles, the secretary shall continue the policy of encouraging institutions to solicit bids from, and award contracts to, minority and women-owned businesses.

20. Section 6 of P.L.1999, c.217 (C.18A:72A-77) is amended to read as follows:

C.18A:72A-77 Application for grant.

6. a. The governing board of a four-year public or private institution of higher education may determine, by resolution, to apply for a grant from the capital improvement fund. Upon adoption of the resolution, the board shall file an application with the secretary, which application shall include a complete description of the project to be financed and an identification of any additional sources of revenue to be used.

b. In order to ensure the most effective utilization of the moneys in the capital improvement fund and to guide governing boards which elect to apply for a grant, the secretary shall establish a list of grant criteria and shall specify the information to be included in a grant application.

c. The secretary shall review the application and approve or disapprove the grant. When a grant is approved, the secretary shall establish the amount and shall send a written certification of the approval of the grant and the amount of the grant to the authority.

d. The secretary shall submit to the Legislature a copy of the written certification of the grant and the amount thereof. If the Legislature does not

disapprove the grant by the adoption of a concurrent resolution within 45 days, the grant shall be deemed to be authorized.

e. When a grant is awarded pursuant to this act, it shall be contingent upon the governing board of the recipient institution entering into a contract or contracts for the commencement of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure within one year of the date on which the funds for the grant are made available.

21. Section 15 of P.L.1999, c.217 (C.18A:72A-80) is amended to read as follows:

C.18A:72A-80 Rules, regulations.

15. The Secretary of Higher Education, in consultation with the New Jersey Educational Facilities Authority, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and regulations necessary to carry out the provisions of this act.

C.18A:3B-34.1 Powers and duties of secretary.

22. The Secretary of Higher Education shall exercise all the powers and duties previously exercised by the Commission on Higher Education under the "Higher Education Equipment Leasing Fund Act," P.L.1993, c.136 (C.18A:72A-40 et seq.), the "Higher Education Facilities Trust Fund Act," P.L.1993, c.375 (C.18A:72A-49 et seq.), the "Higher Education Technology Infrastructure Fund Act," P.L.1997, c.238 (C.18A:72A-59 et seq.), and the "Higher Education Capital Improvement Fund Act," P.L.1999, c.217 (C.18A:72A-72 et seq.).

C.18A:72A-45.1 JBOC approval required for lease agreement.

23. The authority shall not enter into a lease agreement with an institution of higher education without the review and approval of the Joint Budget Oversight Committee. The Joint Budget Oversight Committee shall approve or disapprove each lease agreement within 10 working days of receipt of the lease information or the lease agreement shall be deemed approved.

C.18A:72A-64.1 JBOC approval required for provision of grant funding.

24. The authority shall not provide grant funding without the review and approval of the Joint Budget Oversight Committee. The Joint Budget Oversight Committee shall approve or disapprove each grant within 10 working days of receipt of the grant information or the grant shall be deemed approved.

25. This act shall take effect immediately.

Approved August 7, 2012.

CHAPTER 43

AN ACT appropriating moneys to the Department of Environmental Protection for the purpose of making grants, zero interest loans, or principal forgiveness loans to project sponsors to finance a portion of the costs of environmental infrastructure projects.

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

1. a. (1) There is appropriated to the Department of Environmental Protection from the "Clean Water State Revolving Fund" established pursuant to section 1 of P.L.2009, c.77, an amount equal to the federal fiscal year 2012 capitalization grant made available to the State for clean water project loans pursuant to the "Water Quality Act of 1987" (33 U.S.C.s.1251 et seq.), and any amendatory and supplementary acts thereto (hereinafter referred to as the "Federal Clean Water Act").

(2) There is appropriated to the Department of Environmental Protection from the "Interim Financing Program Fund" created and established by the New Jersey Environmental Infrastructure Trust pursuant to subsection d. of section 9 of P.L.1985, c.334 (C.58:11B-9) such amounts as may be necessary to supplement the sums appropriated from the Clean Water State Revolving Fund for the purposes of clean water project loans and providing the State match as required or will be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(3) There is appropriated to the Department of Environmental Protection from the Drinking Water State Revolving Fund established pursuant to section 1 of P.L.1998, c.84 an amount equal to the Federal fiscal year 2012 capitalization grant made available to the State for drinking water projects pursuant to the "Safe Drinking Water Act Amendments of 1996," Pub.L.104-182, and any amendatory and supplementary acts thereto (hereinafter referred to as the "Federal Safe Drinking Water Act").

The Department of Environmental Protection is authorized to transfer from the Clean Water State Revolving Fund to the Drinking Water State

Revolving Fund an amount up to the maximum amount authorized to be transferred pursuant to the Federal Safe Drinking Water Act to meet present and future needs for the financing of eligible drinking water projects, and an amount equal to said maximum amount is hereby appropriated to the department for those purposes.

The Department of Environmental Protection is authorized to transfer from the Drinking Water State Revolving Fund to the Clean Water State Revolving Fund an amount up to the maximum amount authorized to be transferred pursuant to the Federal Clean Water Act to meet present and future needs for the financing of eligible clean water projects, and an amount equal to said maximum amount is hereby appropriated to the department for those purposes.

(4) There is appropriated to the Department of Environmental Protection the unappropriated balances from the "Clean Water State Revolving Fund" and any repayments of loans and interest therefrom, for the purposes of clean water project loans and providing the State match as available on or before June 30, 2013, as required or will be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(5) There is appropriated to the Department of Environmental Protection the unappropriated balances from the "Wastewater Treatment Fund" established pursuant to section 15 of the "Wastewater Treatment Bond Act of 1985" (P.L.1985, c.329), and any repayments of loans and interest therefrom, as available on or before June 30, 2013, for the purposes of clean water project loans and providing the State match as required or will be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(6) There is appropriated to the Department of Environmental Protection the unappropriated balances from the "1992 Wastewater Treatment Fund" established pursuant to section 27 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992" (P.L.1992, c.88), and any repayments of loans and interest therefrom, as available on or before June 30, 2013, for the purposes of clean water project loans and providing the State match as required or will be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(7) There is appropriated to the Department of Environmental Protection the unappropriated balances from the "2003 Water Resources and Wastewater Treatment Fund" established pursuant to subsection a. of section 19 of the "Dam, Lake, Stream, Flood Control, Water Resources, and

Wastewater Treatment Project Bond Act of 2003" (P.L.2003, c.162), and any repayments of loans and interest therefrom, as available on or before June 30, 2013, for the purposes of clean water project loans and providing the State match as required or will be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(8) There is appropriated to the Department of Environmental Protection the unappropriated balances from the Drinking Water State Revolving Fund for the purposes of drinking water project loans and any repayments of loans and interest therefrom, that are or may become available on or before June 30, 2013.

(9) There is appropriated to the Department of Environmental Protection such sums as may be needed from loan repayments and interest earnings from the "Water Supply Fund" for the "Drinking Water State Revolving Fund (DWSRF) Match Accounts" contained within such fund for the purpose of providing the State match as required or will be required for the award of the capitalization grants made available to the State for drinking water projects pursuant to the Federal Safe Drinking Water Act.

(10) There is appropriated to the Department of Environmental Protection from the "Interim Financing Program Fund" created and established by the New Jersey Environmental Infrastructure Trust pursuant to subsection d. of section 9 of P.L.1985, c.334 (C.58:11B-9) such amounts as may be or become available on or before June 30, 2013, and any repayments of loans and interest therefrom, as may be necessary to supplement the sums appropriated from the Drinking Water State Revolving Fund for the purposes of drinking water project loans and providing the State match as required or will be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Safe Drinking Water Act.

(11) There is appropriated to the Department of Environmental Protection such sums as may be or become available on or before June 30, 2013, as repayments of drinking water project loans and any interest therefrom from the "Water Supply Fund" established pursuant to section 14 of the "Water Supply Bond Act of 1981" (P.L.1981, c.261) for the purposes of drinking water project loans and providing the State match as required or will be required for the award of the capitalization grants made available to the State for drinking water projects pursuant to the Federal Safe Drinking Water Act.

(12) Of the sums appropriated to the Department of Environmental Protection from the "Water Supply Fund" pursuant to P.L.1999, c.174,

P.L.2001, c.222, P.L.2002, c.70 and P.L.2003, c.158, the department is authorized to transfer any unexpended balances and any repayments of loans and interest therefrom as may be or become available on or before June 30, 2013, in such amounts as needed to the Drinking Water State Revolving Fund accounts contained within the Water Supply Fund established for the purposes of providing drinking water project loans and providing the State match as required or will be required for the award of the capitalization grants made available to the State for drinking water projects pursuant to the Federal Safe Drinking Water Act.

(13) Of the sums appropriated to the Department of Environmental Protection from the "1992 Wastewater Treatment Fund" pursuant to P.L.1996, c.85, P.L.1997, c.221, P.L.1998, c.84, P.L.1999, c.174, P.L.2000, c.92, P.L.2001, c.222 and P.L.2002, c.70, the department is authorized to transfer any unexpended balances and any repayments of loans and interest therefrom as may be or become available on or before June 30, 2013, in such amounts as needed to the Clean Water State Revolving Fund accounts contained within the 1992 Wastewater Treatment Fund for the purposes of providing clean water project loans and providing the State match as required or will be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(14) Of the sums appropriated to the Department of Environmental Protection from the "2003 Water Resources and Wastewater Treatment Fund" pursuant to P.L.2004, c.109, and P.L.2007, c.139, the department is authorized to transfer any unexpended balances and any repayments of loans and interest therefrom as may be or become available on or before June 30, 2013, in such amounts as needed to the Clean Water State Revolving Fund accounts contained within the 2003 Water Resources and Wastewater Treatment Fund for the purposes of providing clean water project loans and providing the State match as required or will be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(15) There is appropriated to the Department of Environmental Protection the sums deposited by the New Jersey Environmental Infrastructure Trust into the "Clean Water State Revolving Fund," the "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," the "Water Supply Fund," the "Stormwater Management and Combined Sewer Overflow Abatement Fund," the "2003 Water Resources and Wastewater Treatment Fund" and the Drinking Water State Revolving Fund, as appropriate, pursuant to paragraph (6) of subsection c. of section 1 of P.L.2012, c.38, as avail-

able on or before June 30, 2013, for the purposes of providing clean water project loans and drinking water project loans and providing the State match as required or will be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act and drinking water projects pursuant to the Federal Safe Drinking Water Act.

Any such amounts shall be for the purpose of making zero interest and principal forgiveness financing loans, to the extent sufficient funds are available, to or on behalf of local government units or public water utilities (hereinafter referred to as "project sponsors") to finance a portion of the cost of construction of clean water projects and drinking water projects listed in sections 2 and 3 of this act, and for the purpose of implementing and administering the provisions of this act, to the extent permitted by the Federal Clean Water Act, and any amendatory and supplementary acts thereto, P.L.2009, c.77, the "Wastewater Treatment Bond Act of 1985" (P.L.1985, c.329), the "Water Supply Bond Act of 1981" (P.L.1981, c.261), the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989" (P.L.1989, c.181), the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992" (P.L.1992, c.88), the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003" (P.L.2003, c.162), the Federal Safe Drinking Water Act, and any amendatory and supplementary acts thereto, and State law.

b. The department is authorized to make zero interest and principal forgiveness financing loans to or on behalf of the project sponsors for the environmental infrastructure projects listed in subsection a. of section 2, and subsection a. of section 3, of this act for clean water projects, up to the individual amounts indicated and in the priority stated, provided:

(1) a maximum of $10 million shall be issued to Barnegat Bay Watershed green infrastructure projects as provided in subsection a. of section 3 of this act, addressing projects in the priority stated to the extent there are sufficient eligible project applications, wherein principal forgiveness shall be a minimum of 25 percent of the fund loan amount per project sponsor.

The $10 million shall be made available for the highest ranked projects in ranked order and shall consist of at least 25 percent principal forgiveness loans, except that any such amounts may be reduced if a project fails to meet the requirements of section 4 or 5 of this act, or by the Commissioner of Environmental Protection pursuant to section 6 of this act;

(2) a maximum of $30 million shall be issued to finance clean water projects at the site of a remediation and redevelopment project as provided

in subsection a. of section 3 of this act, addressing projects in the priority stated, to the extent there are sufficient eligible project applications; and

(3) a minimum of 10 percent of the 2012 Clean Water State Revolving Fund capitalization grant or an equivalent amount of Clean Water State Revolving Funds shall be issued to projects in subsection a. of section 3 of this act addressing green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities allocated to projects in the priority stated, to the extent there are sufficient eligible project applications.

c. The department is authorized to make zero interest and principal forgiveness financing loans to or on behalf of the project sponsors for the environmental infrastructure projects listed in subsection b. of section 3 of this act for drinking water projects, up to the individual amounts indicated and in the priority stated, provided:

(1) a maximum of 20 percent of the 2012 Drinking Water State Revolving Fund capitalization grant may be issued to projects addressing green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities allocated to projects in the priority stated, to the extent there are sufficient eligible project applications;

(2) a maximum of 30 percent of the 2012 Drinking Water State Revolving Fund capitalization grant shall be issued to projects for principal forgiveness financing loans, wherein principal forgiveness to drinking water systems servicing more than 500 residents shall not exceed the lesser of 20 percent or $2.5 million of the combined trust loan amount and fund loan amount per project sponsor or wherein principal forgiveness to drinking water systems servicing fewer than 500 residents shall not exceed the lesser of 50 percent or $5 million of the estimated total loan amount per project sponsor; and

(3) a minimum of $3 million from the 2012 Drinking Water State Revolving Fund capitalization grant shall be issued to finance projects for drinking water systems serving populations less than 10,000, to the extent there are sufficient eligible project applications, provided, however, a maximum of $5 million from the 2012 Drinking Water State Revolving Fund capitalization grant may be issued as principal forgiveness financing loans to projects for drinking water systems serving populations less than 10,000, in which principal forgiveness shall not exceed 50% of the estimated total loan amount per project sponsor. Any such amounts may be reduced if a project fails to meet the requirements of section 4 or 5 of this act, or by the Commissioner of Environmental Protection pursuant to section 6 of this act.

d. The department is authorized to make zero interest and principal forgiveness financing loans to or on behalf of the project sponsors for the environmental infrastructure projects listed in sections 2 and 3 of this act under the same terms, conditions and requirements as set forth in this section from any unexpended balances of the amounts appropriated pursuant to section 1 of P.L.1987, c.200, section 2 of P.L.1988, c.133, section 1 of P.L.1989, c.189, section 1 of P.L.1990, c.99, section 1 of P.L.1991, c.325, section 1 of P.L.1992, c.38, section 1 of P.L.1993, c.193, section 1 of P.L.1994, c.106, section 1 of P.L.1995, c.219, section 1 of P.L.1996, c.85, section 1 of P.L.1997, c.221, section 2 of P.L.1998, c.84, section 2 of P.L.1999, c.174, section 2 of P.L.2000, c.92, sections 1 and 2 of P.L.2001, c.222, sections 1 and 2 of P.L.2002, c.70, sections 1 and 2 of P.L.2003, c.158, sections 1 and 2 of P.L.2004, c.109, sections 1 and 2 of P.L.2005, c.196, sections 1 and 2 of P.L.2006, c.68, sections 1 and 2 of P.L.2007, c.139, sections 1 and 2 of P.L.2008, c.68, sections 1 and 2 of P.L.2009, c.102, sections 1 and 2 of P.L.2010, c.63, and sections 1 and 2 of P.L.2011, c.93, including amounts resulting from the low bid and final building cost reductions authorized pursuant to section 6 of P.L.1987, c.200, section 7 of P.L.1988, c.133, section 6 of P.L.1989, c.189, section 6 of P.L.1990, c.99, section 6 of P.L.1991, c.325, section 6 of P.L.1992, c.38, section 6 of P.L.1993, c.193, section 6 of P.L.1994, c.106, section 6 of P.L.1995, c.219, section 6 of P.L.1996, c.85, section 6 of P.L.1997, c.221, section 7 of P.L.1998, c.84, section 6 of P.L.1999, c.174, section 6 of P.L.2000, c.92, section 6 of P.L.2001, c.222, section 6 of P.L.2002, c.70, section 6 of P.L.2003, c.158, section 6 of P.L.2004, c.109, section 6 of P.L.2005, c.196, section 6 of P.L.2006, c.68, section 6 of P.L.2007, c.139, section 6 of P.L.2008, c.68, section 7 of P.L.2009, c.102, section 6 of P.L.2010, c.63 and section 6 of P.L.2011, c.93, and from any repayments of loans and interest from the "Clean Water State Revolving Fund," the "Wastewater Treatment Fund," the "Water Supply Fund," the "1992 Wastewater Treatment Fund," the "2003 Water Resources and Wastewater Treatment Fund," and amounts deposited therein during State fiscal year 2012 and State fiscal year 2013 pursuant to the provisions of section 16 of P.L.1985, c.329, and section 2 of P.L.2009, c.77 and any amendatory and supplementary acts thereto, including any Clean Water State Revolving Fund Accounts contained within the "Wastewater Treatment Fund," and from any repayment of loans and interest from the Drinking Water State Revolving Fund.

2. a. (1) The department is authorized to expend funds for the purpose of making supplemental zero interest loans to or on behalf of the project

sponsors listed below for the following clean water environmental infrastructure projects:

Project Sponsor	Project Number	Estimated DEP Loan Amount	Estimated Total Allowable Loan Amount
Caldwell Borough	S340523-04-1	$664,500	$886,000
North Bergen MUA	S340399-21-1	$2,484,750	$3,313,000
North Hudson SA	S340952-12-1	$3,385,500	$4,514,000
Milltown Borough	S340102-02-1	$591,000	$788,000
Newark City	S340815-05-1	$7,587,750	$10,117,000
Passaic Valley SC	S340689-03-1	$14,485,500	$19,314,000
Passaic Valley SC	S340689-10-1	$10,015,500	$13,354,000
Camden County MUA	S340640-10-1	$7,875,000	$10,500,000
Total	8 Projects	$47,089,500	$62,786,000

(2) The loans authorized in this subsection shall be made for the difference between the allowable loan amounts required by these projects based upon final building costs pursuant to section 6 of this act and the loan amounts certified by the Commissioner of Environmental Protection in State fiscal years 2006, 2007, 2008, 2010, and 2012 and for increased allowable costs as defined and determined in accordance with the rules and regulations adopted by the department pursuant to section 4 of P.L.1985, c.329. The loans authorized in this subsection shall be made to or on behalf of the project sponsors listed, up to the individual amounts indicated and in the priority stated, to the extent sufficient funds are available, except as a project fails to meet the requirements of section 4 or section 5 of this act.

(3) The zero interest loans for the projects authorized in this subsection shall have priority over projects listed in subsection b. of section 3 of this act.

b. The Department of Environmental Protection is authorized to adjust the allowable Department of Environmental Protection loan amount for projects authorized in this section to between 25% and 75% of the total allowable loan amount.

3. a. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2013 Clean Water Project Priority List":

Project Sponsor	Project Number	Estimated DEP Loan Amount	Estimated Total Allowable Loan Amount
Stafford Township	SB344100-02	$742,500	$990,000

Ocean County	SB344080-02	$3,816,750	$5,089,000
Ocean Gate Borough	SB344180-01	$1,542,000	$2,056,000
Newark City	S340815-21	$8,926,500	$11,902,000
Elizabeth City	S340942-13	$8,851,500	$11,802,000
Elizabeth City	S340942-14	$2,286,000	$3,048,000
Jersey City MUA	S340928-09	$2,087,250	$2,783,000
Jersey City MUA	S340928-10	$2,568,000	$3,424,000
Jersey City MUA	S340928-11	$3,236,250	$4,315,000
Ocean County UA	S340372-49	$1,311,750	$1,749,000
Camden County MUA	S340640-13	$4,180,500	$5,574,000
Warren County MUA (Pequest)	S340454-04	$11,853,750	$15,805,000
Morris Township	S340724-05	$4,884,750	$6,513,000
Hanover SA	S340388-05	$7,587,000	$10,116,000
Cinnaminson SA	S340170-06	$1,614,750	$2,153,000
Evesham MUA	S340838-04	$1,938,750	$2,585,000
Passaic Valley SC	S340689-20	$3,902,250	$5,203,000
Bergen County UA	S340386-11	$12,575,250	$16,767,000
Atlantic County UA	S340809-22	$1,197,000	$1,596,000
Gloucester County UA	S340902-09	$2,508,750	$3,345,000
Maple Shade Township	S340710-08	$1,496,250	$1,995,000
Passaic Valley SC	S340689-21	$882,000	$1,176,000
Asbury Park City	S340883-05	$1,866,000	$2,488,000
Cinnaminson SA	S340170-04	$1,341,750	$1,789,000
Ocean Township	S340112-03	$787,500	$1,050,000
Atlantic Highlands Borough	S340857-03	$2,355,000	$3,140,000
Cranford Township	S340858-01	$743,250	$991,000
Middlesex County UA	S340699-10	$7,698,750	$10,265,000
Ocean County UA	S340372-51	$4,224,750	$5,633,000
Ocean County UA	S340372-52	$212,250	$283,000
Gloucester County UA	S340902-10	$317,250	$423,000
Toms River Township MUA	S340145-03	$1,981,500	$2,642,000
Toms River Township MUA	S340145-04	$2,505,000	$3,340,000
Perth Amboy City	S340435-09	$2,529,750	$3,373,000
Jackson Township MUA	S340953-03	$614,250	$819,000
National Park Borough	S340419-01	$1,285,500	$1,714,000
Ocean Gate Borough	S340151-01	$264,750	$353,000
Point Pleasant Borough	S340428-01	$1,596,750	$2,129,000
Ocean County UA	S340372-48	$13,863,000	$18,484,000
Ocean County UA	S340372-50	$744,000	$992,000
Watchung Borough	S340823-02	$982,500	$1,310,000

Clifton City	S340844-03	$3,897,000	$5,196,000
Harrison Township	S340362-06	$14,439,000	$19,252,000
Middletown Township	S340097-01	$2,906,250	$3,875,000
Gloucester Township	S340364-08	$552,750	$737,000
NJ Water Supply Authority	S340421-01	$23,328,000	$31,104,000
Linwood City	S340217-01	$618,000	$824,000
Highlands Borough	S340901-03	$3,379,500	$4,506,000
Bellmawr Borough	S342011-02	$7,365,750	$9,821,000
NJ Water Supply Authority	S343054-09	$2,047,500	$2,730,000
New Jersey City University	S340111-02	$12,825,000	$17,100,000
Carteret Borough	S340939-07	$10,424,250	$13,899,000
Cumberland County UA	S340550-06	$1,511,250	$2,015,000
Stafford Township	S344100-03	$3,685,500	$4,914,000
Seaside Park Borough	S344200-02	$1,059,750	$1,413,000
Bay Head Borough	S344120-02	$204,750	$273,000
Long Beach Township	S344170-02	$507,000	$676,000
Winslow Township	S340895-08	$1,460,250	$1,947,000
Secaucus MUA	S340154-02	$315,000	$420,000
Burlington Township	S340712-10	$953,250	$1,271,000
Gloucester County UA	S340902-11	$375,000	$500,000
Rockaway Valley RSA	S340821-06	$5,134,500	$6,846,000
Oradell Borough	S340835-01	$959,250	$1,279,000
Middlesex County UA	S340699-11	$15,222,750	$20,297,000
Old Bridge Township	S340945-12	$7,879,500	$10,506,000
Fanwood Borough	S340429-01	$1,698,000	$2,264,000
Total	66 Projects	$258,651,750	$344,869,000

b. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2013 Drinking Water Project Priority List":

Project Sponsor	**Project Number**	**Estimated DEP Loan Amount**	**Estimated Total Allowable Loan Amount**
Vineland City	0614003-010	$2,979,750	$3,973,000
Sea Village Marina	0108021-002	$504,000	$672,000
Newark City	0714001-016	$7,023,750	$9,365,000
Newark City	0714001-017	$1,109,250	$1,479,000
Newark City	0714001-015	$8,418,750	$11,225,000
Jersey City/Jersey City MUA	0906001-008	$6,524,250	$8,699,000

Jersey City/Jersey City MUA	0906001-007	$10,897,500	$14,530,000
Manchester Utilities Authority	1603001-011	$570,750	$761,000
Southeast Monmouth MUA	1352005-005	$6,615,750	$8,821,000
Aqua NJ – Southern	0415002-008	$1,096,500	$1,462,000
Manchester Utilities Authority	1603001-006	$1,119,750	$1,493,000
Manchester Utilities Authority	1603001-012	$232,500	$310,000
Collingswood Borough	0412001-002	$262,500	$350,000
Jersey City MUA	0906001-006	$12,860,250	$17,147,000
New Jersey City U./ Jersey City MUA	0906001-005	$716,250	$955,000
Ocean Township	1520001-004	$669,750	$893,000
Fountainhead Properties, Inc.	1511013-001	$182,250	$243,000
Collingswood Borough	0412001-003	$654,750	$873,000
Ventnor City	0122001-001	$1,575,000	$2,100,000
Woodbury City	0822001-001	$2,638,500	$3,518,000
Evesham MUA	0313001-001	$1,401,750	$1,869,000
Fountainhead Properties, Inc.	1511013-002	$57,000	$76,000
Manchester Utilities Authority	1603001-013	$190,500	$254,000
Middlesex Water Company	1225001-014	$3,150,000	$4,200,000
Clayton Borough	0801001-001	$3,000,750	$4,001,000
Millville City	0610001-002	$2,953,500	$3,938,000
Independence MUA	2112001-001	$196,500	$262,000
Collingswood Borough	0412001-004	$829,500	$1,106,000
Collingswood Borough	0412001-005	$436,500	$582,000
Hampton Borough	1013001-001	$358,500	$478,000
Jackson Township MUA	1511001-009	$591,000	$788,000
Fountainhead Properties, Inc.	1511013-004	$176,250	$235,000
Fountainhead Properties, Inc.	1511013-003	$18,000	$24,000
Pine Beach Borough	1522001-001	$543,750	$725,000
Marlboro Township	1328002-001	$5,772,750	$7,697,000
Pine Beach Borough	1522001-002	$353,250	$471,000
Hammonton Town	0113001-005	$1,630,500	$2,174,000

Merchantville-Pennsauken Water Commission	0424001-007	$2,008,500	$2,678,000
Flemington Borough	1009001-006	$1,111,500	$1,482,000
Flemington Borough	1009001-007	$555,750	$741,000
Matawan Borough	1329001-005	$740,250	$987,000
Flemington Borough	1009001-008	$126,000	$168,000
Montclair Township	0713001-008	$1,573,500	$2,098,000
Total	43 Projects	$94,427,250	$125,903,000

c. The Department of Environmental Protection is authorized to adjust the allowable DEP loan amount for projects authorized in this section to between 25% and 75% of the total allowable loan amount.

4. Any financing loan made by the Department of Environmental Protection pursuant to this act shall be subject to the following requirements:

a. The Commissioner Environmental Protection has certified that the project is in compliance with the provisions of P.L.1977, c.224, P.L.1985, c.329, P.L.1992, c.88, P.L.1997, c.223, P.L.1997, c.225 or P.L.2003, c.162, and any rules and regulations adopted pursuant thereto;

b. The estimated DEP allowable loan amount shall not exceed 75% of the total allowable loan amount of the environmental infrastructure facility for projects listed in subsection a. of section 2 of this act, and in subsections a. and b. of section 3 of this act. The loan amount for supplemental loans shall not exceed that percentage of the allowable project cost of the project's initial program loan;

c. The loan shall be repaid within a period not to exceed 23 years of the making of the loan;

d. The loan shall be subject to any other terms and conditions as may be established by the commissioner and approved by the State Treasurer, which may include, notwithstanding any other provision of law to the contrary, subordination of a loan authorized in this act to loans made by the trust pursuant to P.L.2012, c.38, or to administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5).

5. The priority lists and authorization for the making of loans pursuant to sections 2 and 3 of this act shall expire on July 1, 2013, and any project sponsor which has not executed and delivered a loan agreement with the department for a loan authorized in this act shall no longer be entitled to that loan.

6. The Commissioner of Environmental Protection is authorized to reduce or increase the individual amount of loan funds made available to or on behalf of project sponsors pursuant to sections 2 and 3 of this act based upon final or low bid building costs defined in and determined in accordance with rules and regulations adopted by the commissioner pursuant to section 4 of P.L.1985, c.329, section 2 of P.L.1999, c.362 (C.58:12A-12.2) or section 5 of P.L.1981, c.261, provided that the total loan amount does not exceed the original loan amount.

7. The expenditure of the funds appropriated by this act is subject to the provisions and conditions of P.L.1977, c.224, P.L.1985, c.329, P.L.1992, c.88, P.L.1997, c.223, P.L.1997, c.225 or P.L.2003, c.162, and the rules and regulations adopted by the Commissioner of Environmental Protection pursuant thereto, and the provisions of the Federal Clean Water Act or the Federal Safe Drinking Water Act, and any amendatory and supplementary acts thereto, as appropriate.

8. The Department of Environmental Protection shall provide general technical assistance to any project sponsor requesting assistance regarding environmental infrastructure project development or applications for funds for a project.

9. a. Prior to repayment to the Clean Water State Revolving Fund pursuant to section 1 and 2 of P.L.2009, c.77 and any amendatory and supplementary acts thereto, prior to repayment to the "Wastewater Treatment Fund" pursuant to the provisions of section 16 of P.L.1985, c.329, prior to repayment to the "1992 Wastewater Treatment Fund" pursuant to the provisions of section 28 of P.L.1992, c.88, prior to repayment to the Drinking Water State Revolving Fund, prior to repayment to the "Stormwater Management and Combined Sewer Overflow Abatement Fund" pursuant to the provisions of section 15 of P.L.1989, c.181, prior to repayment to the "2003 Water Resources and Wastewater Treatment Fund" pursuant to the provisions of section 20 of P.L.2003, c.162, or prior to repayment to the "Water Supply Fund" pursuant to the provisions of section 15 of P.L.1981, c.261, repayments of loans made pursuant to these acts may be utilized by the New Jersey Environmental Infrastructure Trust established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.), as amended and supplemented by P.L.1997, c.224, under terms and conditions established by the commissioner and trust, and approved by the State Treasurer, and consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) and federal tax, envi-

ronmental or securities law, to the extent necessary to secure repayment of trust bonds issued to finance loans approved pursuant to P.L.2012, c.38, and to secure the administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5) by the project sponsors receiving trust loans.

b. Prior to repayment to the Clean Water State Revolving Fund pursuant to section 1 and 2 of P.L. 2009, c.77 and any amendatory and supplementary acts thereto, prior to repayment to the "Wastewater Treatment Fund" pursuant to the provisions of section 16 of P.L.1985, c.329, prior to repayment to the "1992 Wastewater Treatment Fund" pursuant to the provisions of section 28 of P.L.1992, c.88, prior to repayment to the "Water Supply Fund" pursuant to the provisions of section 15 of P.L.1981, c.261, prior to repayment to the Drinking Water State Revolving Fund, prior to repayment to the "2003 Water Resources and Wastewater Treatment Fund" pursuant to the provisions of section 20 of P.L.2003, c.162, or prior to repayment to the "Stormwater Management and Combined Sewer Overflow Abatement Fund" pursuant to the provisions of section 15 of P.L.1989, c.181, the trust is further authorized to utilize repayments of loans made pursuant to P.L.1989, c.189, P.L.1990, c.99, P.L.1991, c.325, P.L.1992, c.38, P.L.1993, c.193, P.L.1994, c.106, P.L.1995, c.219, P.L.1996, c.85, P.L.1997, c.221, P.L.1998, c.84, P.L.1999, c.174, P.L.2000, c.92, P.L.2001, c.222, P.L.2002, c.70, P.L.2003, c.158, P.L.2004, c.109, P.L.2005, c.196, P.L.2006, c.68, P.L.2007, c.139, P.L.2008, c.68, P.L.2009, c.102, P.L.2010, c.63, P.L.2011, c.93, or P.L.2012, c.43 to secure repayment of trust bonds issued to finance loans approved pursuant to P.L.1995, c.218, P.L.1996, c.87, P.L.1997, c.222, P.L.1998, c.85, P.L.1999, c.173, P.L.2000, c.93, P.L.2001, c.224, P.L.2002, c.71, P.L.2003, c.159, P.L.2004, c.110, P.L.2005, c.197, P.L.2006, c.67, P.L.2007, c.140, P.L.2008, c.67, P.L.2009, c.101, P.L.2010, c.62, P.L.2011, c.95, or P.L.2012, c.38, and to secure the administrative fees payable to the trust under these loans pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5).

c. To the extent that any loan repayment sums are used to satisfy any trust bond repayment or administrative fee payment deficiencies, the trust shall repay such sums to the department for deposit into the Clean Water State Revolving Fund, the "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," the "Water Supply Fund," the Drinking Water State Revolving Fund, the "2003 Water Resources and Wastewater Treatment Fund," or the "Stormwater Management and Combined Sewer Overflow Abatement Fund," as appropriate, from amounts received by or on behalf of the trust from project sponsors causing any such deficiency.

10. The Commissioner of Environmental Protection is authorized to enter into capitalization grant agreements as may be required pursuant to the Federal Clean Water Act or the Federal Safe Drinking Water Act.

11. There is appropriated to the New Jersey Environmental Infrastructure Trust established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) from repayments of loans and interest deposited in any account, on or before June 30, 2013, including the "Clean Water State Revolving Fund," the "1992 Wastewater Treatment Fund," the "Water Supply Fund," the "Stormwater Management and Combined Sewer Overflow Abatement Fund," "2003 Water Resources and Wastewater Treatment Fund," or the Drinking Water State Revolving Fund, as appropriate, and from any net earnings received from the investment and reinvestment of such deposits, such sums as the chairman of the trust shall certify to the Commissioner of Environmental Protection to be necessary and appropriate for deposit into one or more reserve funds or the Interim Financing Program Fund established by the trust pursuant to section 11 of P.L.1985, c.334 (C.58:11B-11).

12. This act shall take effect immediately.

Approved August 7, 2012.

CHAPTER 44

AN ACT designating State Highway Route No. 42 as the "Route 42 Purple Heart Memorial Highway."

WHEREAS, The Purple Heart is America's oldest military decoration, established by General George Washington in 1782 to recognize outstanding examples of bravery and sacrifice by the common soldier; and

WHEREAS, State Highway Route No. 42 runs through portions of Camden and Gloucester Counties; and

WHEREAS, The Battle of Gloucester in Camden County and the Battle of Red Bank in Gloucester County were both pivotal to ensuring the freedom of a new nation and the generations of its citizens to come; and

WHEREAS, Both battles were fought by common American troops who, despite being outnumbered, outgunned, and inexperienced as compared to their counterparts, fought with courage and sacrifice; and

WHEREAS, The Purple Heart continues to be awarded to extraordinarily brave men and women wounded in military service or given posthumously to the next of kin of those killed in action; and

WHEREAS, It is fitting and proper for the Legislature of the State of New Jersey to honor all recipients of the Purple Heart – past, present, and future – for their bravery, heroic service, and sacrifice to the United States and to the State of New Jersey by designating State Highway Route No. 42 as the "Route 42 Purple Heart Memorial Highway"; now, therefore,

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

1. The Commissioner of Transportation shall designate State Highway Route No. 42 as the "Route 42 Purple Heart Memorial Highway" and erect appropriate signs bearing this designation and dedication.

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

3. This act shall take effect immediately.

Approved August 8, 2012.

CHAPTER 45

AN ACT concerning the public system of higher education, revising various parts of the statutory law, and supplementing Title 18A of the New Jersey Statutes.

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

C.18A:64M-1 Short title.

1. This act shall be known and may be cited as the "New Jersey Medical and Health Sciences Education Restructuring Act."

C.18A:64M-2 Findings, declarations relative to the public system of higher education.

2. The Legislature finds and declares that:

a. Rutgers, The State University ("Rutgers"), is a body corporate and politic that operates schools and colleges in the State of New Jersey and offers degrees in undergraduate studies, graduate studies, and professional studies such as medical, legal and business, operating pursuant to the authority granted to it by the Rutgers, the state university law, P.L.1956, c.61;

b. Rutgers was designated as the State university in 1945, but it was not until 1956 under the Rutgers Compact that the State assumed managerial control and financial responsibility over the school. Upon reorganization in 1956, Rutgers' formerly private governing board – the Board of Trustees – transferred all management, control, administration and policy-making functions to the publicly controlled Board of Governors. The Board of Trustees retained the power to manage and invest certain pre-1956 private assets or private gifts and maintained an advisory role at the school in support of the University;

c. Rutgers was established as the "instrumentality of the state for the purpose of operating the state university" and whose primary purpose is as a public trust for the provision of higher education pursuant to N.J.S.18A:65-2. To this end, the law provided for its liberal construction "necessary for the welfare of the state and the people of New Jersey to provide for the development of public higher education in the state and thereby to increase the efficiency of the public school system of the state..." Rutgers is the only comprehensive public research university in New Jersey and currently consists of three campuses in New Brunswick, Newark, and Camden;

d. The University of Medicine and Dentistry of New Jersey ("UMDNJ") is a body corporate and politic that operates programs of medical, dental, nursing, public health and health-related professions and health sciences education in the State of New Jersey, currently operating pursuant to the authority granted to it by the "Medical and Dental Education Act of 1970," P.L.1970, c.102, and "The University of Medicine and Dentistry of New Jersey Flexibility Act of 1992," P.L.1992, c.84. One of its founding institutions was the former Rutgers Medical School. UMDNJ was

established to serve the interests of the State by establishing programs of medical, dental, nursing, public health, health sciences and health-related professions. It was charged with providing a greater number of trained medical personnel to assist in staffing hospitals and public institutions and agencies and to prepare a greater number of students for the general practice of health-related professions in New Jersey. To that end UMDNJ was provided authority to form relationships with health care organizations, research institutions and private individuals, firms and corporations. Such public-private relationships would supplement the resources available from the State, thereby providing an economic and efficient means for developing and offering a full range of health care services;

e. It is the intent of this legislation to recognize and maintain the spirit and intent of the "Agreements Reached Between Community and Government Negotiators Regarding New Jersey College of Medicine and Dentistry and Related Matters of April 30, 1968";

f. Currently, UMDNJ operates two allopathic medical schools in the State of New Jersey: one located in Newark (New Jersey Medical School) and the other located in New Brunswick/Piscataway (Robert Wood Johnson Medical School). In addition, UMDNJ operates an osteopathic medical school at Stratford, New Jersey. There are no other osteopathic medical schools located in the State;

g. The University of Medicine and Dentistry of New Jersey-School of Osteopathic Medicine ("UMDNJ-SOM") is a major source of primary care physicians for the State and South Jersey. The school offers several post-graduate residency and fellowship positions for approximately 600 students through affiliate hospitals including endocrinology, cardiology, critical care, gastroenterology, nephrology, infectious disease, and many others. UMDNJ-SOM is at the forefront of addressing the need for more physicians and has expanded its class size by 50% over the past two years. Of the more than 1,700 graduates of UMDNJ-SOM, 55% practice in the State, about half of whom deliver primary care;

h. Rowan University ("Rowan") is a State university located in Glassboro, New Jersey, with a campus in Camden, New Jersey, currently operating pursuant to the authority granted to State colleges by N.J.S.18A:64-1 et seq., and P.L.1994, c.48 (C.18A:3B-1 et seq.). Rowan is presently considered a major regional higher education institution. Currently it is comprised of seven academic colleges: Business, Communication, Education, Engineering, Fine & Performing Arts, Liberal Arts & Sciences, and the College of Professional and Continuing Education, and a Graduate School. Rowan's nearly 11,000 students may pursue degrees in 36

undergraduate majors, seven teacher certification programs, 26 master's degree programs and a doctorate in educational leadership. Rowan University's main campus is located just 20 miles from Cooper University Hospital with a satellite campus in Camden. Rowan University has a reputation as a top regional university and is home to a newly-constructed, state-of-the-art science building for programs focusing on science and technology;

i. 20 years ago, Hank and Betty Rowan gave the former Glassboro State College a gift of $100 million, then the largest private gift to a public university in the United States. Thereafter, in addition to increasing capacity and quality throughout all the programs of the university, Rowan University created an engineering school which has quickly become one of the top-rated undergraduate engineering schools in the country with rankings of 3rd in the country for chemical engineering and 16th overall for public engineering schools. In addition, the engineering school has led the way in developing relationships in southern New Jersey with the private business community, providing a qualified workforce as an attraction for companies to locate in the area. The gift transformed the college into a comprehensive regional university which is poised to take the next step as a research institution;

j. In June 2009, Rowan University and The Cooper Health System partnered to establish Cooper Medical School of Rowan University (CMSRU), the first new medical school in New Jersey in 30 years. The establishment of CMSRU, a four-year medical school located in Camden, will help address the current local and national shortage of physicians and improve healthcare throughout the region. Its inaugural class will begin in August 2012;

k. The goals of this legislation are to create and enhance the essential higher education opportunities for the residents of the State and to create vibrant educational institutions and communities that attract business to the State and which will allow the State to retain its residents in terms of college placement and workforce. The future economic development of the country will be a knowledge-based economy which will put a premium on an educated workforce and advanced degrees. This legislation restructures the higher education system in the State to provide for more vigorous educational communities that will provide opportunities for students and the workforce necessary to attract crucial private sector jobs as this century unfolds;

l. The Legislature has the ultimate responsibility for balancing the functions of public higher education institutions in New Jersey. The State has a responsibility for improving and expanding higher education opportunities for its residents and in that regard it has established a multi-level higher education system for which it has the responsibility to assess from time-to-time and to restructure as needed to improve higher education op-

portunities. This legislation reflects a thorough and intense review of the higher education system in the State and makes rational changes the Legislature believes are necessary to provide residents with access to a high-quality in-State education. Higher education is vital for a thriving economy because our State's sophisticated economy -- home to many pharmaceutical, biological science and other complex industries -- demands a well-trained workforce;

m. This legislation also renews the State's commitment to sustaining and growing its universities and to help them achieve greater success on the national and international stage. New Jersey must stem the persistent historical fact of seeing its brightest high school students leave the State to attend college, and then not return after college. As a State, we lead the nation in net outmigration of college-bound students. This outmigration of students leads to the outmigration of a well-trained workforce and prevents the State from attracting crucial private sector jobs. This legislation will allow for the development of a system to cultivate better collaboration between its businesses and its institutions of higher education. New Jersey's economy will benefit from increased and integrated coordination between public and private research;

n. For the State's students to receive the quality higher education necessary for future growth and for the State to achieve its economic goals, Rutgers, as the State's preeminent institution of higher education, for all that it has achieved in its history, must become a great university and enter the top tier of public research universities. To this end, the relationship between Rutgers and the State has evolved to meet changing times, from 1770 when it was chartered as Queen's College, through several amendments to the charter in the late 1700's, to amending the charter in 1825 to change the name of the school to Rutgers University, to the 1945 legislation declaring Rutgers as the state university of New Jersey, to the 1956 Compact whereby the Board of Trustees of Rutgers ceded management and operational control of the school to the State in the form of the Board of Governors in return for substantial financial assistance, and to the subsequent amendments to the Rutgers Compact in 1967, 1970, 1988 and 1994. The Legislature has an obligation to the State and its students to ensure the relationship is still working and thriving. As evidenced by the storied past between the State and Rutgers, the Legislature has periodically examined the role of Rutgers in the State's higher education system and made necessary legislative changes to that relationship to reflect and address the evolving educational needs of the State;

o. As the relationship with Rutgers has evolved, the State has become more involved both financially and in creating a growing higher education system for its residents. The State has provided in excess of $10 billion in support to Rutgers since fiscal year 1990 for its operations as The State University of New Jersey and the State has a responsibility to ensure its funding is leading to greater higher education opportunities and jobs;

p. There has been widespread recognition for some time that Rutgers needs to take steps with the State's assistance to transform it from a middle- to a first-ranked public institution. In the last decade, an intense discussion about how to elevate Rutgers into a top-tier school has taken place in the State, starting with the Vagelos Report in 2002 and 2004, the Kean Report in 2010 and the Barer Report in 2012. These reports reflect that Rutgers' role in the State's system of higher education has been the subject of intense scrutiny and debate. This legislation is the product and culmination of this decade-long assessment of Rutgers' educational mission;

q. This legislation continues Rutgers as The State University of New Jersey and the pre-eminent governance role of its Board of Governors as a public body. The legislation mandates that the Board of Governors shall continue to have authority over the granting of tenure and promotions, establishing standards for academic programs and for the awarding of tenure to faculty at its Newark and Camden campuses. The Board of Governors shall be represented on the Rutgers-Camden Board of Directors and additionally, the Rutgers-Camden Board of Directors is represented on the Rowan University-Rutgers Camden Board of Governors. The Legislature consulted with and sought and obtained active participation of Rutgers in establishing the elements of this educational restructuring that will permit Rutgers to enhance its position. The Legislature has determined that the slight governance changes to Rutgers in this act are necessary to promote essential opportunities for higher education in the State and to improve the standing of Rutgers University as a whole;

r. The legislation fulfills the longstanding goal of Rutgers University to acquire a medical school and become a comprehensive public research university. Rutgers has long sought to regain a medical school as part of its curriculum; by Rutgers' own public statements, acquiring a medical school will propel Rutgers into a top-tier research university, and place it at or near the top 20 public universities in the nation. Very few great research universities lack a medical school. This legislation will provide for the transfer of the Newark-based UMDNJ schools (New Jersey Medical School, the New Jersey Dental School, School of Health Related Professions, the School of Nursing, and the Public Health Research Institute) to Rutgers and will transfer UMDNJ's Robert

Wood Johnson Medical School located in New Brunswick to Rutgers as well. These institutions are valued at an excess of $895.5 million dollars;

s. Rutgers currently falls behind other public research universities in some key measures. Most importantly, the school ranked 64 in 2009 in federally-financed research and development expenditures. This low ranking is primarily influenced by the lack of a medical school as part of the degree offerings at Rutgers. Having medical schools will attract top-flight researchers and thus research grants, to Rutgers. The addition of medical schools to Rutgers will also increase interdisciplinary opportunities among the academic departments of the school;

t. The need to reform medical education in the State has been a subject discussed for years but up until now has been left unresolved. The reports done in the past ten years have consistently come to the same conclusion regarding UMDNJ. The Barer Report noted that the present organization of UMDNJ's substantial assets is not the best structure to maximize the effectiveness of the State's investment in medical, dental, nursing and health sciences education, associated research and health care. The State is the home base for many of the world's largest pharmaceutical and biotechnical companies. As such, the State and its institutions of higher education should, but do not, lead the country in attracting federal research funding and associated clinical training. This legislation will address these issues and establish a first-class comprehensive public research university-based health science center in New Jersey through the transfer of the New Jersey Medical School and Robert Wood Johnson Medical School to Rutgers;

u. Historically, the State has suffered a shortage of higher education capacity resulting in the substantial outmigration from the State of college-bound students. This outmigration has disproportionately affected the residents of the fastest growing region in the State, South Jersey. It is in the public interest that senior public education institutions in South Jersey work together to meet the demand for higher education capacity in the region. These transfers are essential to ensuring that all of the State's capable high school graduates are provided with the opportunity to obtain higher education in a New Jersey college classroom. The guarantee of a quality in-State education requires that these transfers be made in a comprehensive fashion to better enable the State to meet its growing workforce development needs;

v. This essential and practical expansion of the State's higher education system will help to address the educational demands of the fastest growing region in the State. The coordination of Rutgers-Camden and Rowan will spur the redevelopment of Camden by creating a long overdue residential campus, and expanding a health sciences campus anchored by

the new Cooper Medical School of Rowan University, emphasizing the biosciences, biomedical engineering, nursing and allied health. Therefore, it is in the public interest that Rutgers-Camden be granted autonomy from Rutgers, that Rowan be declared a public research university, and that both schools work together with the newly formed Rowan University-Rutgers Camden Board of Governors, as an efficient and cost effective means to address an historical disparity in educational capacity and opportunity between the northern and southern regions of New Jersey;

w. Integrating these existing higher education institutions will increase research capacity and spur the continued vitality of a region that is no longer supported by historical strengths in manufacturing and agriculture. Furthermore, this legislation will help to stop the annual escape to other states of thousands of students and patients, and millions in clinical research investment dollars from key institutions in South Jersey;

x. The transfer of UMDNJ-SOM to Rowan University will allow better coordination of medical education in South Jersey. UMDNJ-SOM is ranked in the top three osteopathic schools in the country, and is a leader in providing primary care physicians for the southern region of the State. After the transfer, Rowan University would have the important distinction of being only the second full-purpose university in the country to have both an osteopathic and allopathic medical school. One stated goal of the Rowan University-Rutgers University-Camden Board of Governors is to create a joint health sciences college. The addition of UMDNJ-SOM into Rowan University will benefit its faculty through providing opportunities for diverse training to students through interdisciplinary teaching and collaboration with the newly created health sciences faculty from the other universities. Integrating UMDNJ-SOM with Rowan University would add a successful, recognized enterprise to the newly designated public research university;

y. Adding UMDNJ-SOM to Rowan, along with the new Cooper Medical School of Rowan University, will revitalize the regional economy through a renewed commitment to higher education. This legislation will allow Rowan University to build the capacity to compete for and receive federal and private sector research grants that will drive the university, the region, and its new medical school, to new distinction;

z. Currently, Newark is home to many institutions of higher education including Rutgers, the University of Medicine and Dentistry of New Jersey, Seton Hall University School of Law, New Jersey Institute of Technology, Essex County College and Berkeley College. The existing educational infrastructure needs to be able to do even more to help the city and the northern region of the State with its economic development needs and to provide

innovative and problem-solving leadership. This legislation will allow Rutgers University-Newark to focus on the specific higher education needs of the region and the assets of the region to attract talented students and accomplished faculty to the school. This legislation will provide for an independent University Hospital that will maintain its status as the principal teaching hospital of the New Jersey Medical School, New Jersey Dental School and any other medical education programs located in Newark;

aa. The stated goal of this legislation is to create vibrant educational institutions and communities that will not only attract students but attract private sector jobs. The increased attention to the Rutgers University-Newark campus and University Hospital will allow the city to derive not only significant financial, medical and educational benefits, but cultural and social benefits as well. The improved focus on the Newark campus will be a conduit for expanding commercial opportunities in the city and for providing greater opportunities for students in the northern region to benefit fully from the substantial public investments already made and to be made in higher education in Newark;

bb. The goal of this legislation is to enhance the critical higher education opportunities for the residents of the State and to create vibrant educational institutions and communities that will attract business to the State and will allow the State to retain its residents in terms of college placement and workforce. This legislation recognizes the State's public institutions of higher education must work together as an integrated whole and thus provides for the necessary restructuring of the higher education system in the State which will provide more vigorous educational communities that will spur opportunities for students and the workforce necessary to attract crucial private sector jobs;

cc. The higher education reform and restructuring reflected in this legislation renews the State's commitment to sustaining and growing its universities and in helping them to achieve greater success. More particularly, the legislation reaffirms the State's economic commitment to Rutgers – over $10 billion to the University since 1990 – by the transfer of medical and related schools to Rutgers valued at nearly $1 billion dollars. Additionally, this legislation reaffirms Rutgers' preeminent role in the State's higher education system serving as an instrumentality of the State in trust for its betterment;

dd. This comprehensive review and restructuring of the higher education institutions and the systems that serve them as evidenced by this act, dictate that all of the schools, institutions and centers, transferred pursuant to this act, be transferred together and that no transfer of a school, institution or center may be done apart from the whole. The transfers reflected in

this legislation are inextricably linked and work together to promote reform and the effective restructuring of the State's higher education system; and

ee. Nothing is intended to revise or nullify the rights of Rutgers, The State University under N.J.S.18A:65-1 et seq.

C.18A:65-94 Rights, certain, transferred to Rutgers.

3. a. In order to carry out the purposes of this act and to provide the program of medical and dental education required for the benefit of the State and the people of New Jersey, all rights to all of the schools, institutes, and centers of the University of Medicine and Dentistry of New Jersey, other than the School of Osteopathic Medicine, the entire Stratford campus, the remaining facilities in Camden, and University Hospital, are hereby transferred to Rutgers, The State University.

The facilities of the schools, institutes, and centers of the University of Medicine and Dentistry of New Jersey, other than the facilities of the School of Osteopathic Medicine, the entire Stratford campus, the remaining facilities in Camden, and University Hospital, are hereby transferred to Rutgers, The State University, and the university shall devote the same to the purposes of public higher education in the State in accordance with the terms of any gift, grant, trust, contract or other agreement with the State or any of its political subdivisions or with the United States or with any public body, department or any agency of the State or the United States or with any individual, firm or corporation.

Upon the transfer of the schools, institutes, and centers of the University of Medicine and Dentistry of New Jersey to Rutgers, The State University, the Cancer Institute of New Jersey shall become an independent institute at Rutgers, The State University and shall be distinct and separate from any individual school.

b. Rutgers, The State University shall maintain the public mission and commitment of the University of Medicine and Dentistry of New Jersey, including an affiliation with University Hospital, to provide a comprehensive healthcare program and services to the greater Newark community, including outreach and mobile health services and services provided collaboratively between University Hospital and the University of Medicine and Dentistry of New Jersey, or any of its components.

c. Any school, institute, or center transferred to Rutgers, The State University pursuant to subsection a. of this section based in the City of Newark shall remain in the City of Newark, including the New Jersey Medical School, the New Jersey Dental School, School of Health Related Professions, the School of Nursing, and the Public Health Research Institute.

d. Any school, institute, or center of Rutgers, The State University based in Middlesex County shall remain in Middlesex County including, but not limited to, the Robert Wood Johnson Medical School, the School of Public Health, the Ernest Mario School of Pharmacy, the Institute of Health, Health Policy, and Aging Research, and University Behavioral Healthcare.

e. Rutgers, The State University shall assume and maintain existing contracts through expiration with the Department of Corrections and the Department of Children and Families to provide services under University Behavioral Healthcare and the School of Nursing. The services provided under the contracts shall continue to be provided by public employees following expiration of those contracts.

f. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the University of Medicine and Dentistry of New Jersey, other than the School of Osteopathic Medicine, the entire Stratford campus, the remaining facilities in Camden, and University Hospital, the same shall mean and refer to Rutgers, The State University.

g. The transfer of the schools, institutes, and centers of the University of Medicine and Dentistry of New Jersey, other than the School of Osteopathic Medicine, the entire Stratford campus, the remaining facilities in Camden, and University Hospital, to Rutgers, The State University shall require the accreditation approval of the appropriate accrediting bodies prior to transfer.

C.18A:65-95 Appropriations, grants, moneys, property, certain, transferred to Rutgers.

4. Upon the transfer of the schools, institutes, and centers of the University of Medicine and Dentistry of New Jersey other than the School of Osteopathic Medicine, the entire Stratford campus, the remaining facilities in Camden, and University Hospital, to Rutgers, The State University pursuant to section 3 of this act:

a. all appropriations, grants, and other moneys available and to become available to the schools, institutes, and centers of the University of Medicine and Dentistry of New Jersey are hereby transferred to Rutgers, The State University, and shall be available for the objects and purposes for which appropriated subject to any terms, restrictions, limitations or other requirements imposed by the State budget or by State and federal law.

b. all employees of the schools, institutes, and centers of the University of Medicine and Dentistry of New Jersey are hereby transferred to Rutgers, The State University. Nothing in this act shall be considered to deprive

any person of any tenure rights or of any right or protection provided him under any pension law or retirement system or any other law of this State.

c. all files, books, papers, records, equipment, and other property of the schools, institutes, and centers of the University of Medicine and Dentistry of New Jersey, are hereby transferred to Rutgers, The State University.

d. all orders, rules or regulations heretofore made or promulgated by the schools, institutes, and centers of the University of Medicine and Dentistry of New Jersey, or by the University of Medicine and Dentistry of New Jersey on their behalf, shall be continued with full force and effect as the orders, rules and regulations of Rutgers, The State University until amended or repealed pursuant to law.

C.18A:65-96 Actions, proceedings, certain; unaffected.

5. This act shall not affect actions or proceedings, civil or criminal, brought by or against the schools, institutes, and centers of the University of Medicine and Dentistry of New Jersey being transferred to Rutgers, The State University pursuant to this act, but such actions, or proceedings may be prosecuted or defended in the same manner and to the same effect by Rutgers, The State University, as if the foregoing provisions had not taken effect; nor shall any of the foregoing provisions affect any order or regulation made by, or other matters or proceedings before, the schools, institutes, and centers of the University of Medicine and Dentistry of New Jersey being transferred to Rutgers, The State University pursuant to this act, and all such matters or proceedings pending before the schools, institutes, and centers of the University of Medicine and Dentistry of New Jersey being transferred to Rutgers, The State University pursuant to this act, on the effective date of this act shall be continued by Rutgers, The State University, as if the foregoing provisions had not taken effect.

C.18A:65-97 Certain debts transferred to Rutgers.

6. All debts of the University of Medicine and Dentistry of New Jersey associated with the schools, institutes, and centers of the University of Medicine and Dentistry of New Jersey other than the School of Osteopathic Medicine, the entire Stratford campus, the remaining facilities in Camden, and University Hospital, are transferred to Rutgers, The State University, and all creditors of the University of Medicine and Dentistry of New Jersey may enforce those debts against Rutgers, The State University in the same manner as they might have had against the University of Medicine and Dentistry of New Jersey, and the rights and remedies of those creditors shall not be limited or restricted in any manner by this act.

C.18A:65-98 Rights of officers, employees unaffected.

7. a. Nothing in this act shall be construed to deprive any officers or employees of the schools, institutes, and centers of the University of Medicine and Dentistry of New Jersey being transferred to Rutgers, The State University, of their rights, privileges, obligations or status with respect to any pension, retirement, or health benefits system. The employees shall, upon transfer to Rutgers, The State University, retain all of their rights and benefits under existing collective negotiations agreements or contracts until such time as new or revised agreements or contracts are agreed to. The employees shall continue to be represented by the majority representative that represented them as employees of the University of Medicine and Dentistry of New Jersey, unless the employees choose to change their majority representative pursuant to law. Rutgers, The State University shall assume all obligations under existing or expired collective negotiations agreements that covered employees of the University of Medicine and Dentistry of New Jersey on the effective date of this act.

Employees in an existing University of Medicine and Dentistry of New Jersey negotiations unit, who are transferred to or become employees of Rutgers, The State University shall be deemed to constitute an appropriate collective negotiations unit under the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.).

Nothing in this act shall affect the civil service status, if any, of those officers or employees. Nothing in this act shall affect the tenure, rank, or academic track of any of those employees holding a faculty position.

The employees shall, upon transfer to Rutgers, The State University, not be considered new employees for any purpose and shall retain any accrued seniority, rank, and tenure, which shall be applied when determining eligibility for all benefits, including all paid leave time, longevity increases, and promotions.

b. (1) Within 60 days following the effective date of this act, a Labor Management Committee (LMC) shall be established which shall be comprised of one representative from each of the majority representatives representing employees employed by Rutgers, The State University and by the University of Medicine and Dentistry of New Jersey as of the effective date of this act, along with representatives of the administration of Rutgers, The State University.

The LMC shall review all proposed restructuring and reorganization plans and shall make recommendations to the board of governors of Rutgers, The State University regarding personnel and labor relations related to the proposed plans, including recommendations to improve service delivery and avoid duplication of services and to promote equitable and consistent policies for com-

pensation, benefits, and other terms and conditions of employment throughout the university for employees performing substantially similar duties.

Following the restructuring and reorganization, the LMC shall continue to meet quarterly to address ongoing personnel and labor relations issues that arise with respect to the restructuring or reorganization.

(2) Nothing in this act shall be construed to prohibit Rutgers, The State University and majority representatives from voluntarily entering into collective negotiations agreements that cover more than one negotiations unit where the members of two or more negotiations units perform substantially similar duties. If Rutgers, The State University and majority representatives are unable to agree on whether a collective negotiations agreement should cover one or more negotiations units represented by different majority representatives, the Public Employment Relations Commission shall assist the parties in the voluntary resolution of such a dispute through the appointment of a super conciliator in accordance with sections 4 and 5 of P.L.2003, c.126 (C.34:13A-34 and C.34:13A-35).

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subsection, Rutgers, The State University, in accordance with its obligations under the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), shall honor existing collective negotiations agreements and negotiate over any changes in terms and conditions of employment with the majority representative of affected employees.

C.18A:64M-31 Certain functions, powers, duties, rights transferred to Rowan.

8. a. All functions, powers, duties, and rights of the University of Medicine and Dentistry of New Jersey, related directly or indirectly to the establishment, maintenance, and operation as to the School of Osteopathic Medicine, are hereby transferred and assigned to Rowan University. All of the University of Medicine and Dentistry of New Jersey's rights, title, and interest in the School of Osteopathic Medicine, its auxiliary and supporting institutions and the campus located in Stratford including, but not limited to, all associated fixed tangible assets, real property, building and all furniture, fixtures, equipment, and personal property contained therein, are hereby transferred to Rowan University and shall be devoted to the purposes of public higher education in the State in accordance with the terms of any gift, grant, trust, contract or other agreement with the State or any of its political subdivisions or with the United States or with any public body, department or any agency of the State or the United States or with any individual, firm or corporation.

Rowan University shall be obligated to take any such action as may be required to ensure that the School of Osteopathic Medicine maintains proper accreditation.

The facilities, equipment, and fixtures shared on the effective date of this act by the School of Osteopathic Medicine and other schools of the University of Medicine and Dentistry of New Jersey located on the Stratford campus shall continue to be shared until such time as the board of governors of Rutgers, The State University and the board of trustees of Rowan University reach an agreement on the shared use of facilities, equipment, and fixtures on the Stratford campus.

b. It is hereby stated and acknowledged that osteopathic medical education is critical to the health and welfare of the residents of the State. In order to preserve a strong osteopathic academic resource for the State, the School of Osteopathic Medicine shall maintain its own academic programs at the undergraduate and graduate medical education levels, separate and distinct from any other medical school, including without limitation, another medical school affiliated with the same university.

c. The School of Osteopathic Medicine shall maintain a principal clinical affiliation with at least one osteopathic hospital, clinical affiliations with other hospitals deemed necessary by the school to fulfill its mission, and shall maintain the current faculty practice plan.

C.18A:64M-32 Transfer of appropriations, grants, moneys, employees, property to Rowan.

9. Upon the transfer of the School of Osteopathic Medicine of the University of Medicine and Dentistry of New Jersey to Rowan University pursuant to section 8 of this act:

a. all appropriations, grants, debt service, research funds, and other moneys available and to become available to the School of Osteopathic Medicine are hereby transferred to Rowan University, and shall be available for the objects and purposes for which appropriated subject to any terms, restrictions, limitations or other requirements imposed by the State budget or by State and federal law. Included in this provision are moneys currently received by the University of Medicine and Dentistry of New Jersey for the services and systems that provide the infrastructure for the educational, research, and clinical missions of the School of Osteopathic Medicine and for the maintenance and operation of the Stratford campus, such as specialized research equipment, information technology services that support research and clinical activities, and specialized legal services related to research and intellectual property development.

b. all employees of the School of Osteopathic Medicine are hereby transferred to Rowan University. Nothing in this act shall be considered to deprive any person of any tenure rights or of any right or protection provided him under any pension law or retirement system or any other law of this State.

c. all files, books, papers, records, equipment, and other property of the School of Osteopathic Medicine are hereby transferred to Rowan University.

d. all orders, rules or regulations heretofore made or promulgated by the School of Osteopathic Medicine, or by the University of Medicine and Dentistry of New Jersey on its behalf, shall be continued with full force and effect as the orders, rules and regulations of Rowan University until amended or repealed pursuant to law.

e. Rowan University shall be allocated the appropriations previously provided and received for institutional support, centralized services, State-funded personnel and budgeted positions, and grants-in-aid made available to the University of Medicine and Dentistry of New Jersey for the operations of the School of Osteopathic Medicine and the Stratford campus. In order to provide for a smooth transfer, Rutgers, The State University and Rowan University may enter into shared services agreements relating to centralized services at the schools.

f. all grants, appropriations, budgeted amounts, gifts, bequests, tuition, endowments, and any other funding of any type whatsoever from any source whatsoever which has been designated for use, or is used by the University of Medicine and Dentistry of New Jersey at the School of Osteopathic Medicine or which has been designated for use in connection with the establishment, construction, operation, and expansion of the School of Osteopathic Medicine shall be allocated to Rowan University.

C.18A:64M-33 Disposition of certain medical malpractice claims.

10. For medical malpractice claims incurred at the School of Osteopathic Medicine before or after the effective date of this act, Rowan University shall elect within 75 days of the signing of this act whether it, and its employees, shall be represented in all such matters by the Attorney General. If Rowan University elects to be represented by the Attorney General, then the Department of the Treasury shall enter into a memorandum of agreement with Rowan University modeled on the June, 2003 memorandum of agreement between the Department of the Treasury and the University of Medicine and Dentistry concerning the Self-Insurance Reserve Fund and moneys in the fund known as the Self-Insurance Reserve Fund shall be available to Rowan

University solely to indemnify and defend medical malpractice claims against employees, officers, and servants of the School of Osteopathic Medicine. If Rowan University elects not to be represented by the Attorney General, then it shall be required to provide employees of the School of Osteopathic Medicine with defense and indemnification consistent with the terms and conditions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., in lieu of the defense and indemnification that such employees would otherwise seek and be entitled to from the Attorney General pursuant to N.J.S.59:10-1 et seq. and P.L.1972, c.48 (C.59:10A-1 et seq.).

C.18A:64M-34 Certain debts transferred to Rowan.

11. All debts of the University of Medicine and Dentistry of New Jersey incurred in the operation and administration of the School of Osteopathic Medicine and debt specifically and directly related to the real and personal property being transferred in Stratford are hereby transferred to Rowan University, and all creditors of the University of Medicine and Dentistry of New Jersey may enforce those debts against Rowan University in the same manner as they might have had against the University of Medicine and Dentistry of New Jersey, and the rights and remedies of those creditors shall not be limited or restricted in any manner by this act.

C.18A:64M-35 Employee status unaffected.

12. a. Nothing in this act shall be construed to deprive any officers or employees of the School of Osteopathic Medicine of the University of Medicine and Dentistry of New Jersey of their rights, privileges, obligations or status with respect to any pension, retirement, or health benefits system. The employees shall, upon transfer to Rowan University, retain all of their rights and benefits under existing collective negotiations agreements or contracts until such time as new or revised agreements or contracts are agreed to. Notwithstanding the limitations on the number of Statewide negotiations units set forth in section 1 of P.L.2005, c.142 (C.34:13A-5.10), employees shall continue to be represented by the majority representative that represented them as employees of the School of Osteopathic Medicine of the University of Medicine and Dentistry of New Jersey, unless the employees choose to change their majority representative pursuant to law. Rowan University shall assume all obligations under existing or expired collective negotiations agreements that covered employees of the School of Osteopathic Medicine of the University of Medicine and Dentistry of New Jersey on the effective date of this act.

Employees in an existing University of Medicine and Dentistry of New Jersey negotiations unit employed at the School of Osteopathic Medicine on the effective date of this act, who are transferred to or become employees of Rowan University shall be deemed to constitute an appropriate collective negotiations unit under the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.).

Nothing in this act shall affect the civil service status, if any, of those officers or employees. Nothing in this act shall affect the tenure, rank, or academic track of any of those employees holding a faculty position.

b. The employees shall, upon transfer to Rowan University, not be considered new employees for any purpose and shall retain any accrued seniority, rank, and tenure, which shall be applied when determining eligibility for all benefits, including all paid leave time, longevity increases, and promotions.

C.18A:64M-36 Certain properties transferred.

13. Notwithstanding the provisions of Reorganization Plan No. 002-2009 to the contrary, the properties referenced in paragraph 2b.ii of the plan are hereby transferred from the University of Medicine and Dentistry of New Jersey to Rowan University without monetary or other consideration on or before September 1, 2013.

C.18A:64G-6.1a Powers of University Hospital.

14. a. University Hospital shall be the principal teaching hospital of New Jersey Medical School and New Jersey Dental School, and any other Newark-based medical education program. University Hospital is hereby established as a body corporate and politic and shall be treated and accounted for as a separate non-profit legal entity from Rutgers, The State University, and its assets, liabilities, and funds shall not be consolidated or commingled with those of Rutgers, The State University. The exercise by University Hospital of the powers conferred by this act shall be deemed to be public and essential government functions necessary for the welfare and health of the State and the people of New Jersey and University Hospital shall be an instrumentality of the State.

b. All monies allocated to the University of Medicine and Dentistry of New Jersey for the use of University Hospital, regardless of their source, and which remain unexpended on the effective date of P.L.2012, c.45 (C.18A:64M-1 et al.), shall be transferred to University Hospital.

c. All appropriations that are intended for the use of University Hospital, on or after the effective date of P.L.2012, c.45 (C.18A:64M-1 et al.), shall be made directly to University Hospital.

d. The amount of State funding provided to University Hospital shall be sufficient to maintain the level of community services provided on the effective date of P.L.2012, c.45 (C.18A:64M-1 et al.) and to maintain University Hospital as an acute care facility and trauma center.

e. To the maximum extent possible, consistent with applicable law, the State shall assist University Hospital in the refinancing of that portion of the debt of the University of Medicine and Dentistry of New Jersey attributable to University Hospital.

C.18A:64G-6.1b University Hospital Community Oversight Board.

15. a. There is established a nine-member advisory board to be designated as the University Hospital Community Oversight Board. The purpose of the board shall be to ensure that the mission of the hospital and the intent of the "Agreements Reached Between Community and Government Negotiators Regarding New Jersey College of Medicine and Dentistry and Related Matters of April 30, 1968" to provide a comprehensive health program to the community in the City of Newark, including, but not limited to, ensuring access to all essential health care services provided by the hospital, are upheld.

b. The membership of the University Hospital Community Oversight Board shall be comprised of:

(1) four members who shall serve ex officio, including: the President of Rutgers University; and the Chief Executive Officer, Chief Financial Officer, and Chief Medical Officer of University Hospital; and

(2) five public members to be appointed as follows:

(a) two representatives of organized labor, one appointed by the head of the largest union that is affiliated with the AFL-CIO and represents persons employed at University Hospital and one appointed by the head of the largest union that is not affiliated with the AFL-CIO and represents persons employed at University Hospital;

(b) one person who is a resident of the City of Newark appointed by the Governor, with the advice and consent of the Senate;

(c) one person who is a resident of the City of Newark appointed by the President of the Senate; and

(d) one person appointed by the Speaker of the General Assembly.

c. The public members of the board shall serve for a five-year term; except that of the members first appointed, three shall serve for a term of five years, one for a term of three years, and one for a term of two years. A member of the board shall serve until the member's successor is appointed. A vacancy in the membership, occurring other than by expiration of term,

shall be filled in the same manner as the original appointment but for the unexpired term only.

d. The members of the board shall select a chairperson and vice chairperson from among themselves. The board shall organize as soon as practicable following the appointment of its members. The chairperson shall appoint a secretary who need not be a member of the board.

e. The board shall meet at such times and places as it shall designate.

f. University Hospital shall provide such staff support to the board as it deems necessary to carry out its duties.

C.18A:64G-6.1c Rights of transferred employees.

16. a. Nothing in this act shall be construed to deprive any officers or employees of the University of Medicine and Dentistry of New Jersey who become employees of University Hospital of their rights, privileges, obligations, or status with respect to any pension, retirement, or health benefits system. The employees shall retain all of their rights and benefits under existing collective negotiations agreements or contracts until such time as new or revised agreements or contracts are agreed to and such employees shall continue to be represented by the majority representative that represented them as employees of the University of Medicine and Dentistry of New Jersey unless the employees choose to change their majority representative pursuant to law. University Hospital shall assume all obligations under existing or expired collective negotiations agreements that covered employees of the University of Medicine and Dentistry of New Jersey on the effective date of this act and who become employees of University Hospital.

Employees in an existing University of Medicine and Dentistry of New Jersey negotiations unit who are transferred to or become employees of University Hospital shall be deemed to constitute an appropriate collective negotiations unit under the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.).

Nothing in this act shall affect the civil service status, if any, of those officers or employees. Nothing in this act shall affect the tenure, rank, or academic track of any person holding a faculty position that is associated with University Hospital.

b. The employees of the University of Medicine and Dentistry of New Jersey who become employees of University Hospital pursuant to the provisions of this act shall not be considered new employees for any purpose and shall retain any accrued seniority, rank, and tenure, which shall be applied when determining eligibility for all benefits, including all paid leave time, longevity increases, and promotions.

c. If employees of the University of Medicine and Dentistry of New Jersey, who become employees of University Hospital, are transferred to, or otherwise become employees of, a new entity as a result of a restructuring or reorganization pursuant or subsequent to this act, those employees shall remain "employees" within the meaning of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.) and any applicable State pension and health benefits laws, and shall retain all of their rights and benefits under existing or expired collective negotiations agreements or contracts until such time as new or revised agreements or contracts are agreed to. The new entity shall be an "employer" within the meaning of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.) and any applicable State pension and health benefits laws, and shall assume all obligations under existing or expired collective negotiations agreements that covered employees while employed at University Hospital or the University of Medicine and Dentistry of New Jersey immediately prior to their transfer to the new entity. Employees in a University Hospital negotiations unit, who are transferred to a new entity, shall be deemed to constitute an appropriate collective negotiations unit under the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.).

d. Employees of University Hospital, who become employees of a new entity pursuant to the provisions of this act, shall not be considered new employees for any purpose and shall retain any accrued seniority, rank, and tenure, which shall be applied when determining eligibility for all benefits, including all paid leave time, longevity increases, and promotions.

C.18A:64G-6.1d Approval of Superior Court required for acquisition of University Hospital.

17. a. University Hospital shall be required to obtain approval from the Superior Court of New Jersey prior to entering into a transaction that results in the acquisition of the hospital, and shall satisfy the requirements of the "Community Health Care Assets Protection Act," P.L.2000, c.143 (C.26:2H-7.10 et seq.). Any acquisition of University Hospital by a new entity after the effective date of this act shall be structured so as to retain the status of University Hospital employees as public employees within the meaning of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.).

b. The Attorney General, in consultation with the Commissioner of Health and Senior Services, shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410, (C.52:14B-1 et seq.), to carry out the purposes of subsection a. of this section.

c. In determining whether the proposed acquisition is in the public interest, meaning that appropriate steps have been taken to safeguard the value of the hospital's public assets and to ensure that any proceeds from the proposed acquisition are irrevocably dedicated for appropriate charitable health care purposes, the same criteria and process shall apply as set forth in the "Community Health Care Assets Protection Act," P.L.2000, c.143 (C.26:2H-7.10 et seq.) and the Attorney General shall consider:

(1) whether the public entity that owns and operates the public hospital exercised due diligence in deciding to effectuate the acquisition, selecting the other party to the acquisition and negotiating the terms and conditions of the acquisition;

(2) the procedures used by the public entity in making its decision, including whether the appropriate expert assistance was used;

(3) whether conflicts of interest were disclosed, including conflicts relating to board members of the public hospital, executives of, and experts retained by, the public hospital, purchaser or other parties to the acquisition;

(4) whether any management contract under the acquisition is for reasonable value;

(5) whether the public entity will receive full and fair market value for its assets;

(6) whether the public entity established appropriate criteria in deciding to pursue the acquisition in relation to carrying out the mission and purpose of the public entity and the hospital;

(7) whether the acquisition is structured so as to retain the status of University Hospital employees as public employees within the meaning of subsection d. of section 3 of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-3) and any applicable State pension and health benefits laws; and

(8) any other criteria set forth in the "Community Health Care Assets Protection Act" or established pursuant to that act by the Attorney General.

d. University Hospital shall be required to obtain approval from the Department of Health and Senior Services prior to entering into a transaction that results in the acquisition of the hospital and shall satisfy the certificate of needs requirements.

e. The Commissioner of Health and Senior Services shall determine whether the proposed acquisition will result in the deterioration of the quality, availability, or accessibility of health care services in the affected communities.

f. For a period of five years, any substantive changes to essential health care services provided by University Hospital shall be subject to review by the University Hospital Community Oversight Board and approval

by the Department of Health and Senior Services through a licensing review process.

g. University Hospital shall provide quarterly financial statements to the Department of Health and Senior Services which shall be posted on the hospital's public Internet website.

C.18A:64G-6.1e Review, approval of management contracts.

18. a. Prior to entering into a contract with a nonprofit corporation operating one or more hospitals in New Jersey to operate and manage or assist in the operation and management of University Hospital, the Department of Health and Senior Services shall review and approve all management contracts. Any management contract entered into by University Hospital shall be evaluated by the Department of Health and Senior Services based upon the following criteria:

(1) whether the hospital will continue its public mission and commitment to provide a comprehensive healthcare program and services to the greater Newark community, including acute care, and emergency and other essential services provided by the hospital;

(2) whether the cost of the management contract is fair and reasonable;

(3) whether the management contract provides for the full disclosure of all management and other fees;

(4) whether the management contract requires the hospital's annual audited financial statements be filed with the Department of Health and Senior Services and posted on the hospital website;

(5) whether the management contract retains status of University Hospital employees as public employees within the meaning of subsection d. of section 3 of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-3); and

(6) whether the University Hospital Community Oversight Board has reviewed the terms of the agreement.

b. Due to the unique nature of an acute care management contract, a competitive contracting method shall be used for a contract to operate and manage or assist in the operation and management of University Hospital. Prior to entering into a contract with a nonprofit corporation to operate and manage or assist in the operation or management of University Hospital, University Hospital shall prepare a Request for Proposals describing with reasonable specificity the management services to be provided by a nonprofit corporation, and shall publish the Request for Proposals on its public Internet website no less than 30 days prior to the date established by University Hospital for the submission of proposals for any contract for management services.

c. No less than 60 days prior to the award of any contract for management services, a notice of the intent to award a contract to manage and operate or assist in the management and operation of University Hospital shall be published on the hospital's public Internet website.

d. Any management contract entered into by University Hospital after the enactment date of this act shall retain the status of University Hospital bargaining unit employees as public employees within the meaning of subsection d. of section 3 of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-3). Employees of the nonprofit corporation awarded the contract to manage and operate University Hospital shall not be required to be public employees within the meaning of subsection d. of section 3 of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-3). Employees of the nonprofit corporation awarded the management contract shall not perform the duties of public employees represented by majority representatives employed by University Hospital prior to the effective date of the management contract, except to the extent that such duties are incidental to their management duties.

e. Any contract with a nonprofit corporation operating one or more hospitals in New Jersey to manage and operate or assist in the management or operation of University Hospital entered into after the enactment date of this act shall satisfy all conditions set forth in this section.

C.18A:64G-6.1f Internet website for board of directors.

19. University Hospital shall maintain an Internet website for the board of directors. The purpose of the website shall be to provide increased public access to board operations and activities. The following information shall be posted on the board's website:

a. the board's rules, regulations, resolutions, and official policy statements;

b. notice, posted at least five business days prior to a meeting of the board or any of its committees, setting forth the time, date, location, and agenda of the meeting;

c. the minutes of each meeting of the board and its committees; and

d. information on any contract entered into by the board for the operation or management of the hospital.

The website shall be updated on a regular basis.

C.18A:65-14.1 Campus advisory board for Rutgers University-Newark.

20. a. As used in this section, "northern counties" means Bergen, Essex, Hudson, Morris, Passaic, Union, Sussex, and Warren Counties.

b. Effective July 1, 2013, a campus advisory board shall be appointed for Rutgers University–Newark. The campus advisory board shall work with the chancellor of Rutgers University-Newark in implementing the teaching, research, and service mission of Rutgers University-Newark, the engagement of the campus with its local community, its region, and the State, and its commitment to academic excellence, access, and diversity.

The campus advisory board shall be composed of 13 members as follows: the chancellor of Rutgers University-Newark who shall serve ex-officio; the member of the board of governors of Rutgers, The State University who is appointed by the board of trustees and who is, pursuant to N.J.S.18A:65-14, required to be a resident of Essex County; two Rutgers University-Newark faculty members one of whom is appointed by the faculty union and one of whom is elected by the Rutgers Newark Faculty Council; one member of the Rutgers University-Newark administration appointed by the Rutgers University-Newark chancellor; one Rutgers University-Newark staff member selected from among the staff unions; two student representatives appointed by the Rutgers University-Newark student governing association; three members of the local community, two of whom shall be selected by the Office of Community Affairs from community organizations with one of these members being an alumnus of Rutgers University-Newark, and one of whom shall be selected by the Mayor of the City of Newark; and two public members who are appointed by the chancellor and who are residents of a northern county.

All members shall serve a term of two years, renewable by reappointment or re-election in the same manner as the initial selection. A president of the advisory board shall be selected for a one-year term by a vote of the members of the campus advisory board, and may be so elected for successive terms without limit.

A member shall be subject to removal, after a hearing by a majority of the campus advisory board, for malfeasance or conduct injurious to the interest of Rutgers University-Newark.

The board shall meet and organize annually at a regular meeting held during the second week in September. The president shall serve until the following September and until his successor is appointed and qualified. Vacancies in the offices shall be filled in the same manner for the unexpired term only.

Members of the board shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses.

The campus advisory board shall hold at least one public meeting each semester.

C.18A:65-14.2 Duties of campus advisory board.

21. Notwithstanding the provisions of N.J.S.18A:65-25 or any other section of law to the contrary, the campus advisory board of Rutgers University-Newark shall:

a. advise the president and the board of governors of Rutgers, The State University on the selection of the Rutgers University-Newark chancellor;

b. propose capital projects and bonding for Rutgers University-Newark to the board of governors of Rutgers University; and

c. propose an annual budget for Rutgers University-Newark to the board of governors of Rutgers University.

Nothing in this section shall be construed to alter, amend, modify, or diminish the authority of the board of governors of Rutgers, The State University to grant tenure and promotions to faculty at Rutgers University-Newark, establish standards for academic programs and for the awarding of degrees for Rutgers University-Newark, and make final decisions on capital projects, bonding, and the annual budget for Rutgers University-Newark.

C.18A:65-14.3 Appropriations to Rutgers University-Newark.

22. State support for the continuing operations of programs operated by Rutgers University-Newark prior to the effective date of P.L.2012, c.45 (C.18A:64M-1 et al.), including support for fringe benefit costs, shall be appropriated by the Legislature directly to Rutgers University-Newark.

C.18A:65-14.4 Rights of employees of Rutgers University-Newark unaffected.

23. a. The provisions of all collective negotiations agreements applicable to employees of Rutgers University-Newark in effect on the effective date of P.L.2012, c.45 (C.18A:64M-1 et al.) shall remain in full force and effect until such time as new or revised agreements or contracts may be established. All persons employed at Rutgers University-Newark shall continue to be represented by the majority representative that represented them on the effective date of P.L.2012, c.45 (C.18A:64M-1 et al.), shall continue to be represented in the Rutgers University-wide collective negotiations units they were in on the effective date of P.L.2012, c.45 (C.18A:64M-1 et al.) and shall continue to be covered by the collective negotiations agreements that were in effect on the effective date of P.L.2012, c.45 (C.18A:64M-1 et al.). Employees of Rutgers University-Newark shall continue to be employees of Rutgers, The State University and Rutgers, The State University shall continue to be the public employer of such employees as that term is defined by the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.).

b. Nothing in this act shall be construed to deprive any person employed at Rutgers University-Newark of any tenure or contract rights or to in any manner affect the tenure, contract, rank, or academic track of any employees holding a faculty position. Such tenure, contract, rank, and academic track shall continue to be through Rutgers, The State University and shall be held and granted pursuant to the authority of the board of governors of Rutgers, The State University for all current and future employees employed at Rutgers University-Newark.

c. Nothing in this act shall be construed to deprive any officers or employees employed at Rutgers University-Newark of their rights, privileges, obligations or status under any pension, retirement, health benefits system, civil service law or any other law of the State.

C.18A:65-99 Disposition of medical malpractice claims.

24. For medical malpractice claims incurred at any of the University of Medicine and Dentistry of New Jersey schools transferred to Rutgers, The State University, occurring before or after the effective date of this act, Rutgers, The State University, shall elect within 75 days of the signing of this act whether it, and its employees, shall be represented in all such matters by the Attorney General. If Rutgers, The State University elects to be represented by the Attorney General, then the Department of the Treasury shall enter into a memorandum of agreement with Rutgers, The State University modeled on the June, 2003 memorandum of agreement between the Department of the Treasury and the University of Medicine and Dentistry concerning the Self-Insurance Reserve Fund and moneys in the fund known as the Self-Insurance Reserve Fund shall be available to Rutgers, The State University solely to indemnify and defend medical malpractice claims against employees, officers, and servants at the schools transferred from the University of Medicine and Dentistry of New Jersey to Rutgers, The State University. If Rutgers, The State University, elects not to be represented by the Attorney General, then it shall be required to provide employees of the schools transferred from the University of Medicine and Dentistry of New Jersey to Rutgers, The State University with defense and indemnification consistent with the terms and conditions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., in lieu of the defense and indemnification that such employees would otherwise seek and be entitled to from the Attorney General pursuant to N.J.S.59:10-1 et seq. and P.L.1972, c.48 (C.59:10A-1 et seq.).

C.18A:65-14.5 Annual certified public reporting process of Rutgers; auditing mechanisms.

25. a. The board of governors of Rutgers, The State University shall establish an annual certified public reporting process of the finances of Rutgers, The State University in order to measure the flow of resources across the campuses of the university.

b. The State Auditor shall develop auditing mechanisms to measure the allocation and transfer of resources across campuses including methods to account for inter-campus joint ventures, and shall annually report on the results of those mechanisms after receiving the report of Rutgers, The State University.

C.18A:65-14.6 Campus board of directors for Rutgers University-Camden.

26. a. As used in this section, "southern counties" means Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem Counties.

b. Effective July 1, 2013, a campus board of directors shall be appointed for Rutgers University–Camden. The campus board of directors shall be composed of 10 members as follows: the chancellor of Rutgers University–Camden who shall serve as an ex-officio, nonvoting member; three members appointed by the board of governors of Rutgers University; two members appointed by the board of trustees of Rutgers, The State University from among its non-public members; and four members, who are residents of the southern counties, appointed by the Governor with the advice and consent of the Senate.

The terms of office of a member appointed by the board of governors or the board of trustees of Rutgers University shall be coterminous with his term on that board. The members appointed by the Governor shall serve for terms of six years beginning on July 1 and ending on June 30; except that of the members first appointed by the Governor, one shall serve for a term of six years, one shall serve for a term of four years, one shall serve for a term of three years, and one shall serve for a term of two years. Each member shall serve until his successor is appointed and qualified, and vacancies shall be filled in the same manner as the original appointments for the remainder of the unexpired term. A director appointed by the Governor may succeed himself for not more than one additional term after having served one full six-year term.

A director shall be subject to removal, after a hearing by a majority of the campus board of directors, for malfeasance or conduct injurious to the interest of Rutgers University-Camden, subject to review and confirmation

by the Governor in the case of his appointees or by the board of governors or the board of trustees, as applicable, in the case of that board's appointees.

c. The board shall meet and organize annually at a regular meeting held during the second week of September, by the election of a chair, vice-chair, and such other officers as the board shall determine. The officers shall serve until the following September meeting and until their successors are elected and qualified. Vacancies in the offices shall be filled in the same manner for the unexpired term only.

d. Members of the board shall serve without compensation but shall be entitled to be reimbursed for all reasonable and necessary expenses.

C.18A:65-14.7 Duties of campus board of directors.

27. Notwithstanding the provisions of N.J.S.18A:65-25 or any other section of law to the contrary, the campus board of directors shall have general supervision over and shall be vested with the conduct of Rutgers University-Camden. It shall have the following powers, subject to the approval of the Rowan University-Rutgers Camden Board of Governors which shall be subject to the limitations set forth in section 34 of P.L.2012, c.45 (C.18A:64M-38):

a. subject to the policies of Rutgers, The State University determine policies for the organization, administration, and development of Rutgers University-Camden;

b. study the educational and financial needs of Rutgers University-Camden; and annually acquaint the Governor and Legislature with the condition of Rutgers University-Camden;

c. disburse all moneys appropriated to Rutgers University-Camden by the Legislature, including appropriations for fringe benefit costs, and all moneys allocated to Rutgers University-Camden from tuition, fees, auxiliary services, and other sources;

d. direct and control expenditures and transfers of funds appropriated and allocated to Rutgers University-Camden, in accordance with the State budget and appropriation acts of the Legislature, and as to funds received and allocated from other sources, direct and control expenditures and transfers in accordance with the terms and conditions of any applicable trusts, gifts, bequests, or other special provisions. All accounts of Rutgers University-Camden shall be subject to audit by the State at any time;

e. subject to the signatory delegation, procurement, and other applicable policies of Rutgers, The State University, employ architects to plan buildings, secure bids for the construction of buildings and for the equip-

ment thereof, make contracts for the construction of buildings and for equipment, and supervise the construction of buildings;

f. manage and maintain and provide for the payment of all charges on and expenses in respect of, all properties utilized by Rutgers University-Camden;

g. in accordance with the provisions of the State budget and appropriations acts of the Legislature, fix the compensation of the chancellor of Rutgers University-Camden in accordance with the compensation guidelines and policies of Rutgers, The State University. The chancellor, who shall be appointed by the president of Rutgers, The State University, shall be the chief academic and administrative officer of Rutgers University-Camden and an ex-officio member of the Rutgers University-Camden board of directors, without vote;

h. in accordance with the provisions of the State budget, have the power to elect, appoint, remove, promote, or transfer all corporate, official, educational, and civil administrative personnel, and fix and determine their salaries consistent with the terms of any applicable collective negotiations agreements entered into between Rutgers, The State University and a majority representative;

i. in accordance with the State budget, appoint, remove, promote, and transfer all other officers, agents, or employees, assign their duties, determine their salaries, and prescribe qualifications for all positions, and in accordance with policies of Rutgers, The State University and consistent with the terms of any applicable collective negotiations agreements entered into between Rutgers, The State University and a majority representative; and

j. subject to the signatory delegation, procurement, and other applicable policies of Rutgers, The State University, enter into contracts and agreements with the State or any of its political subdivisions or with the United States, or with any public body, department, or other agency of the State or the United States, or with any individual.

Nothing in this section shall be construed to alter, amend, modify or diminish the authority of the board of governors of Rutgers, The State University to grant tenure and promotions to faculty at Rutgers University-Camden, establish standards for academic programs and for the awarding of degrees for Rutgers University-Camden, and make final decisions on capital projects, bonding, and the annual budget of Rutgers University-Camden.

C.18A:65-14.8 Maintenance of Internet website for board of directors.

28. Rutgers University-Camden shall maintain an Internet website for the board of directors. The purpose of the website shall be to provide in-

creased public access to board operations and activities. The following information shall be posted on the board's website:

a. the board's rules, regulations, resolutions, and official policy statements;

b. notice, posted at least five business days prior to a meeting of the board or any of its committees, setting forth the time, date, location, and agenda of the meeting;

c. the minutes of each meeting of the board and its committees; and

d. information on any contract entered into by the board that was not competitively bid and the statutory authority for the contracting process.

The website shall be updated on a regular basis.

C.18A:65-14.9 Appropriations directly to Rutgers University-Camden.

29. State support for the operation of Rutgers University-Camden, including support for fringe benefits costs, shall be appropriated by the Legislature directly to Rutgers University-Camden.

C.18A:65-14.10 Duties of board of governors.

30. The board of governors of Rutgers University shall establish:

a. standards for the establishment and evaluation of academic programs of Rutgers University-Camden;

b. standards for the award of degrees to students enrolled in the academic degree programs of Rutgers University-Camden; and

c. standards for the promotion and award of tenure to faculty employed at Rutgers University-Camden.

C.18A:65-14.11 Rights of employees of Rutgers University-Camden unaffected.

31. a. The provisions of all collective negotiations agreements applicable to employees of Rutgers University-Camden in effect on the effective date of P.L.2012, c.45 (C.18A:64M-1 et al.) shall remain in full force and effect until such time as new or revised agreements or contracts may be established. All persons employed at Rutgers University-Camden shall continue to be represented by the majority representative that represented them on the effective date of this act, shall continue to be represented in the Rutgers University-wide collective negotiations units they were in on the effective date of this act, and shall continue to be covered by the collective negotiations agreements that were in effect on the effective date of this act. Persons employed at Rutgers University-Camden shall continue to be employees of Rutgers, The State University and Rutgers, The State University shall continue to be the public employer of such employees as that term is defined by the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.).

b. Nothing in this act shall be construed to deprive any person employed at Rutgers University-Camden of any tenure or contract rights or to in any manner affect the tenure, contract, rank, or academic track of any employees holding a faculty position. Such tenure, contract, rank, and academic track shall continue to be through Rutgers, The State University and shall be held and granted pursuant to the authority of the board of governors of Rutgers, The State University for all current and future employees employed at Rutgers University-Camden.

c. Nothing in this act shall be construed to deprive any officers or employees employed at Rutgers University-Camden of their rights, privileges, obligations, or status under any pension, retirement, health benefits system, civil service law or any other law of this State.

C.18A:65-14.12 Transfer of monies, funding, personnel to Rutgers University-Camden.

32. All monies and funding including, but not limited to, grants, gifts, bequests, tuition, endowments, appropriations, capital improvement expenditures, debt service, research funds, State-funded personnel and budgeted positions, institutional support, centralized services, and grants-in-aid, previously allocated or otherwise provided to Rutgers University for the use of Rutgers University-Camden, regardless of source, which remain unexpended on the effective date of P.L.2012, c.45 (C.18A:64M-1 et al.), shall be transferred to Rutgers University-Camden.

C.18A:64M-37 Rowan University-Rutgers Camden Board of Governors.

33. There is established the Rowan University-Rutgers Camden Board of Governors.

a. The board shall be composed of seven members as follows: two members appointed by the board of trustees of Rowan University from among its members; two members appointed by the board of directors of Rutgers University-Camden from among its members; and three members appointed by the Governor with the advice and consent of the Senate. The board shall elect a chairperson from among its membership.

b. The term of office of a member of the board appointed by the board of trustees of Rowan University or the board of directors of Rutgers University-Camden shall be coterminous with his term on that board. The term of office of the Governor's appointees shall be six years. An appointed member may be removed for cause by the board of trustees or the board of directors that appointed the member, or by the Governor in the case of his appointees.

c. Each member shall serve until his successor is appointed and qualified, and vacancies shall be filled in the same manner as the original appointments for the remainder of the unexpired term.

d. Members of the board shall serve without compensation but shall be entitled to be reimbursed for all reasonable and necessary expenses.

e. The board shall be staffed by employees of Rowan University and Rutgers University-Camden.

C.18A:64M-38 Authority, responsibilities of Rowan University-Rutgers Camden Board of Governors.

34. The Rowan University-Rutgers Camden Board of Governors shall have the authority and responsibility to:

a. approve or disapprove of the establishment or expansion of any schools, programs, or departments after the effective date of this act in the area of the health sciences proposed by either the board of trustees of Rowan University or the board of directors of Rutgers University-Camden;

b. determine policies for the organization, administration, and development of curriculum and programs of Rowan University and Rutgers University-Camden in the area of the health sciences, including dual degree programs and partnerships between the institutions;

c. make recommendations to Rowan University and to Rutgers, The State University for joint faculty appointments to Rowan University and Rutgers University-Camden;

d. provide curricular oversight of joint programs in the area of the health sciences of Rowan University and Rutgers University-Camden; and

e. develop plans for the operation and governance of health science facilities, including plans concerning the development and financing of capital improvements or expansions of health science facilities.

"Health sciences" for purposes of this section shall include, but not be limited to, nursing, medicine, dentistry, pharmacy, pharmacology, biochemistry, biomedicine, genetics, bioengineering, public health, and physician-related studies. The board shall not take any action to use, transfer, commit, or control the endowment funds or any other funds provided to or accumulated by and under the control of either institution without the respective approval of the Rowan University Board of Trustees or the Rutgers Board of Governors. The board shall have no authority over the tenure or contract rights of faculty at either Rutgers, The State University or Rowan University.

The board shall not take any action that would violate any of the bond covenants of Rutgers, The State University or Rowan University.

Rowan University and Rutgers University-Camden shall each appropriate $2,500,000 per year to the Rowan University-Rutgers Camden Board of Governors for administration and other necessary expenses.

C.18A:64M-3 "Rowan University" defined.

35. a. As used in sections 36 through 62 of P.L.2012, c.45 (C.18A:64M-4 through C.18A:64M-30) "Rowan University" shall, unless the context clearly indicates to the contrary, include and mean the public research university herein designated "Rowan University" as presently and hereafter constituted, including all departments, colleges, schools, centers, branches, educational and other units and extensions thereof, extension and cooperative education programs, continuing education programs, and all other departments of higher education maintained by the educational entity of the university.

b. As used in sections 36 though 62 of P.L.2012, c.45 (C.18A:64M-4 through C.18A:64M-30), "university" shall mean "Rowan University."

C.18A:64M-4 Rowan University established.

36. There is hereby established a body corporate and politic to be known as Rowan University. The exercise by the university of the powers conferred by this act, including the presentation and operation of a four-year allopathic medical school, shall be deemed to be public and essential governmental functions necessary for the welfare of the State and the people of New Jersey.

C.18A:64M-5 Governance, conduct of university.

37. It is declared to be the public policy of the State that the university shall be given a high degree of self-government and that the governance and conduct of the university shall be free of partisanship.

C.18A:64M-6 Board of trustees continued.

38. The board of trustees of the university is continued and shall have and exercise the powers, authority, rights and privileges and shall be subject to the duties, obligations, and responsibilities set forth in this act.

C.18A:64M-7 Determination of composition, size of board of trustees.

39. a. The composition and size of the board of trustees shall be determined by the board; however, the board shall have not less than seven nor more than 15 members. The members shall be appointed by the Governor with the advice and consent of the Senate. The board of trustees shall recommend potential new members to the Governor. The terms of office of appointed members shall be for six years beginning on July 1 and ending

on June 30. Each member shall serve until his successor shall have been appointed and qualified and vacancies shall be filled in the same manner as the original appointments for the remainders of the unexpired terms. Any member of a board of trustees may be removed by the Governor for cause upon notice and opportunity to be heard.

b. Members of the board as of the effective date of this act shall continue in office until the expiration of their respective terms and the qualification in office of their successors.

c. All voting members of the board of trustees, before undertaking the duties of their office, shall take and subscribe an oath or affirmation to support the Constitution of the State of New Jersey and of the United States, to bear allegiance to the government of the State, and to perform the duties of their office faithfully, impartially and justly, to the best of their ability.

d. Members of the board of trustees shall not receive compensation for their services. Each trustee shall be reimbursed for actual expenses reasonably incurred in the performance of his duties or in rendering service as a member of or on behalf of the board or any committee of the board.

e. The board of trustees shall elect its chairperson from among its voting members annually in July. The board shall select such other officers from among its members as shall be deemed necessary.

f. A voting member of the board of trustees shall not be a salaried official of the State of New Jersey, or receive remuneration for services from the university. No trustee shall be appointed who is an employee or paid official of any hospital affiliated with the university. If any member of the board shall become ineligible by reason of the foregoing, a vacancy in his office as trustee shall thereby occur.

g. The board of trustees shall have the power to appoint and regulate the duties, functions, powers and procedures of committees, standing or special, from its members and such advisory committees or bodies as it may deem necessary or conducive to the efficient management and operation of the university, consistent with this act and other applicable statutes.

C.18A:64M-8 Election of student representatives.

40. The board of trustees of the university shall provide for the election of two student representatives, who shall be full-time, regularly matriculated students in good academic standing, and who shall be 18 years of age or older and citizens of the United States. The student representatives shall be elected by the members of the student government association to serve on the board of trustees for terms of two years commencing at the next organization of the board.

a. A student shall be elected for a two-year term, but shall serve during the first year as an alternate member, and as a voting member during the second year.

Any vacancies which occur shall be filled by the student governing body for the unexpired term only.

b. The standards for eligibility for student representatives on the board of trustees shall be the same as those required for other student government officers.

c. The student members shall be entitled to full participation in all activities of the board except that they shall not participate in:

(1) Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion or disciplining of any specific prospective officer or employee or current officer or employee employed or appointed by the board, unless all the individual employees or appointees whose rights could be adversely affected request in writing that the matter or matters be discussed at a public meeting;

(2) Any matter involving the purchase, lease, acquisition or sale of real property with public funds, the setting of banking rates or investment of public funds, where it could adversely affect the public interest if discussion of these matters were disclosed; and

(3) Any pending or anticipated litigation in which the board is, or may become, a party, where it could adversely affect the public interest if discussion of these matters were disclosed, or any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.

d. Upon assuming office, the students shall agree to adhere to such standards of responsibility and confidentiality as are established by the board of trustees.

C.18A:64M-9 Powers, duties of board of trustees.

41. The board of trustees of Rowan University shall have the general supervision over and be vested with the conduct of the university. It shall have the power and duty, subject to the approval of the Rowan University-Rutgers Camden Board of Governors which shall be subject to the limitations set forth in section 34 of P.L.2012, c.45 (C.18A:64M-38), to:

a. Adopt and use a corporate seal;

b. Determine the educational curriculum and program of the university;

c. Determine policies for the organization, administration, and development of the university;

d. Study the educational and financial needs of the university, annually acquaint the Governor and Legislature with the condition of the university, and prepare and submit an annual request for appropriation to the Division of Budget and Accounting in the Department of the Treasury in accordance with law;

e. Disburse all moneys appropriated to the university by the Legislature and all moneys received from tuition, fees, auxiliary services and other sources;

f. Direct and control expenditures and transfers of funds appropriated to the university in accordance with the provisions of the State budget and appropriation acts of the Legislature, and, as to funds received from other sources, direct and control expenditures and transfers in accordance with the terms of any applicable trusts, gifts, bequests, or other special provisions, reporting changes and additions thereto and transfers thereof to the Director of the Division of Budget and Accounting in the Department of the Treasury. All accounts of the university shall be subject to audit by the State at any time;

g. In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint and fix the compensation and term of office of a president of the university who shall be the executive officer of the university and an ex officio member of the board of trustees, without vote, and shall serve at the pleasure of the board of trustees;

h. In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint, upon nomination of the president, such deans and other members of the academic, administrative, and teaching staffs as shall be required and fix their compensation and terms of employment;

i. Consistent with the provisions of its budget, this act and any and all controlling collective bargaining agreements, have the power, upon nomination or recommendation of the president, to appoint, remove, promote and transfer all other officers, agents, or employees which may be required to carry out the provisions of this act and prescribe qualifications for those positions, and assign requisite duties and determine and fix respective compensation for those positions in accordance with duly adopted salary program parameters;

j. Grant diplomas, certificates or degrees;

k. Enter into contracts and agreements with the State or any of its political subdivisions or with the United States, or with any public body, department or other agency of the State or the United States or with any individual, firm or corporation which are deemed necessary or advisable by the

board for carrying out the provisions of this act. A contract or agreement pursuant to this subsection may require a municipality to undertake obligations and duties to be performed subsequent to the expiration of the term of office of the elected governing body of such municipality which initially entered into or approved said contract or agreement, and the obligations and duties so incurred by such municipality shall be binding and of full force and effect, notwithstanding that the term of office of the elected governing body of such municipality which initially entered into or approved said contract or agreement, shall have expired;

l. Exercise the right of eminent domain, pursuant to the provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), to acquire any property or interest therein;

m. Adopt, after consultation with the president and faculty, bylaws and make and promulgate such rules, regulations, and orders, not inconsistent with the provisions of this act as are necessary and proper for the administration and operation of the university and the carrying out of its purposes;

n. Establish fees for room and board sufficient for the operation, maintenance, and rental of student housing and food services facilities;

o. Fix and determine tuition rates and other fees to be paid by students;

p. Accept from any government or governmental department, agency or other public or private body or from any other source grants or contributions of money or property which the board may use for or in aid of any of its purposes;

q. Acquire, by gift, purchase, condemnation or otherwise, own, lease, dispose of, use and operate property, whether real, personal or mixed, or any interest therein, which is necessary or desirable for university purposes;

r. Employ architects to plan buildings; secure bids for the construction of buildings and for the equipment thereof; make contracts for the construction of buildings and for equipment; and supervise the construction of buildings;

s. Manage and maintain, and provide for the payment of all charges on and expenses in respect of, all properties utilized by the university;

t. Borrow money and to secure the same by a mortgage on its property or any part thereof, and to enter into any credit agreement for the needs of the university and projects of the Rowan University-Rutgers Camden Board of Governors, as deemed requisite by the board, in such amounts and for such time and upon such terms as may be determined by the board, provided that no such borrowing shall be deemed or construed to create or constitute a

debt, liability, or a loan or pledge of the credit or be payable out of property or funds, other than moneys appropriated for that purpose, of the State;

u. Authorize any new program, educational department or school consistent with the programmatic mission of the institution or approved by the Secretary of Higher Education;

v. Adopt standing operating rules and procedures for the purchase of all equipment, materials, supplies and services; however, no contract on behalf of the university shall be entered into for the purchase of services, materials, equipment and supplies, for the performance of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds $30,700 or the amount determined by the Governor as provided herein, unless the university shall first publicly advertise for bids and shall award the contract to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the university, price and other factors considered. Such advertising shall not be required in those exceptions created by the board of trustees of the university, which shall be in substance those exceptions contained in sections 4 and 5 of P.L.1954, c.48 (C.52:34-9 and 10) 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 of this State 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 said board. Commencing July 1, 2013 and every two years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in this paragraph in direct proportion to the rise or fall of the consumer price index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall notify the university of the adjustment. The adjustment shall become effective on July 1 of the year in which it is reported.

This subsection shall not prevent the university from having any work performed by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience requires or the exigency of the university's service will not admit of such advertisement. In such case, the university shall, by resolution passed by the affirmative vote of its board of trustees, declare the exigency or emergency to exist, and set forth in the resolution the nature and approximate amount to be expended; shall maintain appropriate records as to the reason for such awards; and shall report regularly to its board of trustees on all such purchases, the amounts and the reasons therefor;

w. Invest certain moneys in such obligations, securities and other investments as the board shall deem prudent, consistent with the purposes and provisions of this act and in accordance with State and federal law, as follows:

Investment in not-for-profit corporations or for-profit corporations organized and operated pursuant to the provisions of subsection x. of this section may utilize income realized from the sale or licensing of intellectual property as well as the reinvestment of earnings on intellectual property. Investment in not-for-profit corporations may also utilize income from the operation of faculty practice plans of the university and income from overhead grant fund recovery as permitted by federal law as well as other university funds except those specified in paragraph 5 of subsection x. of this section;

x. (1) Participate as the general partner or as a limited partner, either directly or through a subsidiary corporation created by the university, in limited partnerships, general partnerships, or joint ventures engaged in the development, manufacture, or marketing of products, technology, scientific information or health care services and create or form for-profit or not-for-profit corporations to engage in such activities; provided that any such participation shall be consistent with the mission of the university and the board shall have determined that such participation is prudent;

(2) The decision to participate in any activity described in paragraph (1) of this subsection, including the creation or formation of for-profit or not-for-profit corporations, shall be articulated in the minutes of the board of trustees meeting in which the action was approved;

(3) The provisions of P.L.1971, c.182 (C.52:13D-12 et seq.) shall continue to apply to the university, its employees, and officers;

(4) Nothing herein shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit or be payable out of property or funds of the State;

(5) Funds directly appropriated to the university from the State or derived from the university's academic programs or derived from payment for coverage provided by the self insurance fund for claims accruing prior to the effective date of this act shall not be utilized by the for-profit or not-for-profit corporations organized and operated pursuant to this subsection in the development, manufacture, or marketing of products, technology or scientific information;

(6) Employees of any joint venture, subsidiary corporation, partnership, or other jural entity entered into or owned wholly or in part by the university shall not be deemed public employees;

(7) A joint venture, subsidiary corporation, partnership, or other jural entity entered into or owned wholly or in part by the university shall not be deemed an instrumentality of the State of New Jersey;

(8) Income realized by the university as a result of participation in the development, manufacture, or marketing of products, technology, or scientific information may be invested or reinvested pursuant to subsection w. of this section or any other provision of this act or State or federal law or retained by the board for use in furtherance of any of the purposes of this act or of other applicable statutes;

(9) The board shall annually report to the State Treasurer on the operation of all joint ventures, subsidiary corporations, partnerships, or such other jural entities entered into or owned wholly or in part by the university;

y. Sue and be sued in its own name;

z. Retain independent counsel including representation by the Attorney General in accordance with subsection h. of section 6 of P.L.1994, c.48 (C.18A:3B-6);

aa. (1) Procure and enter into contracts for any type of insurance and indemnify against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employees' liability, against any act of any member, officer, employee or servant of the university, whether part-time, full-time, compensated or non-compensated in the performance of the duties of his office or employment or any other insurable risk. In addition, the university shall carry its own liability insurance or maintain an actuarially sound program of self insurance. Any joint venture, subsidiary corporation, or partnership or such other jural entity entered into or owned wholly or in part by the university shall carry insurance or maintain reserves in such amounts as are determined by an actuary to be sufficient to meet its actual or accrued claims;

(2) Moneys in the fund known as the Self-Insurance Trust Fund administered by the State Treasurer shall continue to be available to the university solely to indemnify and defend claims against the university and its employees, officers and servants but only to the extent that the university has elected on behalf of itself and its employees to obtain representation from the Attorney General pursuant to subsection h. of section 6 of P.L.1994, c.48 (C.18A:3B-6) and such entity or individuals would have been entitled to defense and indemnification pursuant to the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., as a State entity or State employee but for the provision of subsection z. of this section. Any expenditure of such funds shall be made only in accordance with the provisions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., including but not limited to the pro-

visions of chapters 10, 10A and 11 of Title 59 of the New Jersey Statutes. Nothing herein shall be construed to authorize the use of the Self-Insurance Trust Fund to indemnify or insure in any way, directly or indirectly the activities of any joint venture, partnership or corporation entered into or created by the university pursuant to subsection x. of this section;

bb. Create auxiliary organizations subject to the provisions of P.L.1982, c.16 (C.18A:64-26 et seq.);

cc. Adopt a code of ethics that complies with the requirements of all statutes applicable to the institution, including, but not limited, to the "Higher Education Restructuring Act of 1994," P.L.1994, c.48 (C.18A:3B-1 et al.), the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.), regulations of the State Ethics Commission, and any applicable executive orders; and

dd. Establish a procedure for the confidential, anonymous submission of employee concerns regarding alleged wrongdoing at the university.

C.18A:64M-10 Certain functions, powers, duties exercised, performed by Director of Division of Investment.

42. All functions, powers and duties relating to the investment or reinvestment of funds other than those funds specified in subsection w. of section 41 of P.L.2012, c.45 (C.18A:64M-9) within the jurisdiction of the board of trustees including the purchase, sale, or exchange of any investments or securities may be exercised and performed by the Director of the Division of Investment in the Department of the Treasury in accordance with the provisions of P.L.1950, c.270 (C.52:18A-79 et seq.) if so authorized by the board. Before any such investment, reinvestment, purchase, sale, or exchange shall be made by the director for or on behalf of the board of trustees, the Director of the Division of Investment shall submit the details thereof to the board, which shall, itself or by its finance committee, within 48 hours, exclusive of Sundays and public holidays, after such submission to it, file with the director its written acceptance or rejection of such proposed investment, reinvestment, purchase, sale, or exchange; and the director shall have authority to make such investment, reinvestment, purchase, sale, or exchange for or on behalf of the board, unless there shall have been filed with him a written rejection thereof by the board or its finance committee as herein provided. The board of trustees shall determine from time to time the cash requirements of the various funds and accounts established by it and the amount available for investment, all of which shall be certified to the State Treasurer and the Director of the Division of Investment.

The finance committee of the board of trustees shall consist of three members of the board who shall be appointed in the same manner and for the same term as other committees of the board are appointed.

C.18A:64M-11 Maintenance of Internet website for board of trustees.

43. The university shall maintain an Internet website for the board of trustees. The purpose of the website shall be to provide increased public access to board operations and activities. The following information shall be posted on the board's website:

a. the board's rules, regulations, resolutions, and official policy statements;

b. notice, posted at least five business days prior to a meeting of the board or any of its committees, setting forth the time, date, location, and agenda of the meeting;

c. the minutes of each meeting of the board and its committees; and

d. information on any contract entered into by the board that was not competitively bid and the statutory authority for the contracting process.

The website shall be updated on a regular basis.

C.18A:64M-12 Additional rights of board of trustees.

44. The board of trustees, in addition to the other powers and duties provided herein, shall be vested with the right of perpetual succession and shall have and exercise all the powers, rights, and privileges that are incident to the proper governance, conduct, and management of the university and the control of its properties and funds and such powers granted to the university or the board or reasonably implied, may be exercised without recourse or reference to any department or agency of the State, except as otherwise provided by this act.

C.18A:64M-13 Appointment, compensation of president of the university.

45. The board shall appoint and fix the compensation of a president of the university. The president shall be responsible to the board of trustees and shall have such powers as shall be requisite for the executive management and conduct of the university in all departments, branches and divisions, and for the execution and enforcement of bylaws, ordinances, rules, regulations, statutes, and orders governing the management, conduct and administration of the university.

C.18A:64M-14 Immunity from personal liability.

46. No trustee or officer of the university shall be personally liable for any debt, obligation, or other liability of the university or incurred by or on behalf of the university or any constituent unit thereof.

C.18A:64M-15 Advice to Governor, Legislature.

47. The board of trustees shall advise the Governor and Legislature, in consultation with the Secretary of Higher Education and the President's Council and successor bodies, on the manner in which the facilities and services of the university may be utilized so as to increase the efficiency of the public education system and provide, maintain, and improve upon the quality of higher education for the people of the State. The board of trustees shall make recommendations to the Governor and the Legislature respecting the needs for the facilities and services of the university as an educational instrumentality of the State for that purpose.

C.18A:64M-16 University personnel eligible for participation in certain public retirement plans.

48. Subject to the provisions of P.L.1969, c.242 (C.18A:66-167 et seq.) and except as otherwise provided by law, the university shall be deemed to be an employer for the purposes of the "Public Employees' Retirement System Act," P.L.1954, c.84 (C.43:15A-1 et seq.), and shall also be deemed to be a "public agency or organization" within the meaning of section 71 of that act (C.43:15A-71). Further, the university's commissioned police officers shall be eligible for participation in and subject to the provisions of the "Police and Firemen's Retirement Systems Act," P.L.1944, c.255 (C.43:16A-1 et seq.), and the university shall be deemed an employer within the meaning of that act.

C.18A:64M-17 Construction of act.

49. Nothing herein contained shall be construed to impair, annul or affect any vested rights, grants, privileges, exemptions, immunities, powers, prerogatives, franchises, or advantages heretofore obtained or enjoyed by the university or any constituent unit thereof, under any authority or any act of this State or under any grant, deed, conveyance, transfer, lease, estate, remainder, expectancy, trust, gift, donation, legacy, devise, endowment or fund, all of which are hereby ratified and confirmed except insofar as the same may have expired, be or have been repealed or altered, or may be inconsistent with this act or with existing provisions of law; subject however, thereto and to all of the rights, obligations, relations, conditions, terms, trust, duties, and liabilities to which the same are subject.

C.18A:64M-18 Officers, agents, employees unaffected.

50. The enactment and adoption of this act shall not, of itself, affect the official, operational, or organizational status of any officer of the university or any and all outstanding authorizations of any officer, agent, or employee to take specified action, or any and all outstanding commitments or under-

takings of or by the university, except and only to the extent that any of the same may be inconsistent with this act.

C.18A:64M-19 Certain funds, property, employees transferred to Rowan University.

51. Upon the establishment of the body corporate and politic known as Rowan University:

a. All appropriations, grants, debt service, research funds, and other monies available to Rowan University prior to the effective date of this act and to become available shall be transferred to the university by the Director of the Division of Budget and Accounting in the Department of the Treasury and shall be available for the objects and purposes for which appropriated, subject to any terms, restrictions, limitations or other requirements imposed by the State budget;

b. All other grants, gifts, other moneys and property available to Rowan University prior to the effective date of this act and to become available to or for Rowan University shall be transferred to the university and shall be available for the objects and purposes of the university, subject to any terms, restrictions, limitations or other requirements imposed by State and federal law or otherwise;

c. All employees of Rowan University prior to the effective date of this act shall become employees of the university. Nothing in this act shall be construed so as to deprive any person of any right of tenure or under any retirement system or to any pension, disability, social security or similar benefit, to which the person is entitled by law or contractually. All persons employed at Rowan University shall continue to be represented by the majority representative that represented them on the effective date of this act, shall continue to be represented by the executive branch Statewide collective negotiations units they were in on the effective date of this act, and shall continue to be covered by the collective negotiations agreements that were in effect on the effective date of this act. Pursuant to section 12 of P.L.1986, c.42 (C.18A:64-21.1), the Governor shall continue to function as the public employer under the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), for persons employed at Rowan University. The executive branch Statewide collective negotiations units referenced in this section are the units specified in subsection b. of section 1 of P.L.2005, c.142 (C.34:13A-5.10). The employees of Rowan University employed on the effective date of this act shall not be considered new employees for any purpose and shall retain any accrued seniority, rank, and tenure, which shall be applied when determining eligibility for all benefits, including all paid leave time, longevity increases, promotions and health benefits.

Nothing in this act shall be construed to deprive any person employed at Rowan University of any tenure rights or to in any manner affect the tenure, rank, or academic track of any employees holding a faculty position. Such tenure, rank and academic track shall continue to be through Rowan University and shall be held or granted pursuant to the authority of the board of trustees of Rowan University for all current and future employees employed at Rowan University. Nothing in this act shall be construed to deprive any officers or employees employed at Rowan University of their rights, privileges, obligations or status under any pension, retirement, health benefits system, civil service law or any other law of this State;

d. All files, papers, records, equipment and other personal property of Rowan University shall be transferred to the university; and

e. All orders, rules or regulations theretofore made or promulgated by Rowan University shall continue in full force and effect as the orders, rules and regulations of the university until amended or repealed by the university.

C.18A:64M-20 Certain actions unaffected.

52. This act shall not affect actions or proceedings, civil or criminal, brought by or against Rowan University, but such actions or proceedings may be prosecuted or defended in the same manner and to the same effect by the university as if the foregoing provisions had not taken effect; nor shall any of the foregoing provisions affect any order or regulation made by, or other matters or proceedings before, Rowan University, and all such matters or proceedings pending before Rowan University on the effective date of this act shall be continued by the university, as if the foregoing provisions had not taken effect.

C.18A:64M-21 References refer to Rowan University.

53. Whenever in any law, rule, regulation, contract, document, judicial or administrative proceeding or otherwise, reference is made to Rowan University, the same shall mean and refer to Rowan University, herein referred to as "university," established as a public research university pursuant to the provisions of this act.

C.18A:64M-22 Powers of Secretary of Higher Education.

54. The general powers of supervision and control of the Secretary of Higher Education at the request of the Governor over Rowan University include the power to visit the university to examine into its manner of conducting its affairs and to enforce an observance of its laws and regulations and the laws of the State.

C.18A:64M-23 Governor of contract claims, suits.

55. Notwithstanding any of the provisions of the "New Jersey Contractual Liability Act" (N.J.S.59:13-1 et seq.) to the contrary, contract claims and suits against the university shall be governed by that act.

C.18A:64M-24 Warranty by contractor.

56. Every contract or agreement negotiated, awarded or made pursuant to this act shall contain a suitable warranty by the contractor that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business, for the breach or violation of which warranty the university shall have the right to annul such contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

C.18A:64M-25 Violations deemed misdemeanor.

57. Any person willfully authorizing, consenting to, making or procuring to be made payment of university funds for or on account of any purchase, contract or agreement known to him to have been made or entered into in violation of any of the provisions of this act shall be guilty of a misdemeanor.

C.18A:64M-26 Certain transactions prohibited.

58. The payment of any fee, commission or compensation of any kind or the granting of any gift or gratuity of any kind, either directly or indirectly, whether or not in connection with any purchase, sale or contract, to any person employed by Rowan University, having any duties or responsibilities in connection with the purchase or acquisition of any property or services by the university, by or on behalf of any seller or supplier who has made, negotiated, solicited or offered to make and contract to sell or furnish real or personal property or services to the university is hereby prohibited. Any person offering, paying, giving, soliciting or receiving any fee, commission, compensation, gift or gratuity in violation of this section shall be guilty of a misdemeanor.

C.18A:64M-27 Terms of board members unaltered.

59. The provisions of this act shall not alter the term of any member of the board, not specifically abolished herein, lawfully in office as of the effective date of this act, or require the reappointment thereof.

C.18A:64M-28 Construction of act.

60. No provision of 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 of New Jersey.

C.18A:64M-29 Liberal construction.

61. This act, being deemed and declared necessary for the welfare of the State and the people of New Jersey to provide for the development of public higher education in the State and thereby to improve the quality and increase the efficiency of the public system of educational services of the State, shall be liberally construed to effectuate the purposes and intent thereof.

C.18A:64M-30 Allocation to Department of State.

62. In accordance with the provisions of section 27 of P.L.1994, c.48 (C.18A:3B-27), the university is allocated to the Department of State for the purposes of complying with the provisions of Article V, Section IV, Paragraph 1 of the New Jersey Constitution. Notwithstanding this allocation, the university shall be independent of any supervision or control of the Department of State or any board, commission, or officer thereof and the allocation shall not in any way affect the principles of institutional autonomy established by that act and as otherwise enumerated herein.

63. Section 2 of P.L.1991, c.387 (C.2A:14-1.2) is amended to read as follows:

C.2A:14-1.2 Civil actions commenced by the State, 10 years; "State" defined; exceptions.

2. a. Except where a limitations provision expressly and specifically applies to actions commenced by the State or where a longer limitations period would otherwise apply, and subject to any statutory provisions or common law rules extending limitations periods, any civil action commenced by the State shall be commenced within ten years next after the cause of action shall have accrued.

b. For purposes of determining whether an action subject to the limitations period specified in subsection a. of this section has been commenced within time, no such action shall be deemed to have accrued prior to January 1, 1992.

c. As used in this act, the term "State" means the State, its political subdivisions, any office, department, division, bureau, board, commission or agency of the State or one of its political subdivisions, and any public

authority or public agency, including, but not limited to, the New Jersey Transit Corporation.

The provisions of this section shall not apply to any civil action commenced by the State concerning the remediation of a contaminated site or the closure of a sanitary landfill facility, or the payment of compensation for damage to, or loss of, natural resources due to the discharge of a hazardous substance, and subject to the limitations period specified in section 5 of P.L.2001, c.154 (C.58:10B-17.1).

64. N.J.S.11A:6-6 is amended to read as follows:

State administrative leave.

11A:6-6. State administrative leave. Administrative leave for personal reasons including religious observances for full-time State employees or those employees of Rutgers, The State University, New Jersey Institute of Technology and Rowan University who perform services similar to those performed by employees of the New Jersey State colleges who are in the career service shall be three working days per calendar year. Administrative leave shall not be cumulative and any administrative leave unused by an employee at the end of any year shall be cancelled.

65. N.J.S.11A:6-17 is amended to read as follows:

Supplemental compensation; employees of Rutgers, The State University, New Jersey Institute of Technology, and Rowan University.

11A:6-17. Supplemental compensation; employees of Rutgers, The State University, New Jersey Institute of Technology, and Rowan University. The supplemental compensation provided under this chapter shall also be paid to each employee of Rutgers, The State University, New Jersey Institute of Technology, and Rowan University who performs services similar to those performed by employees of the New Jersey State colleges who are in the career service or who have been granted sick leave under terms and conditions similar to career service employees, including those employees of Rutgers, The State University who are members of the Newark Employees' Retirement System.

66. Section 4 of P.L.2003, c.193 (C.17B:27D-4) is amended to read as follows:

C.17B:27D-4 Membership; terms; vacancies.

4. The commission shall consist of 17 voting members as follows: the Commissioners of Health, Human Services and Banking and Insurance or

their designees, who shall serve ex officio; three public members appointed by the President of the Senate, who shall include a representative of a commercial health insurance company, a physician licensed in this State who is a member of the Medical Society of New Jersey, and a representative of the New Jersey Business and Industry Association, no more than two of whom shall be from the same political party; three public members appointed by the Speaker of the General Assembly, who shall include a representative of a health service corporation, a physician licensed in this State, and a representative of organized labor, no more than two of whom shall be from the same political party; and eight public members appointed by the Governor, who shall include a medical educator from Rutgers, The State University whose major field of expertise is the study and evaluation of the cost of health care and health insurance, a representative of the New Jersey Association of Health Plans, a representative of the New Jersey Hospital Association, a representative of the New Jersey State Nurses Association, a representative of the New Jersey Dental Association, a representative of a consumer advocacy organization and two representatives of the general public who are knowledgeable about health benefits plans.

The President of the Senate may appoint two members of the Senate, no more than one of whom shall be from the same political party, to serve as nonvoting members of the commission. The Speaker of the General Assembly may appoint two members of the General Assembly, no more than one of whom shall be from the same political party, to serve as nonvoting members of the commission. The legislative members shall serve during their legislative term of office.

Of the voting members first appointed, four shall serve for a term of two years, four for a term of three years, and three for a term of four years.

Voting members appointed thereafter shall serve four-year terms, and any vacancy shall be filled by appointment for the unexpired term only. A member is eligible for reappointment. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

67. Section 3 of P.L.1994, c.48 (C.18A:3B-3) is amended to read as follows:

C.18A:3B-3 Definitions.

3. For the purposes of this act, unless the context clearly requires a different meaning:

"Authority" means the Higher Education Student Assistance Authority established pursuant to N.J.S.18A:71A-3;

"Commission" means the New Jersey Commission on Higher Education established by this act;

"Council" means the New Jersey Presidents' Council established by this act;

"Programmatic Mission" means all program offerings consistent within those levels of academic degrees or certificates that the institution has been authorized to grant by the State Board of Higher Education prior to the effective date of this act or approved thereafter by the commission;

"Public Research University" means Rutgers, The State University of New Jersey, Rowan University, and the New Jersey Institute of Technology;

"State college" means any of the State colleges or universities established pursuant to chapter 64 of Title 18A of the New Jersey Statutes including any State college designated as a teaching university.

68. Section 12 of P.L.1994, c.48 (C.18A:3B-12) is amended to read as follows:

C.18A:3B-12 Executive board.

12. a. There shall be established an executive board which performs such duties as determined by the council. The executive board shall be composed of 15 members as follows:

The president of Rutgers, The State University;

The president of New Jersey Institute of Technology;

The president of Rowan University;

Three presidents of State Colleges who shall be selected by the presidents of this sector;

Five presidents of county colleges who shall be selected by the presidents of this sector;

Three presidents of independent institutions who shall be selected by the presidents of this sector;

One president of the proprietary schools which have been authorized to offer licensed degree programs who shall be selected by the presidents of these proprietary schools.

b. The chair of the executive board shall be rotated among the following: one of the presidents of Rutgers, The State University of New Jersey, the president of Rowan University, and the president of New Jersey Institute of Technology; a president selected by the presidents of the State Colleges; a president selected by the presidents of the county colleges; and a

president selected by the presidents of the independent institutions. The chair of the executive board shall serve for a two-year period. Biennially, the executive board shall select the chair in the manner provided above, but not necessarily in the order provided above.

c. The chair of the executive board shall also serve as the chair of the council.

69. Section 1 of P.L.2009, c.308 (C.18A:3B-46) is amended to read as follows:

C.18A:3B-46 Definitions relative to structure and fiscal management of higher education.

1. As used in this act:

"Commission" means the New Jersey Commission on Higher Education established pursuant to section 13 of P.L.1994, c.48 (C.18A:3B-13);

"Public research university" means Rutgers, The State University of New Jersey, Rowan University, and the New Jersey Institute of Technology;

"State college" means the State colleges or universities established pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

70. Section 2 of P.L.2007, c.171 (C.18A:26-2.9) is amended to read as follows:

C.18A:26-2.9 Recommendations for autism, developmental disabilities awareness instruction, teaching methods.

2. a. The Commissioner of Education shall develop recommendations for autism and other developmental disabilities awareness instruction and methods of teaching students with autism and other developmental disabilities for teacher preparation programs in accordance with section 1 of this act and shall submit the recommendations to the State Board of Education. In developing the recommendations, the commissioner shall consult with the Commissioner of Health and Senior Services, representatives from entities that promote awareness about autism and other developmental disabilities and provide programs and services to people with autism and other developmental disabilities, including, but not limited to Autism Speaks, The Autism Center of New Jersey Medical School at Rutgers, The State University, and The New Jersey Center for Outreach and Services for the Autism Community, and representatives of the education community, including, but not limited to the New Jersey Education Association, the New Jersey School Boards Association, the New Jersey Principals and Supervisors Association, and the New Jersey Professional Teaching Standards Board.

b. The Commissioner of Education shall develop recommendations to incorporate autism and other developmental disabilities awareness instruction and methods of teaching students with autism and other developmental disabilities for teacher and paraprofessional in-service and other training programs, where appropriate, and shall submit the recommendations to the State board. In developing the recommendations, the commissioner shall consult with the Commissioner of Health and Senior Services, representatives from entities that promote awareness about autism and other developmental disabilities and provide programs and services to people with autism and other developmental disabilities, including, but not limited to Autism Speaks, The Autism Center of New Jersey Medical School at Rutgers, The State University, and The New Jersey Center for Outreach and Services for the Autism Community, and representatives of the education community, including, but not limited to the New Jersey Education Association, the New Jersey School Boards Association, the New Jersey Principals and Supervisors Association, and the New Jersey Professional Teaching Standards Board.

c. The recommendations developed by the commissioner pursuant to subsections a. and b. of this section shall address the following:

(1) characteristics of students with autism and other developmental disabilities;

(2) curriculum planning, curricular and instructional modifications, adaptations, and specialized strategies and techniques;

(3) assistive technology; and

(4) inclusive educational practices, including collaborative partnerships.

71. Section 1 of P.L.1985, c.161 (C.18A:64-45) is amended to read as follows:

C.18A:64-45 New Jersey Association of State Colleges and Universities.

1. There is established a body corporate and politic, with corporate succession, to be known as the New Jersey Association of State Colleges and Universities. New Jersey City University, Kean University, Montclair State University, Ramapo College of New Jersey, Richard Stockton College of New Jersey, Thomas Edison State College, The College of New Jersey and The William Paterson University of New Jersey shall constitute the membership of the association.

72. Section 2 of P.L.1985, c.161 (C.18A:64-46) is amended to read as follows:

C.18A:64-46 Membership of association.

2. The association shall consist of eight voting members to be appointed as follows: one member from each member institution's boards of trustees, appointed by the members thereof. In addition the presidents of the member institutions shall serve as ex officio, nonvoting members.

Members shall serve without compensation but shall be entitled to be reimbursed for all reasonable and necessary expenses.

73. Section 3 of P.L.2006, c.95 (C.18A:64G-6.1) is amended to read as follows:

C.18A:64G-6.1 Board of directors of University Hospital; appointment; organization; powers.

3. a. The management, supervision, and administration of University Hospital shall be vested in an 11-member board of directors of University Hospital. The board shall be comprised of:

(1) four members who shall serve ex-officio including: the Dean of New Jersey Medical School, the Dean of New Jersey Dental School, the President of Rutgers, The State University or a designee, and the Chancellor of the School of Biomedical and Health Sciences of Rutgers University; and

(2) seven public members, three of whom shall be appointed by the Governor, with the advice and consent of the Senate, for a five-year term with one of these members being a resident of the City of Newark; and four of whom shall be appointed by the Governor without the advice and consent of the Senate, for a five-year term, except that upon the expiration of the term of these initial four members appointed pursuant to P.L.2012, c.45 (C.18A:64M-1 et al.), all seven public members appointed by the Governor shall require the advice and consent of the Senate.

A member of the board of directors shall serve until the member's successor is appointed and has qualified. Any vacancies in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only. Each member of the board of directors before entering upon the member's duties shall take and subscribe an oath to perform the duties of the office faithfully, impartially, and justly to the best of the member's ability. A record of the oath shall be filed in the office of the Secretary of State. Each member of the board may be removed from office by the Governor, for cause, after a public hearing.

b. The members of the board of directors shall meet at the call of the Governor for purposes of organizing. The board shall thereafter meet at such times and places as it shall designate.

c. The Governor shall designate one of the members as chairman of the board of directors. The board shall select the other officers from among its members as shall be deemed necessary.

d. The board of directors shall have the power to appoint and regulate the duties and procedures of committees, standing or special, from its members and such advisory committees or bodies, as it may deem necessary or conducive to the efficient management and operation of the hospital.

e. The board shall have the power and duty to exercise general oversight over the affairs of University Hospital to ensure the fulfillment of its mission and to:

(1) direct and control expenditures of University Hospital funds;

(2) borrow money;

(3) enter into contracts with the State or federal government, or any individual, firm, or corporation;

(4) solicit and accept grant moneys;

(5) acquire, own, lease, dispose of, use, and operate property;

(6) sue and be sued;

(7) enter into a contract or other agreement with a nonprofit corporation operating one or more hospitals in New Jersey to operate and manage or assist in the operation and management of University Hospital; and

(8) hire, fire, and fix salaries for all employees of University Hospital.

74. Section 1 of P.L.1999, c.353 (C.18A:64G-35) is amended to read as follows:

C.18A:64G-35 "Physician-Dentist Fellowship and Education Program to Provide Health Care to Persons with Developmental Disabilities."

1. There is established a "Physician-Dentist Fellowship and Education Program to Provide Health Care to Persons with Developmental Disabilities" within Rutgers, The State University. The purpose of the program is to provide physicians and dentists with graduate and fellowship training through academic institutions in the State and continuing medical and dental education on a Statewide basis, in the provision of medical and dental services to persons with developmental disabilities to ensure that these services are accessible and adequately available to persons with developmental disabilities in the State.

75. Section 2 of P.L.1999, c.353 (C.18A:64G-36) is amended to read as follows:

C.18A:64G-36 Establishment of consortium to advise director.

2. There is established a 17-member Consortium on Physician and Dentist Training in Health Care for Persons with Developmental Disabilities to advise the director of the program on the implementation of this act.

a. The members of the consortium shall include: one representative each from the pediatric medicine, family medicine, internal medicine, neurology and psychiatry programs at Rutgers, The State University, one representative from the New Jersey Dental School, and one representative of the University Affiliated Program, to be appointed by the President of Rutgers, The State University; the director of the Mainstreaming Medical Care program of The Arc of New Jersey, who shall serve ex officio; the Director of the Division of Developmental Disabilities in the Department of Human Services, who shall serve ex officio; the Director of the Division of Medical Assistance and Health Services in the Department of Human Services, who shall serve ex officio; the Commissioner of Health and Senior Services or the commissioner's designee, who shall serve ex officio; three health care provider public members appointed by the Commissioner of Human Services, one each upon the recommendation of the Medical Society of New Jersey, the New Jersey Association of Osteopathic Physicians and Surgeons and the New Jersey Dental Association; and three public members appointed by the Commissioner of Human Services, two of whom shall represent community organizations that advocate for persons with developmental disabilities and one of whom shall be a family member of a person with a developmental disability or a person with a developmental disability who is a self advocate.

The President of Rutgers, The State University and the Commissioner of Human Services shall make the appointments to the consortium within 60 days of the effective date of this act.

Members of the consortium shall serve for a term of three years and are eligible for reappointment, but of the members first appointed, five shall serve for a term of one year, four for a term of two years and four for a term of three years. Vacancies shall be filled in the same manner as the original appointments were made.

b. Members shall serve without compensation, but the public members shall be entitled to reimbursement for necessary expenses incurred in the performance of their duties and within the limits of funds appropriated to the program.

c. The consortium shall organize as soon as may be practicable after the appointment of its members. The Director of the Division of Developmental Disabilities shall serve as the chairman of the consortium. The mem-

bers of the consortium shall elect a vice-chairman from among the members. All members, including ex officio members, shall be eligible to vote on all matters before the consortium. The director of the program, appointed pursuant to section 5 of this act, shall serve as secretary to the consortium.

d. The consortium shall assist the director of the program in establishing policies and procedures for the nomination and selection of physicians and dentists as program fellows. The consortium shall otherwise advise the director on the operation of the program as the director deems necessary, and as specified in this act.

76. Section 5 of P.L.1999, c.353 (C.18A:64G-39) is amended to read as follows:

C.18A:64G-39 Appointment of director.

5. The President of Rutgers, The State University shall, in consultation with the consortium, appoint a director for the program who shall be a State licensed physician. The director of the program need not be solely responsible for the program and may continue to have other duties. The director may, in consultation with the consortium, appoint regional chairmen or chairmen of medical or dental practice specialties, as the director deems necessary for the operation of the program.

77. Section 4 of P.L.1977, c.390 (C.18A:64H-4) is amended to read as follows:

C.18A:64H-4 Council membership; appointment; terms; vacancies; advisory committees; executive director and employees; compensation.

4. The council shall consist of 15 members, 12 voting members and three nonvoting members; four members of the council shall be appointed by the Governor and 11 shall be ex officio members. The appointments shall consist of three representatives of the public and one student currently enrolled in a graduate medical training program; the appointed members shall be voting members of the council. The president of Rutgers, The State University, who shall serve as chairperson; a dean from one of the medical schools of Rutgers, The State University, to be selected by the president of Rutgers, The State University; the dean of the School of Graduate Medical Education of Seton Hall University; the president of the New Jersey Hospital Association; the president of the Association of Hospital Directors of Medical Education of New Jersey; the president of the New Jersey Association of Osteopathic Physicians and Surgeons; the president of the Medical Society of New Jersey; and the president of the New Jersey Council of

Teaching Hospitals or their designated representatives shall be ex officio, voting members of the council. The Commissioner of Health and Senior Services; the president of the State Board of Medical Examiners and the Commissioner of Human Services or their designated representatives shall be ex officio, nonvoting members. The appointed members shall serve for a three-year term or until a successor is appointed. For 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. Any vacancies in the voting membership other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only. To assist the council in carrying out the intent of this act:

a. The council may appoint advisory committees representative of the medical and health care professions, educators, and students, representatives of medical and health care facilities and consumers. The advisory committees shall provide advice and assistance to the council for the council's performance of its designated functions.

b. The council may employ an executive director and additional staff to provide expertise in the gathering and analysis of data and administration. The executive director shall have the right to speak on all matters at meetings of the council but shall have no vote. The council and the advisory committees shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties.

78. Section 1 of P.L.2003, c.133 (C.18A:64H-9) is amended to read as follows:

C.18A:64H-9 "Advisory Committee on Alternatively Accredited Medical School Clinical Clerkships."

1. a. There is created, within the Office of the Secretary of Higher Education, the "Advisory Committee on Alternatively Accredited Medical School Clinical Clerkships."

The advisory committee shall consist of 11 members as follows: the Commissioner of Health and Senior Services or his designee, who shall serve ex officio; four members appointed by the Governor who include one representative of the Medical Society of New Jersey, one representative of the New Jersey Association of Osteopathic Physicians and Surgeons, one representative of the New Jersey Hospital Association and one representative of an alternatively accredited medical school; two members appointed by the President of the Senate who include one representative of the New Jersey Council of Teaching Hospitals and one representative of a teaching

hospital in New Jersey that has students from an alternatively accredited medical school participating in a clinical clerkship program; two members appointed by the Speaker of the General Assembly who include one representative of an alternatively accredited medical school and one representative of a teaching hospital in New Jersey that has students from a medical school of Rutgers, The State University in a clinical clerkship program; one member appointed by the State Board of Medical Examiners; and one member appointed by the President of Rutgers, The State University. No two members of the advisory committee shall be representatives of the same medical school or hospital.

b. Members shall serve for a term of three years from the date of their appointment and until their successors are appointed and qualified, except that of the members first appointed, four members shall serve for a term of one year, three members shall serve for a term of two years and three members shall serve for a term of three years. Vacancies shall be filled for the balance of the unexpired term in the same manner as the original appointments were made. A member of the advisory committee shall be eligible for reappointment.

c. The members of the advisory committee shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses actually incurred in the performance of their duties, within the limits of funds appropriated or otherwise made available to the advisory committee for this purpose.

d. The advisory committee shall select a chairman from among its members, who shall serve a one-year term but may serve successive terms. The advisory committee shall meet upon the call of the chairman or of a majority of its members. A majority of the members of the advisory committee shall constitute a quorum, and no action of the advisory committee shall be taken except upon the affirmative vote of a majority of the members of the entire advisory committee.

e. As used in this act, "alternatively accredited medical school" means a medical school located outside the United States: (1) in a country that applies accreditation standards that have been determined by the National Committee on Foreign Medical Education and Accreditation within the United States Department of Education to be comparable to the accreditation standards applied to medical schools located within the United States; (2) that continues to meet the accreditation standards of that country; and (3) has medical school students participating in a clinical clerkship program in New Jersey prior to the effective date of this act, or is approved by the

Advisory Graduate Medical Education Council of New Jersey pursuant to section 4 of this act to operate a clinical clerkship program in this State.

79. Section 2 of P.L.1985, c.103 (C.18A:64J-2) is amended to read as follows:

C.18A:64J-2 Definitions.

2. For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education, which are provided substantial and concentrated financial support to promote their development into national-level bases for innovative technology research.

b. "Business incubation facilities" means low-cost, short-term occupancy, rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education.

c. "Commission" means the Governor's Commission on Science and Technology as created by Executive Order No. 12 of 1982 or its successor which is established by the Legislature.

d. "Consortium" means a cooperative arrangement between two or more institutions of higher education to pursue a program for strengthening academic programs, improving administration or providing for other special needs.

e. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education, which are of strategic importance to the New Jersey economy, under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

f. "Private institutions of higher education" means independent colleges, universities or institutes incorporated and located in New Jersey, which by virtue of law or character or license are nonprofit educational institutions authorized to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution

dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

g. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan University, the county colleges and any other public university or college now or hereafter established or authorized by law.

h. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

80. Section 3 of P.L.1985, c.103 (C.18A:64J-3) is amended to read as follows:

C.18A:64J-3 Advanced Technology Center in Hazardous and Toxic Substance Management.

3. There is established the Advanced Technology Center in Hazardous and Toxic Substance Management, hereinafter referred to as the center, at the New Jersey Institute of Technology in the City of Newark, County of Essex with the cooperation of a research and public policy consortium led by the New Jersey Institute of Technology and including Stevens Institute of Technology, and Rutgers, The State University. Various other public and private institutions of higher education and their faculties may be considered for participation in the work of the center in the future by the commission.

81. Section 2 of P.L.1985, c.104 (C.18A:64J-9) is amended to read as follows:

C.18A:64J-9 Definitions.

2. For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education, which are provided substantial and concentrated financial support to promote their development into national-level bases for innovative technology research.

b. "Business incubation facilities" means low-cost, short-term occupancy, rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education.

c. "Commission" means the Governor's Commission on Science and Technology as created by Executive Order No. 12 of 1982 or its successor which is established by the Legislature.

d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education, which are of strategic importance to the New Jersey economy, under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license are nonprofit educational institutions authorized to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan University, the county colleges and any other public university or college now or hereafter established or authorized by law.

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private universities to existing industry, but also adapt these innovations to the requirements of individual business operations.

82. Section 2 of P.L.1985, c.105 (C.18A:64J-16) is amended to read as follows:

C.18A:64J-16 Definitions.

2. For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education, which are provided substantial and concentrated financial support to promote their development into national-level bases for innovative technology research.

b. "Business incubation facilities" means low-cost, short-term occupancy, rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education.

c. "Commission" means the Governor's Commission on Science and Technology as created by Executive Order No. 12 of 1982 or its successor which is established by the Legislature.

d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education, which are of strategic importance to the New Jersey economy, under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license are nonprofit educational institutions authorized to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan University, the county colleges and any other public university or college now or hereafter established or authorized by law.

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

83. Section 3 of P.L.1985, c.105 (C.18A:64J-17) is amended to read as follows:

C.18A:64J-17 Advanced Technology Center in Biotechnology.

3. There is established the Advanced Technology Center in Biotechnology (hereinafter referred to as the center) under the governance of Rut-

gers, The State University and with the participation of other public and private institutions of higher education and faculties who may be considered for participation in the work of the center in the future by the commission. The center shall be composed of various units at locations designated by the participating institutions, with the approval of the commission.

84. Section 2 of P.L.1985, c.106 (C.18A:64J-23) is amended to read as follows:

C.18A:64J-23 Definitions.

2. For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education, which are provided substantial and concentrated financial support to promote their development into national-level bases for innovative technology research.

b. "Business incubation facility" means low-cost, short-term occupancy, rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education.

c. "Commission" means the Governor's Commission on Science and Technology as created by Executive Order No. 12 of 1982 or its successor which is established by the Legislature.

d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education, which are of strategic importance to the New Jersey economy, under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license are nonprofit educational institutions authorized to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated pri-

marily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan University, the county colleges and any other public university or college now or hereafter established or authorized by law.

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

85. Section 2 of P.L.1985, c.366 (C.18A:64J-30) is amended to read as follows:

C.18A:64J-30 Definitions.

2. For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education which are provided substantial and concentrated financial support to promote their development into national level bases for innovative technology research;

b. "Business incubation facilities" means low cost, short-term occupancy rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education;

c. "Commission" means the New Jersey Commission on Science and Technology as created by P.L.1985, c.102 (C.52:9X-1 et seq.);

d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education which are of strategic importance to the New Jersey economy under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.);

e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license, are nonprofit educational institutions authorized to grant academic degrees and provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional

accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion;

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan University, the county colleges and any other public university or college now or hereafter established or authorized by law;

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

86. Section 2 of P.L.1985, c.397 (C.18A:64J-39) is amended to read as follows:

C.18A:64J-39 Definitions.

2. For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education, which are provided substantial and concentrated financial support to promote their development into national-level bases for innovative technology research;

b. "Business incubation facilities" means low-cost, short-term occupancy rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education;

c. "Commission" means the New Jersey Commission on Science and Technology as created by P.L.1985, c.102 (C.52:9X-1 et seq.);

d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education, which are of strategic importance to the New Jersey economy, under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.);

e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey, which by vir-

tue of law or character or license are nonprofit educational institutions authorized to grant academic degrees and provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion;

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan University, the county colleges and any other public university or college now or hereafter established or authorized by law;

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

87. N.J.S.18A:65-14 is amended to read as follows:

Board of governors, membership, classification, terms, succession.

18A:65-14. The membership of the board of governors shall be classified as follows and consist of:

a. the president of the corporation, serving as an ex officio non-voting member; and

b. 15 voting members,

i. seven of whom shall be appointed by the Governor of the State, with the advice and consent of the Senate, with one of these members being a resident of Camden County, and one of whom shall be appointed by the Governor upon the recommendation of the President of the Senate and the Speaker of the General Assembly and who shall be a resident of Essex County, and

ii. seven of whom shall be appointed by the board of trustees, from among their members, one of whom shall be a resident of Essex County and one of whom shall be a resident of Middlesex County, elected and serving under the provisions of subsection I.c. or I.d. of 18A:65-15.

The first additional appointments made by the Governor pursuant to P.L.2012, c.45 (C.18A:64M-1 et al.), shall not require the advice and consent of the Senate, but thereafter such advice and consent shall be required.

All members shall serve for terms of six years, except that the terms of those initially appointed by the Governor which began on September 1, 1956, shall expire respectively (as designated by him) one, two, three, four, five and six years after June 30, 1956, and terms of those initially appointed by the board of trustees which began on September 1, 1956, shall expire respectively (as designated by the board) two, three, four, five and six years after June 30, 1956; all of whose respective successors shall be appointed to serve six-year terms. Governors may succeed themselves for not more than one additional term after having served one full six-year term (including an initial term beginning on September 1, 1956, and expiring on June 30, 1962).

88. Section 4 of P.L.2009, c.4 (C.18A:65A-1) is amended to read as follows:

C.18A:65A-1 Implementation of energy savings improvement program by public institution of higher education; definitions.

4. a. The board of trustees of a public institution of higher education may implement an energy savings improvement program in the manner provided by this section whenever it determines that the savings generated from reduced energy use from the program will be sufficient to cover the cost of the program's energy conservation measures as set forth in an energy savings plan. Under such a program, a board of trustees may enter into an energy savings services contract with an energy services company to implement the program or the board may authorize separate contracts to implement the program. The provisions of: N.J.S.18A:64-1 et seq., in the case of any State college; P.L.1995, c.400 (C.18A:64E-12 et seq.), in the case of the New Jersey Institute of Technology; N.J.S.18A:65-1 et seq., in the case of Rutgers, the State University; P.L.2012, c.45 (C.18A:64M-1 et al.), in the case of Rowan University; and N.J.S.18A:64A-1 et seq., in the case of the county colleges; shall apply to any contracts awarded pursuant to this section to the extent that the provisions of such law are not inconsistent with any provision of this section.

In the case of Rutgers, the State University, references in this section to the board of trustees shall mean the Rutgers board of governors.

b. (1) To be eligible to enter into an energy savings services contract, an energy services company shall be a commercial entity that is qualified to provide energy savings services in accordance with the provisions of this section. A public institution of higher education may enter into an energy savings services contract through public advertising for bids and the receipt of bids therefor.

(2) (a) Public works activities performed under an energy savings improvement program shall be subject to all requirements regarding public bidding, bid security, performance guarantees, insurance and other public contracting requirements that are applicable to public works contracts, to the extent not inconsistent with this section. A general contractor, energy services company serving as general contractor, or any subcontractor hired for the furnishing of plumbing and gas fitting and all kindred work, and of steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, structural steel and ornamental iron work, shall be classified by the Division of Property Management and Construction in the Department of the Treasury in order to perform public works activities under an energy savings improvement program.

(b) Individuals or organizations performing energy audits, acting as commissioning agents, or conducting verification of energy savings plans, implementation of energy conservation measures, or verifying guarantees shall be prequalified by the Division of Property Management and Construction in the Department of the Treasury to perform their work under an energy savings improvement program.

(c) Where there is a need for compatibility of a direct digital control system with previously installed control systems and equipment, the bid specifications may include a requirement for proprietary goods, and if so included, the bid specification shall set forth an allowance price for its supply which shall be used by all bidders in the public bidding process.

(3) An energy services company may be designated as the general contractor for improvements to be made pursuant to an energy savings plan, provided that the hiring of subcontractors that are required to be classified pursuant to subparagraph (a) of paragraph (2) of this subsection shall be performed pursuant to the public bidding requirements of the board of trustees. A contract with an energy savings company shall include, but not be limited to: preparation of an energy savings plan, the responsibilities of the parties for project schedules, installations, performance and quality, payment of subcontractors, project completion, commissioning, savings implementation; a requirement that the savings to be achieved by energy conservation measures be verified upon commissioning of the improvements; allocation of State and federal rebates and tax credits; and any other provisions deemed necessary by the parties.

(4) Except as provided in paragraph (5) of this subsection, a subsidiary or wholly-owned or partially-owned affiliate of the energy services company shall not be an eligible contractor or subcontractor under an energy savings services contract.

(5) When the energy services company is the manufacturer of direct digital control systems and contracts with the board of trustees to provide a guaranteed energy savings option pursuant to subsection f. of this section, the specification of such direct digital control systems may be treated as proprietary goods and if so treated, the bid specification shall set forth an allowance price for its supply by the energy services company which shall be used by all bidders in the public bidding process. Direct digital controls shall be open protocol format and shall meet the interoperability guidelines established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers.

c. An energy savings improvement program may be financed through a lease-purchase agreement or through the issuance of energy savings obligations pursuant to this subsection.

(1) An energy savings improvement program may be financed through a lease-purchase agreement between a board of trustees and an energy services company or other public or private entity. Under a lease-purchase agreement, ownership of the energy savings equipment or improved facilities shall pass to the board of trustees when all lease payments have been made. Notwithstanding the provisions of any other law to the contrary, the duration of such a lease-purchase agreement shall not exceed 15 years, except that the duration of a lease purchase agreement for a combined heat and power or cogeneration project shall not exceed 20 years.

(2) Any lease-purchase or other agreement entered into in connection with an energy savings improvement program may be a general obligation of the public institution of higher education pursuant to this subsection, and may contain: a clause making it subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation; and a non-substitution clause maintaining that if the agreement is terminated for non-appropriation, the board of trustees may not replace the leased equipment or facilities with equipment or facilities that perform the same or similar functions.

(3) A board of trustees may arrange for incurring energy savings obligations to finance an energy savings improvement program and may enter into any agreement with the New Jersey Educational Facilities Authority or other persons in connection with the issuance by the authority of its obligations on behalf of the public institution of higher education in order to finance the institution's energy savings improvement program. Energy savings obligations may be funded through appropriations for utility services in the annual budget of the board, or incurred as a general obligation of the public institution of higher education in connection with the issuance by the New Jersey Educational Fa-

cilities Authority of bonds or notes pursuant to N.J.S.18A:72A-2 et seq., or, in the case of a county college, by a sponsoring county as a refunding bond pursuant to N.J.S.40A:2-52 et seq., including the issuance of bond anticipation notes as may be necessary, provided that all such bonds and notes mature within the periods authorized for such energy savings obligations.

(4) Lease-purchase agreements and energy savings obligations shall not be used to finance maintenance, guarantees, or verification of guarantees of energy conservation measures. Lease-purchase agreements and energy savings obligations may be used to finance the cost of an energy audit or the cost of verification of energy savings as part of adopting an energy savings plan. Maturity schedules of lease-purchase agreements or energy savings obligations must exceed the estimated useful life of the individual energy conservation measures.

d. (1) The energy audit component of an energy savings improvement program shall be conducted either by the board of trustees or by a qualified third party retained by the board for that purpose. It shall not be conducted by an energy services company subsequently hired to develop an energy savings improvement program. The energy audit shall identify the current energy use of any or all facilities and energy conservation measures that can be implemented in which the energy savings and energy efficiency could be realized and maximized.

(2) To implement an energy savings improvement program, a board of trustees shall develop an energy savings plan that consists of one or more energy conservation measures. The plan shall:

(a) contain the results of an energy audit;

(b) describe the energy conservation measures that will comprise the program;

(c) estimate greenhouse gas reductions resulting from those energy savings;

(d) identify all design and compliance issues that require the professional services of an architect or engineer and identify who will provide these services;

(e) include an assessment of risks involved in the successful implementation of the plan;

(f) identify the eligibility for, and costs and revenues associated with the PJM Independent System Operator for demand response and curtailable service activities;

(g) include schedules showing calculations of all costs of implementing the proposed energy conservation measures and the projected energy savings;

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(h) identify maintenance requirements necessary to ensure continued energy savings, and describe how they will be fulfilled; and

(i) if developed by an energy services company, a description of, and cost estimates of an energy savings guarantee.

All professionals providing engineering services under the plan shall have errors and omissions insurance.

(3) Prior to the adoption of the plan, the board of trustees shall contract with a qualified third party to verify the projected energy savings to be realized from the proposed program have been calculated as required by subsection e. of this section.

(4) Upon adoption, the plan shall be submitted to the Board of Public Utilities, which shall post it on the Internet on a public webpage maintained for such purpose. If the board of trustees maintains its own website, it shall also post the plan on that site. The Board of Public Utilities may require periodic reporting concerning the implementation of the plan.

(5) Verification by a qualified third party shall be required when energy conservation measures are placed in service or commissioned, to ensure the savings projected in the energy savings plan shall be achieved.

(6) Energy-related capital improvements that do not reduce energy usage may be included in an energy savings improvement program but the cost of such improvements shall not be financed as a lease-purchase or through energy savings obligations authorized by subsection c. of this section. Nothing herein is intended to prevent the financing of such capital improvements through otherwise authorized means.

(7) A qualified third party when required by this subsection may include an employee of the public institution of higher education who is properly trained and qualified to perform such work.

e. (1) The calculation of energy savings for the purposes of determining that the energy savings resulting from the program will be sufficient to cover the cost of the program's energy conservation measures, as provided in subsection a. of this section, shall involve determination of the dollar amount saved through implementation of an energy savings improvement program using the guidelines of the International Performance Measurement and Verification Protocol or other protocols approved by the Board of Public Utilities and standards adopted by the Board of Public Utilities pursuant to this section. The calculation shall include all applicable State and federal rebates and tax credits, but shall not include the cost of an energy audit and the cost of verifying energy savings. The calculation shall state which party has made application for rebates and credits and how these applications translate into energy savings.

(2) For the purposes of this section, the Board of Public Utilities shall adopt standards and uniform values for interest rates and escalation of labor, electricity, oil, and gas, as well as standards for presenting these costs in a life cycle and net present value format, standards for the presentation of obligations for carbon reductions, and other standards that the board may determine necessary.

f. (1) When an energy services company is awarded an energy savings services contract, it shall offer the board of trustees the option to purchase, for an additional amount, an energy savings guarantee. The guarantee, if accepted by a separate vote of the board of trustees, shall insure that the energy savings resulting from the energy savings improvement program, determined periodically over the duration of the guarantee, will be sufficient to defray all payments required to be made pursuant to the lease-purchase agreement or energy savings obligation, and if the savings are not sufficient, the energy services company will reimburse the board of trustees for any additional amounts. Annual costs of a guarantee shall not be financed or included as costs in an energy savings plan but shall be fully disclosed in an energy savings plan.

(2) When a guaranteed energy savings option is purchased, the contract shall require a qualified third party to verify the energy savings at intervals established by the parties.

g. As used in this section:

"direct digital control systems" means the devices and computerized control equipment that contain software and computer interfaces that perform the logic that control a building's heating, ventilating, and air conditioning system. Direct digital controls shall be open protocol format and shall meet the interoperability guidelines established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers;

"educational facility" means a structure suitable for use as a dormitory, dining hall, student union, administrative building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, teaching hospital, and parking, maintenance, storage or utility facility or energy conservation measures and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, and public libraries, and the necessary and usual attendant and related facilities and equipment, but shall not include any facility used or to be used for sectarian instruction or as a place for religious worship;

"energy conservation measure" means an improvement that results in reduced energy use, including, but not limited to, installation of energy ef-

ficient equipment; demand response equipment; combined heat and power systems; facilities for the production of renewable energy; water conservation measures, fixtures or facilities; building envelope improvements that are part of an energy savings improvement program; and related control systems for each of the foregoing;

"energy related capital improvement" means a capital improvement that uses energy but does not result in a reduction of energy use;

"energy saving obligation" means a bond, note or other agreement evidencing the obligation to repay borrowed funds incurred in order to finance energy saving improvements;

"energy savings" means a measured reduction in fuel, energy, operating or maintenance costs resulting from the implementation of one or more energy conservation measures services when compared with an established baseline of previous fuel, energy, operating or maintenance costs, including, but not limited to, future capital replacement expenditures avoided as a result of equipment installed or services performed as part of an energy savings plan;

"energy savings improvement program" means an initiative of a public institution of higher education to implement energy conservation measures in existing facilities, provided that the value of the energy savings resulting from the program will be sufficient to cover the cost of the program's energy conservation measures;

"energy savings plan" means the document that describes the actions to be taken to implement the energy savings improvement program;

"energy savings services contract" means a contract with an energy savings company to develop an energy savings plan, prepare bid specifications, manage the performance, provision, construction, and installation of energy conservation measures by subcontractors, to offer a guarantee of energy savings derived from the implementation of an energy savings plan, and may include a provision to manage the bidding process;

"energy services company" means a commercial entity that is qualified to develop and implement an energy savings plan in accordance with the provisions of this section;

"public works activities" means any work subject to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.); and

"water conservation measure" means an alteration to a facility or equipment that reduces water consumption, maximizes the efficiency of water use, or reduces water loss.

h. (1) The State Treasurer and the Board of Public Utilities may take such action as is deemed necessary and consistent with the intent of this section to implement its provisions.

(2) The State Treasurer and the Board of Public Utilities may adopt implementation guidelines or directives, and adopt such administrative rules, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary for the implementation of those agencies' respective responsibilities under this section, except that notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the State Treasurer and the Board of Public Utilities may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as deemed necessary to implement the provisions of this act which shall be effective for a period not to exceed 12 months and shall thereafter be amended, adopted or re-adopted in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

89. Section 2 of P.L.1969, c.242 (C.18A:66-168) is amended to read as follows:

C.18A:66-168 Repeal subject to certain provisos.

2. Repeal of the act and parts of acts, and all amendments and supplements thereto, pursuant to section 1 of this act, is subject to the following provisos:

a. The alternate benefit programs established by the Board of Governors of Rutgers, The State University of New Jersey, the Board of Trustees of the New Jersey Institute of Technology and the Board of Higher Education for certain employees of State and county colleges, are continued except as the benefit and contribution schedules are revised by this act.

b. The timely filing of applications for transfer from the Public Employees' Retirement System, the Teachers' Pension and Annuity Fund and the Group Annuity Plan as specified in such acts shall be deemed to have not been revised by this act.

c. The transfer of employee and employer contributions from the Public Employees' Retirement System, the Teachers' Pension and Annuity Fund and the Group Annuity Plan to the insurers or mutual fund companies of the alternate benefit programs shall be considered as having met the requirements of said acts and shall be continued as provided by this act.

d. Any contributions made by a member of the alternate benefit program for any additional death benefit coverage established under said acts shall not be returnable to the member or his beneficiary in any manner, or for any reason whatsoever, nor shall any contributions made for the additional death benefit coverage be included in any annuity payable to any such member or to his beneficiary.

90. Section 3 of P.L.1969, c.242 (C.18A:66-169) is amended to read as follows:

C.18A:66-169 Definitions.

3. As used in this act:

a. "Accumulated deductions" means those contributions as defined in N.J.S.18A:66-2 or in section 6 of P.L.1954, c.84 (C.43:15A-6).

b. "Base salary" means a participant's regular base or contractual salary. It shall exclude bonus, overtime or other forms of extra compensation such as (1) longevity lump sum payments, (2) lump sum terminal sick leave or vacation pay, (3) the value of maintenance, (4) individual pay adjustments made within or at the conclusion of the participant's final year of service, (5) retroactive salary adjustments or other pay adjustments made in the participant's final year of service unless such adjustment was made as a result of a general pay adjustment for all personnel of the department or institution, (6) any unscheduled individual adjustment made in the final year to place the member at the maximum salary level within his salary range and (7) any pay for services rendered during the summer vacation period by a participant who is required to work only 10 months of the year.

c. "Base annual salary" means the base salary upon which contributions by the member and his employer to the alternate benefit program were based during the last year of creditable service.

d. (Deleted by amendment, P.L.1994, c.48).

e. (Deleted by amendment, P.L.2012, c.45)

f. "County colleges" means the colleges so defined in N.J.S.18A:64A-1.

g. "Division of Pensions" means the division established in the Department of the Treasury pursuant to section 1 of P.L.1955, c.70 (C.52:18A-95) and is the agency responsible for the administration of the alternate benefit program of the State and county colleges and for the administration of the group life and disability insurances of all alternate benefit programs established in the State for public employees.

h. "Full-time officers" and "full-time members of the faculty" shall include the president, vice president, secretary and treasurer of the respective school. "Full-time" shall also include eligible full-time officers and full-time members of the faculty who are granted sabbaticals or leaves of absence with pay where the compensation paid is 50% or more of the base salary at the time the leave commences and the period of eligibility terminates with the end of the school year following the year in which the sabbatical began. "Part-time" shall be defined as an appointment where the employee receives a salary or wages for a period of less than 50% of the

normal work week. These definitions shall apply to teaching or administrative staff members or to employees serving in a dual capacity where the appointment includes teaching as well as administrative duties.

i. "Group Annuity Plan" refers to the Group Annuity Contract R-134 between the Board of Trustees of the New Jersey Institute of Technology and the Prudential Insurance Company of America.

j. "Member" or "participant" means a full-time officer or a full-time member of the faculty participating in the alternate benefit program, and after the effective date of P.L.2008, c.89, means an adjunct faculty member or a part-time instructor whose employment agreement begins after that effective date.

k. "New Jersey Institute of Technology" means the Newark College of Engineering.

l. "Pension reserve" means those moneys as defined in N.J.S.18A:66-2 or in section 6 of P.L.1954, c.84 (C.43:15A-6).

m. "Rutgers, The State University" means the institution of higher education described in chapter 65 of Title 18A of the New Jersey Statutes.

n. "State Colleges" means the colleges so described in chapter 64 of Title 18A of the New Jersey Statutes and any former State college designated as a public research university pursuant to P.L.2012, c.45 (C.18A:64M-1 et al.).

o. "Mutual fund company" means an investment company or trust regulated by the federal "Investment Company Act of 1940," 15 U.S.C.s. 80a-1 et seq.

91. Section 4 of P.L.1969, c.242 (C.18A:66-170) is amended to read as follows:

C.18A:66-170 Alternate benefit program.

4. All full-time officers and all full-time members of the faculty of Rutgers, The State University, the Newark College of Engineering, Rowan University, the State and county colleges and all regularly appointed teaching and administrative staff members in applicable positions, as determined by the Director of the Division of Pensions in the Department of the Treasury, shall be eligible and shall participate in the alternate benefit program, except those persons appointed in a part-time or temporary capacity, physicians and dentists holding employment in positions titled intern, resident or fellow on or after the effective date of this amendatory act, persons compensated on a fee basis, persons temporarily in the United States under an F or J visa and members of the Teachers' Pension and Annuity Fund, the Pub-

lic Employees' Retirement System, the Police and Firemen's Retirement System or the Group Annuity Plan, who did not elect to transfer to the alternate benefit program in accordance with the provisions of chapter 64C or 65 of Title 18A of the New Jersey Statutes, P.L.1967, c.278 (C.18A:66-130 et seq.), or c.281 (C.18A:66-142 et seq.), or P.L.1968, c.181 (C.18A:66-154 et seq.). An eligible person who has been enrolled in the alternate benefit program for at least one year pursuant to this section may continue to be enrolled in the program, notwithstanding promotion or transfer to a position within the institution not otherwise eligible for the program.

Any person participating in the alternate benefit program shall be ineligible for membership in the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, the Police and Firemen's Retirement System or the Group Annuity Plan and any person electing to participate in the alternate benefit program shall thereby waive all rights and benefits provided by the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, the Police and Firemen's Retirement System or the Group Annuity Plan as a member of said fund, system or plan, except as herein and otherwise provided by law or under terms of the Group Annuity Plan.

Any person required to participate in the alternate benefit program by reason of employment, who at the time of such employment is a member of the Teachers' Pension and Annuity Fund, shall be permitted to transfer his membership in said fund to the Public Employees' Retirement System, by waiving all rights and benefits which would otherwise be provided by the alternate benefit program. Any such new employee who is a member of the Public Employees' Retirement System will be permitted to continue his membership in that system, by waiving all rights and benefits which would otherwise be provided by the alternate benefit program. Such waivers shall be accomplished by filing forms satisfactory to the Division of Pensions within 30 days of the beginning date of employment.

Any person receiving a benefit by reason of his retirement from any retirement or pension system of the State of New Jersey or any political subdivision thereof shall be ineligible to participate in the alternate benefit program.

No person eligible for participation in the alternate benefit program shall be eligible for, or receive, benefits under chapters 4 and 8B of Title 43 of the Revised Statutes.

The alternate benefit programs established pursuant to this act are deemed to be pension funds or retirement systems for purposes of P.L.1968, c.23 (C.43:3C-1 et seq.).

92. Section 7 of P.L.1969, c.242 (C.18A:66-173) is amended to read as follows:

C.18A:66-173 Transfer to alternate benefit program.

7. (a) When a member of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System elects to transfer to an alternate benefit program by filing the proper application form declaring his election to participate in such alternate benefit program, the respective retirement system shall transfer the amount of his accumulated deductions as of the date of transfer to his individual account in the program.

(b) There shall also be transferred from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or from the Group Annuity Plan to the individual's account in the alternate benefit program, the pension reserve required as of the date of his transfer to provide a pension for each year of service credited to the account of the member as set forth in N.J.S.18A:66-36 or N.J.S.18A:66-44 or as set forth in section 38 or section 48 of P.L.1954, c.84 as such sections have been amended and supplemented as of July 1, 1969 (C.43:15A-38, C.43:15A-48) or as set forth in section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or for each year of service credited under the Group Annuity Plan. Such transfer from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or the Group Annuity Plan shall be made at the time of the member's transfer to the alternate benefit program in the case of any such member who has then met the eligibility requirements for a pension under the aforementioned N.J.S.18A:66-36, or N.J.S.18A:66-44, or section 38 or section 48 of P.L.1954, c.84 (C.43:15A-38, C.43:15A-48) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or the Group Annuity Plan. In the case of any member who elects to participate in the alternate benefit program who has not then met the eligibility requirements for a pension under N.J.S.18A:66-36 or N.J.S.18A:66-44, or under section 38 or section 48 of P.L.1954, c.84 (C.43:15A-38, C.43:15A-48) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or under the Group Annuity Plan, the transfer from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or the

Group Annuity Plan shall be effected at the time such requirements have been met, taking into account for the purpose of such eligibility requirement his years of membership service at the time of his election and his subsequent years of service as a full-time member of the faculty of Rutgers, The State University, the New Jersey Institute of Technology, Rowan University, or the State or county colleges or as an eligible employee of the Department of Higher Education, or at the time he shall have 10 years of credit for New Jersey service and becomes physically incapacitated for the performance of duty if he had been a member of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System as of the date of transfer.

The annuity to be used in determining the amount of pension is the actuarial equivalent of the member's accumulated deductions transferred from the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System to the date the member attains 60 years of age, if subsequent to the date of election. The amount of pension is that established by formula within N.J.S.18A:66-44 or section 48 of P.L.1954, c.84 as such sections have been amended and supplemented as of July 1, 1969 (C.43:15A-48) or section 5 of P.L.1944, c.255 (C.43:16A-5) or under the Group Annuity Plan, and changes to N.J.S.18A:66-44 or section 48 of P.L.1954, c.84 (C.43:15A-48) or section 5 of P.L.1944, c.255 (C.43:16A-5) enacted subsequent to this act or the Group Annuity Plan shall have no application to the provisions of this act.

In the event that the eligibility requirement under N.J.S.18A:66-36 or under section 38 of P.L.1954, c.84 (C.43:15A-38) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or under the Group Annuity Plan is changed at some future date to permit members to become eligible for such benefit prior to the completion of 15 years of service, the transfer of the reserve from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or from the Group Annuity Plan shall be effective as of the date the member who had elected the alternate benefit program meets the amended eligibility requirement or the effective date of the amendment, whichever is later.

In the event an option is available with respect to the distribution of employee and employer contributions between fixed and variable annuities under the alternate benefit program, the employee shall have the right to determine the percentage distribution of these funds subject to any limitations imposed by the designated insurer or insurers.

(c) No transfer of pension reserves shall be made pursuant to this section where more than two consecutive years elapse in which no employer contributions to an alternate benefit program are required.

93. Section 8 of P.L.1969, c.242 (C.18A:66-174) is amended to read as follows:

C.18A:66-174 Reduction from compensation of participants; payments of employer contributions.

8. (a) Rutgers, The State University and the New Jersey Institute of Technology shall reduce the compensation of each participant in the alternate benefit program and pay over to the insurers or mutual fund companies for the benefit of the participant an employee contribution for the retirement annuity contract or contracts equal to 5% of the participant's base salary. The intervals for deductions or reductions and payments shall be determined by the respective school governing bodies.

The Division of Pensions and Benefits shall provide for reductions from the compensation of each participant in the alternate benefit program employed by the State and county colleges of an employee contribution equal to 5% of the participant's base salary and pay this amount to the insurers or mutual fund companies for the individual's retirement annuity contract or contracts. The intervals for deductions or reductions and payments shall be determined by the Division of Pensions and Benefits.

The Division of Pensions and Benefits may require that all participant contributions be made in accordance with section 414(h) of the federal Internal Revenue Code (26 U.S.C. s.414(h)).

(b) Based on a certification to the Division of Pensions and Benefits by Rutgers, The State University, the New Jersey Institute of Technology, and Rowan University of the number and base salary of participants, the division shall authorize the State to make payment of the employer contributions to the alternate benefit program at a rate equal to 8% of the employee's base salary, except the amount of the contribution shall not exceed 8% of the maximum salary for department officers established pursuant to section 1 of P.L.1974, c.55 (C.52:14-15.107), which moneys shall be paid to the designated insurers or mutual fund companies for the benefit of each participant.

Based on a certification by the Division of Pensions and Benefits of the number and base salary of participants employed by the State and county colleges, the State shall make payment of the employer contributions to the alternate benefit program at a rate equal to 8% of the employee's base salary, except the amount of the contribution shall not exceed 8% of the maximum

salary for department officers established pursuant to section 1 of P.L.1974, c.55 (C.52:14-15.107), which moneys shall be paid to the designated insurers or mutual fund companies for the benefit of each participant.

(c) For the member of the Public Employees' Retirement System employed by the county colleges, who is defined in the regulations of the Division of Pensions and Benefits as a full-time faculty member and who is permitted to transfer his membership and does so, the State shall pay the employer contribution to the alternate benefit program at a rate equal to 8% of the member's base salary, except the amount of the contribution shall not exceed 8% of the maximum salary for department officers established pursuant to section 1 of P.L.1974, c.55 (C.52:14-15.107). If the member continues membership in the Public Employees' Retirement System, the State shall pay the employer contribution to the retirement system on his behalf and such employer contribution shall be at a rate equal to the normal contribution made by the State on behalf of nonveteran members of the Public Employees' Retirement System.

(d) For any nonacademic employee of a county college, as defined in section 4 of P.L.1969, c.242 (C.18A:66-170), who is eligible for the program according to the regulations of the Director of the Division of Pensions and Benefits, the county college shall pay the employer contribution to the retirement system on the employee's behalf in the same manner as the State, pursuant to this section.

94. Section 24 of P.L.1969, c.242 (C.18A:66-190) is amended to read as follows:

C.18A:66-190 Authority to enter into agreements for annuity purchases; method of payment; limitations.

24. The Board of Governors of Rutgers, The State University, the Board of Trustees of the New Jersey Institute of Technology, the Board of Trustees of Rowan University, and the boards of trustees of State and county colleges, are hereby authorized to enter into agreement with each employee participating in the alternate benefit program whereby the employee agrees to take a reduction in salary with respect to amounts earned after the effective date of such agreement in return for the agreement of the respective institution to use a corresponding amount to purchase an annuity for such employee so as to obtain the benefits afforded under section 403(b) of the federal Internal Revenue Code, as amended. Any such agreement shall specify the amount of such reduction, the effective date thereof, and shall be legally binding and irrevocable with respect to amounts earned while the agreement

is in effect; provided, however, that such agreement may be terminated after it has been in effect for a period of not less than one year upon notice in writing by either party, and provided further that not more than one such agreement shall be entered into during any taxable year of the employee. For the purposes of this section, any annuity or other contract which meets the requirements of section 403(b) of the federal Internal Revenue Code, as amended, may be utilized. The amount of the reduction in salary under any agreement entered into between the institutions and any employee pursuant to this section shall not exceed the limitations set forth in P.L.93-406 (Employment Retirement Income Security Act of 1974) and Section 415(c) of the Internal Revenue Code of 1954 as amended for such year.

Amounts payable pursuant to this section by an institution on behalf of an employee for a pay period shall be transmitted and credited not later than the fifth business day after the date on which the employee is paid for that pay period.

95. Section 25 of P.L.1969, c.242 (C.18A:66-191) is amended to read as follows:

C.18A:66-191 Prohibited payments; authorized payments.

25. No retirement, death or other benefit shall be payable by the State, Rutgers, The State University, the New Jersey Institute of Technology, Rowan University or the Division of Pensions under the alternate benefit program. Benefits shall be payable to participating employees and their beneficiaries only by the designated insurers or mutual fund companies under the terms of the contracts.

96. Section 3 of P.L.1969, c.142 (C.18A:71-30) is amended to read as follows:

C.18A:71-30 Definitions.

3. As used in this act, unless the context clearly indicates otherwise, the following terms shall have the following meanings:

(a) The term "board" shall mean the Board of Directors of the New Jersey Educational Opportunity Fund created by section 4 of P.L.1968, c.142 (C.18A:71-31).

(b) (Deleted by amendment, P.L.1994, c.48).

(c) The term "department" shall mean the Department of State.

(d) The term "fund" shall mean the New Jersey Educational Opportunity Fund created by section 4 of P.L.1968, c.142 (C.18A:71-31).

(e) The term "higher education" shall mean that education which is provided by any or all of the public institutions of higher education as herein defined or any or all equivalent private institutions.

(f) The term "public institutions of higher education" shall mean and include Rutgers, The State University, the New Jersey Institute of Technology, Rowan University, the eight State colleges, the county colleges, and any other public universities, colleges or county colleges now or hereafter established or authorized by law.

97. N.J.S.18A:71A-4 is amended to read as follows:

Board of the authority.

18A:71A-4. a. The Board of the Higher Education Student Assistance Authority shall consist of 18 members as follows: the State Treasurer, ex-officio, or a designee; the Secretary of Higher Education, ex-officio, or a designee from among the public members of the commission; the chairperson of the Board of Directors of the Educational Opportunity Fund, ex-officio, or a designee from among the public members of the board; five representatives from eligible institutions in this State, including one from Rutgers, the State University, one from either the New Jersey Institute of Technology or Rowan University, one from the county colleges, one from the State colleges, and one from the independent institutions of higher education in the State; two students from different collegiate institutional sectors; seven public members who shall be residents of this State, including one who shall represent a lender party to a participation agreement with the authority; and the executive director of the authority, or designee, who shall be an ex-officio, non-voting member of the board.

b. The seven public members, including the lender member, shall be appointed by the Governor with the advice and consent of the Senate. No more than four of the public members shall be members of the same political party. The institutional representatives shall be nominated by the respective institution in the case of Rutgers, the State University, New Jersey Institute of Technology, and Rowan University. The remaining institutional representatives shall be nominated by the respective sector association. Institutional representatives shall be appointed by the Governor with the advice and consent of the Senate. The student members shall be the individuals that the Student Advisory Committee elects as its chairperson and vice-chairperson. The Student Advisory Committee shall be created by the board to include students from all collegiate institutional sectors. The necessary

appointments shall be made within 45 days of the enactment of P.L.1999, c.46 (N.J.S.18A:71A-1 et al.).

c. Public and institutional members of the board shall serve a term of four years and until a successor is appointed and qualified, except in the case of the first members so appointed, four of whom shall be appointed for a term of four years, four of whom shall be appointed for a term of three years, two of whom shall be appointed for a term of two years, and two of whom shall be appointed for a term of one year. Student members shall serve a term of office not to exceed two years. Any vacancy in the membership of the board, occurring otherwise than by expiration of term, shall be filled in the same manner as the original appointment or election was made, but for the unexpired term only.

98. Section 3 of P.L.2000, c.163 (C.18A:71B-55) is amended to read as follows:

C.18A:71B-55 Definitions regarding scholarship.

3. As used in this act, the following terms shall have the following meanings:

"Board" means the Board of Trustees of the Tony Pompelio Commemorative Scholarship Fund for the children of crime victims created pursuant to this act.

"Chairman" means the Chairman of the Violent Crimes Compensation Board.

"Executive director" means the chief executive and administrative officer of the authority.

"Authority" means the Higher Education Student Assistance Authority established pursuant to N.J.S.18A:71A-1 et seq., the "Higher Education Student Assistance Authority Law," or any body, entity, commission, or department succeeding to the principal functions thereof or to whom the powers conferred upon the authority by N.J.S.18A:71A-1 et seq. shall be given by law.

"Public Institutions of Higher Education" means the State colleges and universities created pursuant to chapter 64 of Title 18A of the New Jersey Statutes; the county colleges; the New Jersey Institute of Technology; Rutgers, the State University; Rowan University; and any other public universities, colleges, county colleges and junior colleges now or hereafter established or authorized by law.

99. N.J.S.18A:71C-32 is amended to read as follows:

Definitions.

18A:71C-32. "Approved site" means a site located within a State designated underserved area or a health professional shortage area, or a clinic which is part of the extramural network of dental clinics established by the New Jersey Dental School of Rutgers, The State University, or a site that has been determined by the Higher Education Student Assistance Authority, in consultation with the Department of Health and Senior Services, to serve medically underserved populations according to criteria determined by the authority, including, but not limited to, the percentage of medically underserved patients served.

"Authority" means the Higher Education Student Assistance Authority.

"Eligible qualifying loan expenses" means the cumulative outstanding balance of student loans covering the cost of attendance at an undergraduate institution of medical, dental, or other primary care professional education at the time an applicant is selected for the program. Interest paid or due on qualifying loans that an applicant has taken out for use in paying the costs of undergraduate medical, dental, or other primary care professional education shall be considered eligible for reimbursement under the program. The authority may establish a limit on the total amount of qualifying loans which may be redeemed for participants under the program, provided that the total redemption of qualifying loans does not exceed $120,000, or the maximum amount authorized by the federal government, whichever is greater, either in State funds or the sum of federal, State, and other non-federal matching funds, pursuant to section 338I of the Public Health Service Act (42 U.S.C.s.254q-1), whichever is applicable.

"Executive director" means the executive director of the Higher Education Student Assistance Authority.

"Health professional shortage area" (HPSA) means an urban or rural area, a population group or a public or non-profit private medical or dental facility or other public facility which the Secretary of Health and Human Services determines has a health professional shortage pursuant to section 332 of the Public Health Service Act (42 U.S.C. s.254e).

"Primary care" means the practice of family medicine, general internal medicine, general pediatrics, general obstetrics, gynecology, pediatric dentistry, general dentistry, public health dentistry, and any other areas of medicine or dentistry which the Commissioner of Health and Senior Services may define as primary care. Primary care also includes the practice of a nurse-practitioner, certified nurse-midwife, and physician assistant.

"Primary care practitioner" means a State-licensed or certified health care professional who has obtained a degree in allopathic or osteopathic

medicine, dentistry, or another primary care profession at an undergraduate institution of medical, dental, or other primary care professional education, as applicable.

"Program" means the Primary Care Practitioner Loan Redemption Program established pursuant to N.J.S.18A:71C-33.

"Program participant" means a primary care practitioner who contracts with the authority to engage in the clinical practice of primary care at an approved site in exchange for the redemption of eligible qualifying loan expenses provided under the program.

"Qualifying loan" means a government or commercial loan for the actual costs paid for tuition and reasonable education and living expenses relating to the obtaining of a degree in allopathic or osteopathic medicine, dentistry, or another primary care profession.

"State designated underserved area" means a geographic area in this State which has been ranked by the Commissioner of Health and Senior Services on the basis of health status and economic indicators as reflecting a medical or dental health professional shortage.

"Total and permanent disability" means a physical or mental disability that is expected to continue indefinitely or result in death and renders a participant in the program unable to perform that person's service obligation, as determined by the executive director or his designee.

"Undergraduate medical, dental, or other primary care professional education" means the period of time between entry into medical school, dental school, or other primary care professional training program and the award of a degree in allopathic or osteopathic medicine, dentistry, or another primary care profession, respectively.

100. N.J.S.18A:71C-35 is amended to read as follows:

Ranking of State designated underserved areas.

18A:71C-35. The Commissioner of Health and Senior Services, after consultation with the Commissioner of Corrections and the Commissioner of Human Services, shall designate and establish a ranking of State designated underserved areas. The criteria used by the Commissioner of Health and Senior Services in designating areas shall include, but not be limited to:

a. the financial resources of the population under consideration, including the percentage of the population that is eligible for medical assistance pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.2005, c.156 (C.30:4J-8 et seq.), and the percentage of the population that does not have health insurance coverage;

b. the population's access to primary care services;

c. appropriate physician, dentist, or other primary care staffing in State, county, municipal and private nonprofit health care facilities and in clinics which are part of the extramural network of dental clinics established by the New Jersey Dental School of Rutgers, The State University; and

d. the extent to which racial and ethnic disparities in health care in a geographic area, including, but not limited to, disparities in the incidence of cancer, cardiovascular disease, stroke, chemical dependency, diabetes, asthma, homicide, suicide, accidental injury, infant mortality, child immunization rates, HIV/AIDS, dental caries, and periodontal disease, indicate the need to increase access to primary care services among racial and ethnic minority populations in that area.

The Commissioner of Health and Senior Services shall transmit the list of State designated underserved areas and the number of positions needed in each area to the executive director or designee.

101. Section 10 of P.L.2009, c.145 (C.18A:71C-36.1) is amended to read as follows:

C.18A:71C-36.1 Performance standards for program participants.

10. a. A program participant, as a condition of participation, shall be required to adhere to performance standards established by the executive director or his designee and if the approved site is a clinic which is part of the extramural network of dental clinics established by the New Jersey Dental School of Rutgers, The State University the program participant shall also meet performance standards set by the New Jersey Dental School.

b. The standards shall include, but not be limited to, requirements that a participant:

(1) maintain residency in the State;

(2) maintain a license or certification to practice a primary care profession in the State;

(3) remain current with payments on student loans;

(4) enter into a mutually acceptable contract with an approved site;

(5) maintain satisfactory performance of services rendered at an approved site; and

(6) report to the authority or its designee, on a form and in a manner prescribed by the authority or its designee, on the program participant's performance of services rendered at an approved site prior to repayment of the annual amount eligible for redemption.

102. N.J.S.18A:71C-38 is amended to read as follows:

Probationary period.

18A:71C-38. Each program participant shall serve a six-month probationary period upon initial placement at an approved site. During that period, the primary care staff of the approved site, or in the case of a clinic which is part of the extramural network of dental clinics established by the New Jersey Dental School of Rutgers, The State University, the director of the clinics and the vice-dean of the dental school, together with the program participant and the executive director or his designee, shall evaluate the suitability of the placement for the program participant. At the end of the probationary period, the primary care staff shall recommend the continuation of the program participant's present placement, a change in placement, or its determination that the program participant is an unsuitable candidate for the program. If the primary care staff of the approved site recommends a change in placement, the executive director or a designee shall approve an alternate placement at an approved site. If the primary care staff determines that the program participant is not a suitable candidate for the program, the executive director or his designee shall take this recommendation into consideration in regard to the program participant's final acceptance into the program. No loan redemption payment shall be made during the six-month probationary period; however, a program participant shall receive credit for the six-month period in calculating the first year of required service under the loan redemption contract.

103. N.J.S.18A:72A-3 is amended to read as follows:

Definitions.

18A:72A-3. As used in this act, the following words and terms shall have the following meanings, unless the context indicates or requires another or different meaning or intent:

"Authority" means the New Jersey Educational Facilities Authority created by this chapter or any board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers conferred upon the authority by this chapter shall be given by law;

"Bond" means bonds or notes of the authority issued pursuant to this chapter;

"County college capital project" means any capital project of a county college certified pursuant to section 2 of P.L.1971, c.12 (C.18A:64A-22.2) and approved by the State Treasurer for funding pursuant to the "County College Capital Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.);

"Dormitory" means a housing unit with necessary and usual attendant and related facilities and equipment, and shall include a dormitory of a public or private school, or of a public or private institution of higher education;

"Educational facility" means a structure suitable for use as a dormitory, dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, teaching hospital, and parking maintenance storage or utility facility and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, and public libraries, and the necessary and usual attendant and related facilities and equipment, but shall not include any facility used or to be used for sectarian instruction or as a place for religious worship;

"Emerging needs program" means a program at one or more public or private institutions of higher education directed to meeting new and advanced technology needs or to supporting new academic programs in science and technology;

"Higher education equipment" means any property consisting of, or relating to, scientific, engineering, technical, computer, communications or instructional equipment;

"Participating college" means a public institution of higher education or private college which, pursuant to the provisions of this chapter, participates with the authority in undertaking the financing and construction or acquisition of a project;

"Project" means a dormitory or an educational facility or any combination thereof, or a county college capital project;

"Private college" means an institution for higher education other than a public college, situated within the State and which, by virtue of law or charter, is a nonprofit educational institution empowered to provide a program of education beyond the high school level;

"Private institution of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license, are nonprofit educational institutions authorized to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid;

"Public institution of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan

University, the county colleges and any other public university or college now or hereafter established or authorized by law;

"School" means a secondary school, military school, or boarding school;

"University" means Rutgers, The State University.

104. N.J.S.18A:72A-26 is amended to read as follows:

Powers and duties of treasurer; institutions under State jurisdiction.

18A:72A-26. In order to provide new dormitories and to enable the construction and financing thereof, to refinance indebtedness hereafter created by the authority for the purpose of providing a dormitory or dormitories or additions or improvements thereto, or for any one or more of said purposes, but for no other purpose unless authorized by law, each of the following bodies shall have the powers hereafter enumerated to be exercised upon such terms and conditions, including the fixing of any consideration or rental to be paid or received, as it shall determine by resolution as to such property and each shall be subject to the performance of the duties hereafter enumerated, that is to say, the treasurer as to such as are located on land owned by the State or by the authority, the board of governors of the university, the board of trustees of the New Jersey Institute of Technology or Rowan University, the board of trustees of a State college or the board of trustees of a county college as to such as are located on land owned by the university or by the particular college respectively, namely:

a. The power to sell and to convey to the authority title in fee simple in any such land and any existing dormitories thereon owned by the State or owned by the board of trustees of a county college or the power to sell and to convey to the authority such title as the university or the college respectively may have in any such land and any existing dormitories thereon.

b. The power to lease to the authority any land and any existing dormitories thereon so owned for a term or terms not exceeding 50 years each.

c. The power to lease or sublease from the authority, and to make available, any such land and existing dormitories conveyed or leased to the authority under subsections a. and b. of this section, and any new dormitories erected upon such land or upon any other land owned by the authority, any rentals to be payable, as to the university or as to any such college from available funds other than moneys appropriated to it by the State.

d. The power and duty, upon receipt of notice of any assignment by the authority of any lease or sublease made under subsection c. of this section, or of any of its rights under any such lease or sublease, to recognize and give effect to such assignment, and to pay to the assignee thereof rent-

als or other payments then due or which may become due under any such lease or sublease which has been so assigned by the authority.

105. N.J.S.18A:72A-27.1 is amended to read as follows:

Powers and duties, revenue producing facilities.

18A:72A-27.1. In addition to the powers and duties with respect to dormitories given under N.J.S.18A:72A-26 and 18A:72A-27 the treasurer, the board of governors of the university, the board of trustees of the New Jersey Institute of Technology, the board of trustees of a State college, the board of trustees of Rowan University, and the board of trustees of a county college shall also have the same power and be subject to the same duties in relation to any conveyance, lease or sublease made under subsection a., b., or c. of section 18A:72A-26, with respect to revenue producing facilities; that is to say, structures or facilities which produce revenues sufficient to pay the rentals due and to become due under any lease or sublease made under subsection c. of section 18A:72A-26 including, without limitation, student unions and parking facilities.

106. Section 48 of P.L.2009, c.90 (C.18A:72A-82) is amended to read as follows:

C.18A:72A-82 Definitions relative to higher education partnership agreements.

48. As used in sections 48 and 49 of P.L.2009, c.90 (C.18A:72A-82 and C.18A:72A-83):

"Board" means the Local Finance Board established in the Division of Local Government Services in the Department of Community Affairs.

"Bonds" mean bonds, notes or other obligations issued to finance or refinance higher education projects by a municipality, or on behalf of a municipality by a county improvement authority created pursuant to the "county improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.).

"Higher education partnership agreement" means an agreement between a municipality and an institution of higher education providing for the issuance of bonds by the municipality, a county improvement authority or a redevelopment entity, and the pledge of payments by the institution of higher education to secure those bonds to finance a higher education project, or part thereof.

"Higher education project" means the establishment and construction of higher education buildings and the expansion and construction of additional facilities at, and the acquisition of additional and upgraded equipment for existing higher education buildings, including but not limited to

the planning, erecting, purchasing, improving, developing, constructing, reconstructing, extending, rehabilitating, renovating, upgrading, demolishing and equipping of facilities at institutions of higher education.

"Institution of higher education" means: Rutgers, The State University; a State college or university established pursuant to chapter 64 of Title 18A of the New Jersey Statutes; the New Jersey Institute of Technology; Rowan University; a county college and any other public university or college now or hereafter established or authorized by State law; and any college or university incorporated and located in New Jersey, which by virtue of law or character or license is a nonprofit educational institution authorized to grant academic degrees and which provides a level of education which is equivalent to the education provided by the State's public institutions of higher education, as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which is eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

"Municipality" means the municipal governing body or an entity acting on behalf of the municipality if permitted by the federal Internal Revenue Code of 1986, or, if a redevelopment agency or redevelopment entity is established in the municipality pursuant to P.L.1992, c.79 (C.40A:12A-1 et seq.) and the municipality so provides, the redevelopment agency or entity so established.

107. Section 3 of P.L.1985, c.493 (C.18A:72H-3) is amended to read as follows:

C.18A:72H-3 Definitions.

3. As used in this act:

a. "Auditorily impaired" means a hearing impairment of such severity that the individual depends primarily upon visual communication.

b. "Competent authority" means any doctor of medicine or any doctor of osteopathy licensed to practice medicine and surgery in this State.

c. (Deleted by amendment, P.L.1994, c.48).

d. "Eligible student" means any student "admitted to a public or independent institution of higher education who is" suffering from a visual impairment, auditory impairment or a specific learning disability within guidelines established by the Commission on Higher Education pursuant to regulations promulgated under this act.

e. "Independent institution of higher education" means a college or university incorporated and located in New Jersey, which by virtue of law or character or license is a nonprofit educational institution authorized to grant academic degrees and which provides a level of education which is equivalent to the education provided by the State's public institutions of higher education, as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which is eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

f. "Learning disability" means a significant barrier to learning caused by a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. The disorder includes conditions such as perceptual handicap, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. This term shall not include learning problems which are primarily the result of visual, hearing, or motor handicaps, mental retardation, emotional disturbances, or environmental, cultural, or economic disadvantage.

g. "Program" means the Higher Education Services for Visually Impaired, Auditorily Impaired and Learning Disabled Students Program established pursuant to this act.

h. "Public institution of higher education" means Rutgers, The State University, the New Jersey Institute of Technology, Rowan University, the State colleges and the county colleges.

i. "Support services" or "supportive services" means services that assist eligible students in obtaining a college education and include, but are not limited to, interpreters, note takers, and tutors.

j. "Visually impaired" means a vision impairment where the better eye with correction does not exceed 20/200 or where there is a field defect in the better eye in which the diameter of the field is no greater than 20 degrees.

108. Section 2 of P.L.1987, c.183 (C.18A:72J-2) is amended to read as follows:

C.18A:72J-2 Martin Luther King Physician-Dentist Scholarships.

2. There are created the Martin Luther King Physician-Dentist Scholarships which shall be maintained by the State and awarded and adminis-

tered pursuant to this act to students from disadvantaged or minority backgrounds enrolled in the Rutgers University School of Dentistry.

109. Section 2 of P.L.2007, c.172 (C.26:1A-36.7a) is amended to read as follows:

C.26:1A-36.7a Activities of Early Intervention Program relative to autism spectrum disorders.

2. The Early Intervention Program in the Department of Health, established pursuant to section 2 of P.L.1993, c.309 (C.26:1A-36.7), shall conduct activities to address the specific needs of children with autism spectrum disorders and their families. These activities shall include, but not be limited to, the following:

a. developing, in consultation with autism experts and advocates, including, but not limited to, the Governor's Council for Medical Research and Treatment of Autism, Autism Speaks, The New Jersey Center for Outreach and Services for the Autism Community, The Autism Center of New Jersey Medical School at Rutgers, The State University, the Statewide Parent Advocacy Network, Inc., and the New Jersey chapter of the American Academy of Pediatrics, guidelines for health care professionals to use in evaluating infants and toddlers living in the State for autism and to ensure the timely referral by health care professionals of infants and toddlers who are identified as having autism or suspected of being on the autism spectrum to the Early Intervention Program in order to provide appropriate services to those infants and toddlers as early as possible;

b. referring affected children who are identified as having autism or suspected of being on the autism spectrum and their families to schools and agencies, including community, consumer, and parent-based agencies, and organizations and other programs mandated by Part C of the "Individuals with Disabilities Education Act" (20 U.S.C. s.1431 et seq.), which offer programs specifically designed to meet the unique needs of children with autism;

c. collecting data on Statewide autism screening, diagnosis, and intervention programs and systems that can be used for applied research, program evaluation, and policy development; and

d. disseminating information on the medical care of individuals with autism to health care professionals and the general public.

110. Section 23 of P.L.1972, c.29 (C.26:2I-23) is amended to read as follows:

C.26:2I-23 Power of State departments, agencies.

23. In order to provide new health care organizations and to enable the construction and financing thereof, to refinance indebtedness hereafter created by the authority for the purpose of providing one or more health care organizations or additions or improvements thereto or modernization thereof or for any one or more of said purposes but for no other purpose unless authorized by law, each of the following bodies shall have the powers hereafter enumerated to be exercised upon such terms and conditions, including the fixing of fair consideration or rental to be paid or received, as it shall determine by resolution as to such property and each shall be subject to the performance of the duties hereafter enumerated, that is to say, the Department of Health as to such as are located on land owned by, or owned by the State and held for, any State institution or on lands of the institutions under the jurisdiction of the Department of Health or of the Department of Human Services, or by the authority, the Commissioner of Human Services as to State institutions operated by that department, the board of trustees or governing body of any public health care organization, the board of governors of Rutgers, The State University, as to such as are located on land owned by the university, or by the State for the university, the State or by the particular public health care organization, respectively, namely:

a. The power to sell and to convey to the authority title in fee simple in any such land and any existing health care facility thereon owned by the State and held for any department thereof or of any of the institutions under the jurisdiction of the Department of Health or the power to sell and to convey to the authority such title as the State or the public health care organization, respectively, may have in any such land and any existing health care facility thereon.

b. The power to lease to the authority any land and any existing health care facility thereon so owned for a term or terms not exceeding 50 years each.

c. The power to lease or sublease from the authority, and to make available, any such land and existing health care facility conveyed or leased to the authority under subsections a. and b. of this section, and any new health care facility erected upon such land or upon any other land owned by the authority.

d. The power and duty, upon receipt of notice of any assignment by the authority of any lease or sublease made under subsection c. of this section, or of any of its rights under any such lease or sublease, to recognize and give effect to such assignment, and to pay to the assignee thereof rentals or other payments then due or which may become due under any such lease or sublease which has been so assigned by the authority.

111. Section 25 of P.L.1972, c.29 (C.26:2I-25) is amended to read as follows:

C.26:2I-25 Powers relative to revenue producing facilities.

25. In addition to the powers and duties with respect to health care organizations given under sections 23 and 24 of P.L.1972, c.29 (C.26:2I-23 and C.26:2I-24, respectively), the board of trustees or governing body of any State institution or public health care organization and the board of governors of Rutgers, The State University shall also have the same powers and be subject to the same duties in relation to any conveyance, lease or sublease made under subsection a., b., or c. of section 24 of P.L.1972, c.29 (C.26:2I-24), with respect to revenue producing facilities; that is to say, structures or facilities which produce revenues sufficient to pay the rentals due and to become due under any lease or sublease made under subsection c. of section 24 of P.L.1972, c.29 (C.26:2I-24), including, without limitation, extended care and parking facilities.

112. Section 27 of P.L.1972, c.29 (C.26:2I-27) is amended to read as follows:

C.26:2I-27 Powers exercised by resolution of governing body, trustees.

27. To the extent not otherwise expressly provided under existing law, all powers and duties conferred upon any State institution or Rutgers, The State University or any county, city or municipal health care organization pursuant to this act shall be exercised and performed by resolution of its governing body and all powers and duties conferred upon any of these health care organizations pursuant to this act shall be exercised and performed by resolution of its board of trustees or governing body.

113. Section 1 of P.L.1986, c.106 (C.26:2K-35) is amended to read as follows:

C.26:2K-35 Definitions.

1. As used in this act:

a. "Commissioner" means the Commissioner of Health.

b. "Dispatch" means the coordinated request for and dispatch of the emergency medical service helicopter response unit by a central communications center located in the service area, following protocols developed by the mobile intensive care hospital, the regional trauma or critical care center, the commissioner, and the superintendent.

c. "Emergency medical service helicopter response unit" means a specially equipped hospital-based emergency medical service helicopter staffed by advanced life support personnel and operated for the provision of advanced life support services under the medical direction of a mobile intensive care program and the regional trauma or critical care center authorized by the commissioner.

d. "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 of 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.

e. "Medical direction" means the medical control and medical orders transmitted from the physician of the mobile intensive care hospital or from the physician at the regional trauma or critical care center to the staff of the helicopter. The mobile intensive care unit coordinating center and regional trauma or critical care center shall have the ability to cross patch and consult with each other as approved by the commissioner.

f. "Mobile intensive care hospital" means a hospital authorized by the commissioner to develop and maintain a mobile intensive care unit to provide advanced life support services in accordance with P.L.1984, c.146 (C.26:2K-7 et al.).

g. "Regional trauma center" means a State designated level one hospital-based trauma center equipped and staffed to provide emergency medical services to an accident or trauma victim, including, but not limited to, the level one trauma centers at University Hospital in Newark, known as the "Eric Munoz Trauma Center," and at the Cooper Hospital/University Medical Center in Camden.

h. "Critical care center" means a hospital authorized by the commissioner to provide regional critical care services, such as trauma, burn, spinal cord, cardiac, poison, or neonatal care.

i. "Superintendent" means the Superintendent of the Division of State Police of the Department of Law and Public Safety.

114. Section 2 of P.L.1986, c.134 (C.26:2N-2) is amended to read as follows:

C.26:2N-2 Pertussis immunization pamphlet.

2. The commissioner shall prepare and make available to all health care providers in the State and parents and guardians, upon request, a pam-

phlet which explains the benefits and possible adverse reactions to immunizations for pertussis. This pamphlet may contain any information which the commissioner deems necessary and may be revised by the department whenever new information concerning these immunizations becomes available. The pamphlet shall include the following information:

a. A list of the immunizations required for admission to a public or private school in the State;

b. Specific information regarding the pertussis vaccine which includes:

(1) The circumstances under which pertussis vaccine should not be administered or should be delayed, including the categories of persons who are significantly more vulnerable to major adverse reactions than are members of the general population;

(2) Possible adverse reactions to pertussis vaccine and the early warning signs or symptoms that may be precursors to a major adverse reaction which, upon occurrence, should be brought to the immediate attention of the health care provider who administered the vaccine;

(3) A form that the parent or guardian may use to monitor symptoms of a possible adverse reaction and which includes places where the parent or guardian can record information about the symptoms that will assist the health care provider; and

(4) Measures that a parent or guardian should take to reduce the risk of, or to respond to, a major adverse reaction including identification of who should be notified of the reaction and when the notification should be made.

The commissioner shall prepare the pamphlet in consultation with the Medical Society of New Jersey and shall adopt by regulation the information contained in the pamphlet, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

115. Section 2 of P.L.1999, c.66 (C.26:2U-2) is amended to read as follows:

C.26:2U-2 Informational manual; preparation, availability.

2. The Department of Health, in consultation with the New Jersey Chronic Fatigue Syndrome Association, Inc., and the Academy of Medicine of New Jersey, shall prepare and make available to all health care providers in the State, upon request, a manual which provides information about the clinical significance, diagnosis and treatment of chronic fatigue syndrome. The manual may contain any other information which the Commissioner of Health deems necessary and may be revised by the department whenever new information about chronic fatigue syndrome becomes available. The

department shall publicize and make available the manual to the maximum extent possible.

116. Section 4 of P.L.1984, c.126 (C.26:5C-4) is amended to read as follows:

C.26:5C-4 Resource center.

4. Rutgers, The State University shall, in coordination with the State Department of Health and Senior Services, serve as a resource center and may offer diagnostic procedures, medical treatment, counseling, as well as any other services that may be necessary to assist AIDS victims and their families.

117. Section 115 of P.L.2008, c.29 (C.26:2NN-1) is amended to read as follows:

C.26:2NN-1 "Law Enforcement Officer Crisis Intervention Services" telephone hotline.

115. a. The Department of Human Services shall maintain a toll-free information "Law Enforcement Officer Crisis Intervention Services" telephone hotline on a 24-hour basis.

The hotline shall receive and respond to calls from law enforcement officers and sheriff's officers who have been involved in any event or incident which has produced personal or job-related depression, anxiety, stress, or other psychological or emotional tension, trauma, or disorder for the officer and officers who have been wounded in the line of duty. The operators of the hotline shall seek to identify those officers who should be referred to further debriefing and counseling services, and to provide such referrals. In the case of wounded officers, those services may include peer counseling, diffusing, debriefing, group therapy and individual therapy as part of a coordinated assistance program, to be known as the "Blue Heart Law Enforcement Assistance Program," designed and implemented by the University Behavioral Healthcare Unit of Rutgers, The State University.

b. The operators of the hotline shall be trained by the Department of Human Services and, to the greatest extent possible, shall be persons, who by experience or education, are: (1) familiar with post trauma disorders and the emotional and psychological tensions, depressions, and anxieties unique to law enforcement officers and sheriff's officers; or (2) trained to provide counseling services involving marriage and family life, substance abuse, personal stress management, and other emotional or psychological disor-

ders or conditions which may be likely to adversely affect the personal and professional well-being of a law enforcement officer and a sheriff's officer.

c. To ensure the integrity of the telephone hotline and to encourage officers to utilize it, the commissioner shall provide for the confidentiality of the names of the officers calling, the information discussed by that officer and the operator, and any referrals for further debriefing or counseling; provided, however, the commissioner may, by rule and regulation, (1) establish guidelines providing for the tracking of any officer who exhibits a severe emotional or psychological disorder or condition which the operator handling the call reasonably believes might result in harm to the officer or others and (2) establish a confidential registry of wounded New Jersey law enforcement officers.

118. Section 10 of P.L.2011, c.210 (C.26:5B-6) is amended to read as follows:

C.26:5B-6 Availability of information about sickle cell anemia.

10. a. The Department of Health, in consultation with the Medical Society of New Jersey and Rutgers, The State University, shall prepare, and make available on its Internet website, information in English and Spanish, which is designed to be easily understandable by the general public, about the genetic risk factors associated with, and the symptoms and treatment of, sickle cell anemia, in addition to any other information that the Commissioner of Health deems necessary for the purposes of this act. The department shall revise this information whenever new information about sickle cell anemia becomes available.

b. The department shall prepare an informational booklet in English and Spanish that contains the information posted on its website pursuant to subsection a. of this section, as funds become available for that purpose. The department shall make a supply of booklets available to all licensed health care facilities engaged in the diagnosis or treatment of sickle cell anemia, as well as to health care professionals, community health centers, members of the public, and social services agencies upon their request.

119. Section 2 of P.L.2005, c.379 (C.34:11-56.59) is amended to read as follows:

C.34:11-56.59 Definitions relative to prevailing wage levels for employees furnishing State building services.

2. As used in this act:

"Commissioner" means the Commissioner of Labor and Workforce Development or the commissioner's duly authorized representatives.

"Building services" means any cleaning or building maintenance work, including but not limited to sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, engineering, securing, patrolling, or other work in connection with the care, securing, or maintenance of an existing building, except that "building services" shall not include any maintenance work or other public work for which a contractor is required to pay the "prevailing wage" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

"Leased by the State" means that not less than 55% of the property or premises is leased by the State, provided that the portion of the property or premises that is leased by the State measures more than 20,000 square feet.

"Prevailing wage for building services "means the wage and benefit rates designated by the commissioner based on the determinations made by the General Services Administration pursuant to the federal "Service Contract Act of 1965" (41 U.S.C. s.351 et seq.), for the appropriate localities and classifications of building service employees.

"The State" means the State of New Jersey and all of its departments, bureaus, boards, commissions, agencies and instrumentalities, including any State institutions of higher education, but does not include political subdivisions.

"State institutions of higher education," means Rutgers, The State University of New Jersey, Rowan University, and the New Jersey Institute of Technology, and any of the State colleges or universities established pursuant to chapter 64 of Title 18A of the New Jersey Statutes, but does not include any county college established pursuant to chapter 64A of Title 18A of the New Jersey Statutes.

120. Section 1 of P.L.2011, c.116 (C.38A:13-10) is amended to read as follows:

C.38A:13-10 Findings, declarations relative to a veteran peer support telephone helpline.

1. a. The Legislature finds and declares that the Department of Military and Veterans' Affairs, in conjunction with Rutgers, The State University of New Jersey, has established a veteran to veteran peer support program telephone helpline. The helpline receives and responds to calls from veterans, servicemembers, and their families. It provides them with access to a comprehensive mental health provider network of mental health professionals

specializing in post traumatic stress disorder and other veterans issues. All services are free and confidential.

b. Since its inception, the helpline has fielded over 6,000 calls from veterans and their families and based on prior statistics, a 10% increase in calls has been projected.

c. The helpline is funded through an allocation from a State appropriation for post traumatic stress disorder. It is appropriate that the helpline have a separate annual appropriation.

121. Section 2 of P.L.2011, c.116 (C.38A:13-11) is amended to read as follows:

C.38A:13-11 Establishment of helpline.

2. a. The Department of Military and Veterans' Affairs shall establish, in coordination with University Behavioral HealthCare of Rutgers, The State University of New Jersey, a toll free veteran to veteran peer support helpline.

b. The helpline shall be accessible 24 hours a day seven days per week and shall respond to calls from veterans, servicemembers and their families. The operators of the helpline shall seek to identify the veterans, servicemembers and their families who should be referred to further peer support and counseling services, and provide referrals.

c. The operators of the helpline shall be trained by University Behavioral Healthcare of Rutgers, The State University of New Jersey and, to the greatest extent possible, shall be trained veterans or mental health professionals with military service expertise and (1) familiar with post traumatic stress disorder, traumatic brain injury and the emotional and psychological tensions, depressions, and anxieties unique to veterans, servicemembers, and their families or (2) trained to provide counseling services involving marriage and family life, substance abuse, personal stress management and other emotional or psychological disorders or conditions which may be likely to adversely affect the personal and service related well-being of veterans, servicemembers, and their families.

d. The Department of Military and Veterans' Affairs and Rutgers, The State University of New Jersey shall provide for the confidentiality of the names of the persons calling, the information discussed, and any referrals for further peer support or counseling; provided, however, the Department of Military and Veterans' Affairs and Rutgers, The State University of New Jersey may establish guidelines providing for the tracking of any person who exhibits a severe emotional or psychological disorder or condition

which the operator handling the call reasonably believes might result in harm to the veteran or servicemember or any other person.

122. Section 3 of P.L.2011, c.116 (C.38A:13-12) is amended to read as follows:

C.38A:13-12 List of credentialed health care providers.

3. University Behavioral Healthcare of Rutgers, The State University of New Jersey shall maintain a list of credentialed military-oriented behavioral healthcare providers throughout the State of New Jersey. Case management services shall also be provided to ensure that veterans, service members, and their families receive ongoing counseling throughout all pre and post deployment events in New Jersey. The continuum of services shall utilize the National Yellow Ribbon guidelines while providing ongoing peer support customized for each branch of military service.

123. Section 4 of P.L.2011, c.116 (C.38A:13-13) is amended to read as follows:

C.38A:13-13 Quarterly consultations.

4. In establishing the helpline authorized under the provisions of section 2 of this act, P.L.2011, c.116 (C.38A:13-11) the Adjutant General of the Department of Military and Veterans' Affairs and University Behavioral Healthcare of Rutgers, The State University of New Jersey shall consult on a quarterly basis with the New Jersey Division of Mental Health Services within the Department of Human Services, the United States Department of Veterans' Affairs, the New Jersey Veterans Healthcare Network, at least two New Jersey Veteran Centers, and at least two State recognized veteran groups.

124. Section 25 of P.L.1954, c.84 (C.43:15A-25) is amended to read as follows:

C.43:15A-25 Annuity savings fund, members' contributions.

25. a. The annuity savings fund shall be the fund in which shall be credited accumulated deductions and contributions by members or on their behalf to provide for their allowances. A single account shall be established in this fund for each person who is or shall become a member and all contributions deducted from each such member's compensation shall be credited to this single account.

b. (1) Members enrolled in the retirement system on or after July 1, 1994 shall contribute 5% of compensation to the system. Members enrolled in the system prior to July 1, 1994 shall contribute 5% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 1995, provided, however, that any member enrolled before July 1, 1994, whose full contribution rate under the system prior to the revisions by this act was less than 6%, shall pay 4% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 1995, and 5% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 1996.

(2) Members enrolled in the retirement system on or after July 1, 2007 who are:

employees of the State, other than employees of the Judicial Branch;

employees of an independent State authority, board, commission, corporation, agency or organization;

employees of a local school district, regional school district, county vocational school district, county special services school district, jointure commission, educational services commission, State-operated school district, charter school, county college, any officer, board, or commission under the authority of the Commissioner of Education or of the State Board of Education, and any other public entity which is established pursuant to authority provided by Title 18A of the New Jersey Statutes; or

employees of a State public institution of higher education shall contribute 5.5% of compensation to the system, and all such members described above enrolled in the system prior to July 1, 2007 shall contribute 5.5% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 2007.

Members enrolled in the retirement system on or after July 1, 2008, other than those described in the paragraph above, shall contribute 5.5% of compensation to the system. Members enrolled in the system prior to July 1, 2008, other than those described in the paragraph above, shall contribute 5.5% of compensation to the system effective with the payroll period that begins immediately after July 1, 2008.

(3) Members of the retirement system shall contribute 6.5% of compensation to the system on and after the effective date of P.L.2011, c.78, with an additional contribution of 1% to be phased in in equal increments over a period of seven years commencing with the first year following that effective date.

c. The retirement system shall certify to each State department or subdivision thereof, and to each branch of the State service not included in a State department, and to every other employer, the proportion of each

member's compensation to be deducted and to facilitate the making of deductions the retirement system may modify the deduction required by a member by such an amount as shall not exceed 1/10 of 1% of the compensation upon the basis of which the deduction is to be made.

If payment in full, representing the monthly or biweekly transmittal and report of salary deductions, is not made within 15 days of the due date established by the retirement system, interest at the rate of 6% per annum shall commence to run against the total transmittal of salary deductions for the period on the first day after such fifteenth day.

d. Every employee to whom this act applies shall be deemed to consent and agree to any deduction from his compensation required by this act and to all other provisions of this act. Notwithstanding any other law, rule or regulation affecting the salary, pay, compensation, other perquisites, or tenure of a person to whom this act applies, or shall apply, and notwithstanding that the minimum salary, pay, or compensation or other perquisites provided by law for him shall be reduced thereby, payment, less such deductions, shall be a full and complete discharge and acquittance of all claims and demands for service rendered by him during the period covered by such payment.

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

C.43:21-27 Definitions.

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

(a) (1) "Covered employer" means, with respect to whether an employer is required to provide benefits during an employee's own disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, who is an employer subject to the "unemployment compensation law" (R.S.43:21-1 et seq.), except the State, its political subdivisions, and any instrumentality of the State unless such governmental entity elects to become a covered employer pursuant to paragraph (2) of this subsection (a); provided, however, that commencing with the effective date of this act, the State of New Jersey, including Rutgers, The State University and the New Jersey Institute of Technology, shall be deemed a covered employer, as defined herein.

"Covered employer" means, after June 30, 2009, with respect to whether the employer is an employer whose employees are eligible for benefits during periods of family temporary disability leave pursuant to P.L.1948, c.110 (C.43:21-25 et al.), and, after December 31, 2008, whether employees of the employer are required to make contributions pursuant to R.S.43:21-7(d)(1)(G)(ii), any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or domestic or foreign corporation, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, who is an employer subject to the "unemployment compensation law" (R.S.43:21-1 et seq.), including any governmental entity or instrumentality which is an employer under R.S.43:21-19(h)(5), notwithstanding that the governmental entity or instrumentality has not elected to be a covered employer pursuant to paragraph (2) of this subsection (a).

(2) Any governmental entity or instrumentality which is an employer under R.S.43:21-19(h)(5) may, with respect to the provision of benefits during an employee's own disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), elect to become a "covered employer" under this subsection beginning with the date on which its coverage under R.S.43:21-19(h)(5) begins or as of January 1 of any year thereafter by filing written notice of such election with the division within at least 30 days of the effective date. Such election shall remain in effect for at least two full calendar years and may be terminated as of January 1 of any year thereafter by filing with the division a written notice of termination at least 30 days prior to the termination date.

(b) (1) "Covered individual" means, with respect to whether an individual is eligible for benefits during an individual's own disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any person who is in employment, as defined in the "unemployment compensation law" (R.S.43:21-1 et seq.), for which the individual is entitled to remuneration from a covered employer, or who has been out of such employment for less than two weeks, except that a "covered individual" who is employed by the State of New Jersey, including Rutgers, The State University or the New Jersey Institute of Technology, or by any governmental entity or instrumentality which elects to become a "covered employer" pursuant to this amendatory act, shall not be eligible to receive any benefits under the "Temporary Disability Benefits Law" until such individual has exhausted all sick leave accumulated as an employee in the classified service of the State or accumulated under terms and conditions similar to classified employees or accumulated under the terms and conditions pursuant to the laws of this State or as the result of a

negotiated contract with any governmental entity or instrumentality which elects to become a "covered employer."

"Covered individual" shall not mean, with respect to whether an individual is eligible for benefits during an individual's own disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any member of the Division of State Police in the Department of Law and Public Safety.

(2) "Covered individual" means, with respect to whether an individual is eligible for benefits during the individual's period of family temporary disability leave pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any individual who is in employment, as defined in the "unemployment compensation law" (R.S.43:21-1 et seq.), for which the individual is entitled to remuneration from a covered employer, or who has been out of that employment for less than two weeks.

(c) "Division" or "commission" means the Division of Temporary Disability Insurance of the Department of Labor and Workforce Development, and any transaction or exercise of authority by the director of the division shall be deemed to be performed by the division.

(d) "Day" shall mean a full calendar day beginning and ending at midnight.

(e) "Disability" shall mean such disability as is compensable under section 5 of P.L.1948, c.110 (C.43:21-29).

(f) "Disability benefits" shall mean any cash payments which are payable to a covered individual for all or part of a period of disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.).

(g) "Period of disability" with respect to any covered individual shall mean:

(1) The entire period of time during which the covered individual is continuously and totally unable to perform the duties of the covered individual's employment because of the covered individual's own disability, except that two periods of disability due to the same or related cause or condition and separated by a period of not more than 14 days shall be considered as one continuous period of disability; provided the individual has earned wages during such 14-day period with the employer who was the individual's last employer immediately preceding the first period of disability; and

(2) On or after July 1, 2009, the entire period of family temporary disability leave taken from employment by the covered individual.

(h) "Wages" shall mean all compensation payable by covered employers to covered individuals for personal services, including commissions and bonuses and the cash value of all compensation payable in any medium other than cash.

(i) (1) (Deleted by amendment, P.L.2001, c.17).

(2) (Deleted by amendment, P.L.2001, c.17).

(3) "Base week" with respect to periods of disability commencing on or after October 1, 1985 and before January 1, 2001, means any calendar week during which a covered individual earned in employment from a covered employer remuneration equal to not less than 20% of the Statewide average weekly wage determined under subsection (c) of R.S.43:21-3, which shall be adjusted to the next higher multiple of $1.00 if not already a multiple thereof.

(4) "Base week" with respect to periods of disability commencing on or after January 1, 2001, means any calendar week of a covered individual's base year during which the covered individual earned in employment from a covered employer remuneration not less than an amount 20 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar year in which the benefit year commences, which amount shall be adjusted to the next higher multiple of $1.00 if not already a multiple thereof, except that if in any calendar week an individual subject to this paragraph is in employment with more than one employer, the covered individual may in that calendar week establish a base week with respect to each of the employers from whom the covered individual earns remuneration equal to not less than the amount defined in this paragraph during that week.

(j) (1) "Average weekly wage" means the amount derived by dividing a covered individual's total wages earned from the individual's most recent covered employer during the base weeks in the eight calendar weeks immediately preceding the calendar week in which a period of disability commenced, by the number of such base weeks.

(2) If the computation in paragraph (1) of this subsection (j) yields a result which is less than the individual's average weekly earnings in employment with all covered employers during the base weeks in such eight calendar weeks, then the average weekly wage shall be computed on the basis of earnings from all covered employers during the base weeks in the eight calendar weeks immediately preceding the week in which the period of disability commenced.

(3) For periods of disability commencing on or after July 1, 2009, if the computations in paragraphs (1) and (2) of this subsection (j) both yield a result which is less than the individual's average weekly earnings in employment with all covered employers during the base weeks in the 26 calendar weeks immediately preceding the week in which the period of disability commenced, then the average weekly wage shall, upon a written

request to the department by the individual on a form provided by the department, be computed by the department on the basis of earnings from all covered employers of the individual during the base weeks in those 26 calendar weeks, and, in the case of a claim for benefits from a private plan, that computation of the average weekly wage shall be provided by the department to the individual and the individual's employer.

When determining the "average weekly wage" with respect to a period of family temporary disability leave for an individual who has a period of family temporary disability immediately after the individual has a period of disability for the individual's own disability, the period of disability is deemed to have commenced at the beginning of the period of disability for the individual's own disability, not the period of family temporary disability.

(k) "Child" means a biological, adopted, or foster child, stepchild or legal ward of a covered individual, child of a domestic partner of the covered individual, or child of a civil union partner of the covered individual, who is less than 19 years of age or is 19 years of age or older but incapable of self-care because of mental or physical impairment.

(l) "Domestic partner" means a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3).

(m)"Civil union" means a civil union as defined in section 2 of P.L.2006, c.103 (C.37:1-29).

(n) "Family member" means a child, spouse, domestic partner, civil union partner or parent of a covered individual.

(o) "Family temporary disability leave" means leave taken by a covered individual from work with an employer to (1) participate in the providing of care, as defined in the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) and regulations adopted pursuant to that act, for a family member of the individual made necessary by a serious health condition of the family member; or (2) be with a child during the first 12 months after the child's birth, if the individual, or the domestic partner or civil union partner of the individual, is a biological parent of the child, or the first 12 months after the placement of the child for adoption with the individual. "Family temporary disability leave" does not include any period of time in which a covered individual is paid benefits pursuant to P.L.1948, c.110 (C.43:21-25 et al.) because the individual is unable to perform the duties of the individual's employment due to the individual's own disability.

(p) "Health care provider" means a health care provider as defined in the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.), and any regulations adopted pursuant to that act.

(q) "Parent of a covered individual" means a biological parent, foster parent, adoptive parent, or stepparent of the covered individual or a person who was a legal guardian of the covered individual when the covered individual was a child.

(r) "Placement for adoption" means the time when a covered individual adopts a child or becomes responsible for a child pending adoption by the covered individual.

(s) "Serious health condition" means an illness, injury, impairment or physical or mental condition which requires: inpatient care in a hospital, hospice, or residential medical care facility; or continuing medical treatment or continuing supervision by a health care provider.

(t) "12-month period" means, with respect to an individual who establishes a valid claim for disability benefits during a period of family temporary disability leave, the 365 consecutive days that begin with the first day that the individual first establishes the claim.

126. Section 22 of P.L.1948, c.110 (C.43:21-46) is amended to read as follows:

C.43:21-46 State disability benefits fund.

22. State disability benefits fund. (a) The State disability benefits fund, hereinafter referred to as the fund, is hereby established. The fund shall remain in the custody of the State Treasurer, and to the extent of its cash requirements shall be deposited in authorized public depositories in the State of New Jersey. There shall be deposited in and credited to the fund the amount of worker and employer contributions provided under subparagraph (G) of paragraph (1) of subsection (d) of R.S.43:21-7 and subsection (e) of R.S.43:21-7, less refunds authorized by the chapter (R.S.43:21-1 et seq.) to which this act is a supplement, and the entire amount of interest and earnings from investments of the fund, and all assessments, fines and penalties collected under this act. The fund shall be held in trust for the payment of disability benefits pursuant to this act, for the payment of benefits pursuant to subsection (f) of R.S.43:21-4, and for the payment of any authorized refunds of contributions. All warrants for the payment of benefits shall be issued by and bear only the signature of the Director of the Division of Unemployment and Temporary Disability Insurance or his duly authorized agent for that purpose. All other moneys withdrawn from the fund shall be upon warrant signed by the State Treasurer and countersigned by the Director of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor of the State of New Jersey. The Treasurer shall

maintain books, records and accounts for the fund, appoint personnel and fix their compensation within the limits of available appropriations. The expenses of the Treasurer in administering the fund and its accounts shall be charged against the administration account, as hereinafter established. A separate account, to be known as the administration account, shall be maintained in the fund, and there shall be credited to such account an amount determined to be sufficient for proper administration, not to exceed, however, 1/10 of 1% of the wages with respect to which current contributions are payable into the fund, and the entire amount of any assessments against covered employers, as hereinafter provided, for costs of administration prorated among approved private plans. The costs of administration of this act, including R.S.43:21-4(f), shall be charged to the administration account.

(b) A further separate account, to be known as the unemployment disability account, shall be maintained in the fund. Such account shall be charged with all benefit payments under R.S.43:21-4(f).

Prior to July 1 of each calendar year, the Division of Unemployment and Temporary Disability Insurance of the Department of Labor of the State of New Jersey shall determine the average rate of interest and other earnings on all investments of the State disability benefits fund for the preceding calendar year. An amount equal to the sum of the amounts withdrawn from the unemployment trust fund pursuant to section 23 hereof multiplied by such average rate shall be determined by the division and credited to the unemployment disability account as of the end of the preceding calendar year.

If the unemployment disability account shall show an accumulated deficit in excess of $200,000.00 at the end of any calendar year after interest and other earnings have been credited as provided hereinabove, the division shall determine the ratio of such deficit to the total of all taxable wages paid during the preceding calendar year, and shall make an assessment against all employers in an amount equal to the taxable wages paid by them during such preceding calendar year to employees, multiplied by such ratio, but in no event shall any such assessment exceed 1/10 or 1% of such wages; provided, however, that the assessment made against the State (including Rutgers, The State University and the New Jersey Institute of Technology) shall not exceed the sum of all benefits paid under the provisions of R.S.43:21-4(f) as the result of employment with the State. Such amounts shall be collectible by the division in the same manner as provided for the collection of employee contributions under this chapter (R.S.43:21-1 et seq.). In making this assessment, the division shall furnish to each affected employer a brief summary of the determination thereof. The amount of such assessments collected by the division shall be credited to the unemployment disability account.

As used in this section, "taxable wages" shall mean wages with respect to which employer contributions have been paid or are payable pursuant to subsections (a), (b) and (c) of R.S.43:21-7.

(c) A board of trustees, consisting of the State Treasurer, the Secretary of State, the Commissioner of Labor and Industry, the director of the division, and the State Comptroller, is hereby created. The board shall invest and reinvest all moneys in the fund in excess of its cash requirements, and such investments shall be made in obligations legal for savings banks; provided, however, that the provisions of this subsection shall in all respects be subject to the provisions of P.L.1950, c.270 (C.52:18A-79 et seq.).

(d) There is hereby appropriated, to be paid out of the fund, such amounts as may from time to time be required for the payment of disability benefits, and such amounts as may be required each year, as contained in the annual appropriation act, for the administration of this act, including R.S.43:21-4(f).

127. Section 2 of P.L.1999, c.201 (C.52:9E-2) is amended to read as follows:

C.52:9E-2 Definitions relative to spinal cord research.

2. As used in this act:

a. "Approved research project" means a peer reviewed scientific research project, which is approved by the commission and which focuses on the treatment and cure of spinal cord injuries and diseases that damage the spinal cord.

b. "Commission" means the New Jersey Commission on Spinal Cord Research established pursuant to this act.

c. "Institutional support services" means all services, facilities, equipment, personnel and expenditures associated with the creation and maintenance of approved research projects.

d. "Qualifying research institution" means Rowan University; Rutgers, The State University; Princeton University; the Kessler Medical Rehabilitation Research and Education Corporation; the Coriell Institute for Medical Research; and any other research institution in the State approved by the commission.

128. Section 3 of P.L.1999, c.201 (C.52:9E-3) is amended to read as follows:

C.52:9E-3 New Jersey Commission on Spinal Cord Research.

3. a. There is established in the Executive Branch of the State government, the New Jersey Commission on Spinal Cord Research. For the pur-

poses of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the commission is allocated within the Department of Health and Senior Services, but notwithstanding that allocation, the commission shall be independent of any supervision or control by the department or by any board or officer thereof.

b. The commission shall consist of 11 members, including the Commissioner of Health and Senior Services, or his designee, who shall serve ex officio; one representative of Rowan University; one representative of Rutgers, The State University; one representative of the federally designated Spinal Cord Injury Model System; one representative from the American Paralysis Association; and six public members who are residents of the State knowledgeable about spinal cord injuries and who include at least one physician licensed in this State and at least one person with a spinal cord injury. The members shall be appointed by the Governor with the advice and consent of the Senate.

c. The term of office of each appointed member shall be three years, but of the members first appointed, three shall be appointed for a term of one year, four for terms of two years, and three for terms of three years. All vacancies shall be filled for the balances of the unexpired terms in the same manner as the original appointments. Appointed members are eligible for reappointment upon the expiration of their terms. A member shall continue to serve upon the expiration of his term until a successor is appointed.

The members of the commission shall not receive compensation for their services, but shall be reimbursed for the actual and necessary expenses incurred in the performance of their duties as members of the commission.

129. Section 2 of P.L.2003, c.200 (C.52:9EE-2) is amended to read as follows:

C.52:9EE-2 Definitions relative to brain injury research.

2. As used in this act:

"Approved research project" means a scientific research project, which is approved by the commission and which focuses on the treatment and cure of brain injuries.

"Commission" means the New Jersey State Commission on Brain Injury Research established pursuant to this act.

"Institutional support services" means all services, facilities, equipment, personnel and expenditures associated with the creation and maintenance of approved research projects.

"Qualifying research institution" means Rutgers, The State University of New Jersey, Rowan University, and any other institution approved by the commission, which is conducting an approved research project.

130. Section 3 of P.L.2003, c.200 (C.52:9EE-3) is amended to read as follows:

C.52:9EE-3 New Jersey State Committee on Brain Injury Research.

3. a. There is established in the Executive Branch of the State government, the New Jersey State Commission on Brain Injury Research. For the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the commission is allocated within the Department of Health and Senior Services, but notwithstanding that allocation, the commission shall be independent of any supervision or control by the department or by any board or officer thereof.

b. The commission shall consist of 11 members, including the Commissioner of Health and Senior Services, or his designee, who shall serve ex officio; one representative of Rutgers, The State University of New Jersey; one representative of Rowan University; six public members, appointed by the Governor with the advice and consent of the Senate, one of whom shall be a licensed physician in this State and one of whom shall be a person with a brain injury; and two public members, one of whom shall be appointed by the President of the Senate and one of whom shall be appointed by the Speaker of the General Assembly. All public members shall be residents of the State or otherwise associated with the State, and shall be known for their knowledge, competence, experience or interest in brain injury medical research.

c. The term of office of each public member shall be three years, but of the members first appointed, three shall be appointed for terms of one year, three for terms of two years, and two for terms of three years. All vacancies shall be filled for the balances of the unexpired terms in the same manner as the original appointments. Appointed members are eligible for reappointment upon the expiration of their terms. A member shall continue to serve upon the expiration of his term until a successor is appointed.

The members of the commission shall not receive compensation for their services, but shall be reimbursed for the actual and necessary expenses incurred in the performance of their duties as members of the commission.

131. Section 3 of P.L.1983, c.6 (C.52:9U-3) is amended to read as follows:

C.52:9U-3 Definitions.

3. As used in this act:

a. "Approved research project" means a scientific research project, which is approved by the commission and which focuses on the genetic, biochemical, viral, microbiological and environmental causes of cancer, and may include, but is not limited to, behavioral, socio-economic, demographic and psychosocial research or research into methods of clinical treatment; or which focuses on pain management and palliative care for persons diagnosed with cancer.

b. "Commission" means the New Jersey State Commission on Cancer Research established pursuant to this act.

c. "Institutional support services" means all services, facilities, equipment, personnel and expenditures associated with the creation and maintenance of approved research projects.

d. "Qualifying research institution" means the Coriell Institute for Medical Research in Camden, New Jersey, Rutgers--The State University, Rowan University, Princeton University and any other institution approved by the commission, which is conducting an approved research project.

132. Section 2 of P.L.2008, c.85 (C.52:16A-100) is amended to read as follows:

C.52:16A-100 Ellis Island Advisory Commission.

2. a. The Ellis Island Advisory Commission is hereby created and established in the Executive Branch of the State Government. For the purposes of complying with the provisions of Article V, Section IV, paragraph 1, of the New Jersey Constitution, the commission is allocated within the Department of State.

The commission shall consist of 19 voting members, as follows:

(1) a representative of the Governor's office, the Secretary of State or a designee, the State Treasurer or a designee, the Attorney General or a designee, the Commissioner of Environmental Protection or a designee, the Commissioner of Education or a designee, the Executive Director of the New Jersey Commerce Commission or a designee, the Commissioner of Health and Senior Services or a designee, the Commissioner of Transportation or a designee, the New Jersey State representative of the National Trust for Historic Preservation or a designee, and the President of Save Ellis Island, Inc. or a designee, each serving ex officio;

(2) four members of the Legislature, of whom one shall be appointed by the Senate President, one by the Senate Minority Leader, one by the

Speaker of the General Assembly and one by the Minority Leader of the General Assembly. Legislators appointed to the commission shall serve as members thereof for terms co-extensive with their respective terms as members of the Houses of the Legislature from which they were appointed; and

(3) four members shall be appointed by the Governor, with the advice and consent of the Senate, of whom one shall be a representative of Rutgers, the State University of New Jersey, chosen with expertise in immigration issues, and three shall be members of the public, chosen with due regard for their knowledge of the role of Ellis Island in American history, including one member with expertise in the hospitality industry and one member with expertise in the development industry. No public members shall hold elective office.

b. Each public member of the commission shall serve for a term of three years, except that of the initial members so appointed: one member shall serve for one year, two members shall serve for two years, and two members shall serve for three years. Public members shall be eligible for reappointment. They shall serve until their successors are appointed and qualified, and the term of any successor of any incumbent shall be calculated from the expiration of the term of that incumbent. A vacancy occurring other than by expiration of the term shall be filled in the same manner as the original appointment but for the unexpired term only. Public members may be removed by the Governor for cause.

c. The members of the commission shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties subject to the availability of funds.

d. The Secretary of State, or a designee, shall serve as chair, and the members of the commission shall elect annually one of the public members to serve as vice-chair. The chair may appoint a secretary, who need not be a member of the commission. The presence of a majority of the full membership of the commission shall be required for the conduct of official business.

e. The commission shall meet at the call of the chair. The commission shall hold at least two meetings annually which shall be held at the State capitol and at such other times and places as the commission may deem expedient, including on Ellis Island.

133. Section 12 of P.L.1978, c.39 (C.52:18A-174) is amended to read as follows:

C.52:18A-174 Deferred compensation plan expanded.

12. Subject to the independent approval of the State Treasurer, the board may authorize the transfer of funds necessary to permit individuals employed at the New Jersey Institute of Technology, Rutgers, The State University, Rowan University, and any other agency, authority, commission, or instrumentality of State government which has an independent corporate existence, to participate in the plan.

134. Section 1 of P.L.1959, c.40 (C.52:27B-56.1) is amended to read as follows:

C.52:27B-56.1 Joint purchases.

1. The Director of the Division of Purchase and Property may, by joint action, purchase any articles used or needed by the State and the Palisades Interstate Park Commission, the New Jersey Highway Authority, the New Jersey Turnpike Authority, the Delaware River Joint Toll Bridge Commission, the Port Authority of New York and New Jersey, the South Jersey Port Corporation, the Passaic Valley Sewerage Commission, the Delaware River Port Authority, Rutgers, The State University, Rowan University, the New Jersey Sports and Exposition Authority, the New Jersey Housing Finance Agency, the New Jersey Mortgage Finance Authority, the New Jersey Health Care Facilities Financing Authority, the New Jersey Education Facilities Authority, the New Jersey Economic Development Authority, the South Jersey Transportation Authority, the Hackensack Meadowlands Development Commission, the New Jersey Water Supply Authority, the Higher Education Student Assistance Authority or any other agency, commission, board, authority or other such governmental entity which is established and is allocated to a State department or any bi-state governmental entity of which the State of New Jersey is a member.

135. Section 2 of P.L.2005, c.373 (C.52:27C-97) is amended to read as follows:

C.52:27C-97 Foundation's board of trustees.

2. The Foundation for Technology Advancement shall be governed by a 22-member board of trustees who are appointed as follows:

a. The Executive Director of the New Jersey Commerce Commission; the Executive Director of the New Jersey Economic Development Authority; the Executive Director of the New Jersey Commission on Science and Technology; and the Chief Technology Officer in the Office of Information Technology; or their designees, all of whom shall serve ex officio;

b. A faculty member appointed by the president of each of the following academic institutions: The New Jersey Institute of Technology; Rutgers, the State University; and Princeton University, all of whom shall serve ex officio; and

c. Fifteen public members appointed by the Governor as follows: a representative of each of the following organizations: the New Jersey Technology Council, the Biotechnology Council of New Jersey, the Forum for Academicians, Scientists and Technologists of New Jersey, the Strengthening the Mid-Atlantic Region for Tomorrow States Organization, the New Jersey Business and Industry Association, the Commerce and Industry Association of New Jersey, the New Jersey State Chamber of Commerce, the New Jersey Tooling and Manufacturing Association, the Research and Development Council of New Jersey, the American Electronics Association - New Jersey/Pennsylvania Council, and a representative employed by a corporation from each of the following industry sectors: pharmaceuticals, financial services, advanced technology, information technology, and nanotechnology.

Of the public members first appointed, four shall serve for a term of two years, four for a term of three years, four for a term of four years, and three for a term of five years.

Members appointed thereafter shall serve five-year terms, and any vacancy shall be filled by appointment for the unexpired term only. A member is eligible for reappointment. Vacancies in the membership of the foundation shall be filled in the same manner as the original appointments were made.

The members shall elect a chair and vice chair from the membership of the board of trustees.

136. Section 5 of P.L.2001, c.154 (C.58:10B-17.1) is amended to read as follows:

C.58:10B-17.1 Commencement of civil actions under environmental laws, limitations; definitions.

5. a. (1) Except where a limitations provision expressly and specifically applies to actions commenced by the State or where a longer limitations period would otherwise apply, and subject to any statutory provisions or common law rules extending limitations periods, any civil action concerning the remediation of a contaminated site or the closure of a sanitary landfill facility commenced by the State pursuant to the State's environmental laws shall be commenced within three years next after the cause of action shall have accrued.

(2) For purposes of determining whether a civil action subject to the limitations periods specified in paragraph (1) of this subsection has been commenced within time, no cause of action shall be deemed to have accrued prior to January 1, 2002 or until the contaminated site is remediated or the sanitary landfill has been properly closed, whichever is later.

b. (1) Except where a limitations provision expressly and specifically applies to actions commenced by the State or where a longer limitations period would otherwise apply, and subject to any statutory provisions or common law rules extending limitations periods, any civil action concerning the payment of compensation for damage to, or loss of, natural resources due to the discharge of a hazardous substance, commenced by the State pursuant to the State's environmental laws, shall be commenced within five years and six months next after the cause of action shall have accrued.

(2) For purposes of determining whether a civil action subject to the limitations periods specified in paragraph (1) of this subsection has been commenced within time, no cause of action shall be deemed to have accrued prior to January 1, 2002 or until the completion of the remedial action for the entire contaminated site or the entire sanitary landfill facility, whichever is later.

c. As used in this section:

"State's environmental laws" means the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), P.L.1986, c.102 (C.58:10A-21 et seq.), the "Brownfield and Contaminated Site Remediation Act," P.L.1997, c.278 (C.58:10B-1.1 et al.), the "Industrial Site Recovery Act," P.L.1983, c.330 (C.13:1K-6 et al.), the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.), the "Comprehensive Regulated Medical Waste Management Act," P.L.1989, c.34 (C.13:1E-48.1 et seq.), the "Major Hazardous Waste Facilities Siting Act," P.L.1981, c.279 (C.13:1E-49 et seq.), the "Sanitary Landfill Facility Closure and Contingency Fund Act," P.L.1981, c.306 (C.13:1E-100 et seq.), the "Regional Low-Level Radioactive Waste Disposal Facility Siting Act," P.L.1987, c.333 (C.13:1E-177 et seq.), or any other law or regulation by which the State may compel a person to perform remediation activities on contaminated property; and

"State" means the State, its political subdivisions, any office, department, division, bureau, board, commission or agency of the State or one of its political subdivisions, and any public authority or public agency, including, but not limited to, the New Jersey Transit Corporation.

d. Nothing in the amendatory provisions to this section adopted pursuant to P.L.2009, c.60 (C.58:10C-1 et al.) shall extend a limitations period that has expired prior to the date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.).

137. Section 8 of P.L.2001, c.246 (App.A:9-71) is amended to read as follows:

App.A:9-71 Domestic Security Preparedness Planning Group.

8. a. There is established in the Department of Law and Public Safety the Domestic Security Preparedness Planning Group, which shall assist the task force in performing its duties under this act. In cooperation with the task force, the planning group shall develop and provide to the task force, for consideration, a coordinated plan to be included in the State Emergency Operations Plan to prepare for, respond to, mitigate and recover from incidents of terrorism.

b. The members of the planning group shall include the Director of the New Jersey Office of Emergency Management, the Adjutant General of Military and Veterans' Affairs or his designee, the Commissioner of Agriculture or his designee, the Commissioner of Community Affairs or his designee, the Commissioner of Corrections or his designee, the Commissioner of Environmental Protection or his designee, the Commissioner of Health and Senior Services or his designee, the Commissioner of Human Services, or his designee, the Commissioner of Transportation or his designee, the Executive Director of the New Jersey Transit Corporation or his designee, the State Treasurer or his designee, the New Jersey State Medical Examiner or his designee, the President of the Board of Public Utilities or his designee, a representative of the New Jersey County Emergency Management Coordinators Association, a representative of the New Jersey State Fire Chiefs Association, and a representative of the New Jersey State Police Chiefs Association. The planning group may include, to the extent such individuals may be made available for such purpose, a representative of the Federal Emergency Management Agency, a representative of the Federal Bureau of Investigation, a representative of the American Red Cross, and a representative of such other charitable groups as may be appropriate. The chairperson of the task force shall appoint the chair and vice chair of the planning group.

C.18A:64M-39 Layoffs of certain employees prohibited.

138. On and between the enactment date of this act and July 1, 2014, there shall be no layoff of any employee represented by a majority repre-

sentative, who was employed as of the enactment date of this act, at the University of Medicine and Dentistry of New Jersey, University Hospital, Rutgers, the State University or Rowan University as a result of any reorganization, restructuring, transfer or acquisition of any school, facility, hospital, entity, function or operation of the University of Medicine and Dentistry of New Jersey, Rutgers, the State University or Rowan University that occurs pursuant to or as a result of the implementation of this act.

C.18A:64M-40 Construction of act.

139. Nothing in P.L.2012, c.45 (C.18A:64M-1 et al.) shall be construed to modify or contravene the rights and obligations of employers or employees under the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.).

C.18A:64M-41 Pledge, covenant with bond holders.

140. The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds heretofore issued and outstanding pursuant to a bond resolution of Rutgers, The State University or Rowan University that the entities established pursuant to this act shall abide by and otherwise fulfill the terms of any agreement, covenant, or indenture made by Rutgers, The State University to its bond holders and Rowan University to its bond holders, and will not in any way impair the rights or remedies of such holders.

C.18A:65-100 Protection from certain undisclosed liabilities.

141. In transferring the assets of the University of Medicine and Dentistry of New Jersey to Rutgers, The State University, it is the intention of the Legislature to protect Rutgers, The State University, and to hold it harmless, subject to future appropriation, for unexpected costs or losses associated with undisclosed liabilities of the University of Medicine and Dentistry of New Jersey that were not reasonably foreseeable or contemplated at the time of the transfers required by this act. Therefore, if Rutgers, The State University experiences, during fiscal years 2014 and 2015, costs or losses associated with liabilities of the University of Medicine and Dentistry of New Jersey that were not identified in the certified financial statements of the University of Medicine and Dentistry of New Jersey for the time periods preceding the incurrence of the cost or loss, the State shall reimburse Rutgers, The State University for such cost or loss, subject to appropriation by the Legislature.

C.18A:64M-42 Transition committee.

142. The State Treasurer shall establish a Transition Committee in such composition and with such subcommittees as he deems appropriate to advise him regarding all matters pursuant to this act, related to the division, allocation and assignment of State appropriations, debt issues, allocation of budgets, allocation of State personnel, and allocation of costs and resources, monetary and otherwise, of centralized services, involving Rowan University, Rutgers University-Camden, Rutgers, The State University, the University of Medicine and Dentistry of New Jersey, and University Hospital. Upon the advice of the committee or of its subcommittees, the State Treasurer shall be empowered to take all necessary administrative acts to implement the provisions of this act.

C.18A:64M-43 Transfer provisions interdependent, essential.

143. The provisions of each of the transfers of the schools, functions, institutes, campuses and centers, and rights, assets and privileges thereof, shall be considered to be interdependent and essential to the intent and purpose of this act and shall be non-severable, and if any of these transfers shall be deemed unenforceable or invalid, the remaining transfers shall be unenforceable and invalid.

C.18A:65-101 "School of Biomedical and Health Sciences."

144. a. The schools, institutes, and centers of the University of Medicine and Dentistry of New Jersey, other than the School of Osteopathic Medicine, the entire Stratford campus, the remaining facilities in Camden, and University Hospital, that are transferred to Rutgers, The State University pursuant to section 3 of this act shall comprise a university-wide "School of Biomedical and Health Sciences" within Rutgers, The State University. The School of Biomedical and Health Sciences shall also include the Rutgers University School of Nursing, the Ernest Mario School of Pharmacy, the Institute of Health, Health Policy, and Aging Research, and University Behavioral Healthcare. Any other schools, institutes, or centers may also be included in the School of Biomedical and Health Sciences as deemed appropriate by the president of Rutgers, The State University. As provided pursuant to section 14 of this act, University Hospital shall continue to serve as the principal teaching hospital for all of the Newark-based schools.

b. The president of Rutgers, The State University, with the consent of the board of governors, shall appoint a chancellor, who shall be a physician, to lead the School of Biomedical and Health Sciences. The chancellor shall

be based at Rutgers University-Newark and shall report directly to the president of Rutgers, The State University.

There shall be a provost for Rutgers University-Newark responsible for biomedical and health sciences programs located in Newark and a provost, appointed by the president of Rutgers, The State University, for Rutgers University-New Brunswick responsible for biomedical and health sciences programs located in Middlesex County to report to the chancellor.

c. The School of Biomedical and Health Sciences shall be supported through a separate line item in the annual appropriations act.

C.18A:65-14.15 Appointment of chancellor.

145. The president of Rutgers, The State University, in consultation with the New Brunswick campus advisory board, shall appoint a chancellor for Rutgers University-New Brunswick, who shall not be the president of the university. The president of Rutgers, The State University, in consultation with the Newark campus advisory board, shall appoint a chancellor for Rutgers University-Newark. The chancellor of Rutgers University-Newark shall have direct responsibility for the management of Rutgers University-Newark, and the chancellor of Rutgers University-New Brunswick shall have direct responsibility for the management of Rutgers University-New Brunswick. Each chancellor shall report directly to the president of the university.

C.18A:65-14.13 Campus advisory board.

146. Effective July 1, 2013, a campus advisory board shall be appointed for Rutgers University-New Brunswick. The campus advisory board shall work with the chancellor of Rutgers University-New Brunswick in implementing the teaching, research, and service mission of Rutgers University-New Brunswick, the engagement of the campus with its local community, its region, and the State, and its commitment to academic excellence, access, and diversity.

The campus advisory board shall be composed of 11 members as follows: the chancellor of Rutgers University-New Brunswick who shall serve ex-officio; the member of the board of governors of Rutgers, The State University who is appointed by the board of trustees and who is, pursuant to N.J.S.18A:65-14, required to be a resident of Middlesex County; two Rutgers University-New Brunswick faculty members one of whom is appointed by the faculty union and one of whom is elected by the Rutgers-New Brunswick Faculty Council; one member of the Rutgers University-New Brunswick administration appointed by the Rutgers University-New

Brunswick chancellor; one Rutgers University-New Brunswick staff member selected from among the staff unions; two student representatives appointed by the Rutgers University-New Brunswick student governing association; and three members of the local community, two of whom shall be selected by the Office of Community Affairs from community organizations with one of these members being an alumnus of Rutgers University-New Brunswick, and one of whom shall be selected by the Mayor of the City of New Brunswick.

All members shall serve a term of two years, renewable by reappointment or re-election in the same manner as the initial selection. A president of the advisory board shall be selected for a one-year term by a vote of the members of the campus advisory board, and may be so elected for successive terms without limit.

A member shall be subject to removal, after a hearing by a majority of the campus advisory board, for malfeasance or conduct injurious to the interest of Rutgers University-New Brunswick.

The board shall meet and organize annually at a regular meeting held during the second week in September. The president shall serve until the following September and until his successor is appointed and qualified. Vacancies in the offices shall be filled in the same manner for the unexpired term only.

Members of the board shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses.

The campus advisory board shall hold at least one public meeting each semester.

C.18A:65-14.14 Duties of campus advisory board.

147. Notwithstanding the provisions of N.J.S.18A:65-25 or any other section of law to the contrary, the campus advisory board of Rutgers University-New Brunswick shall:

a. advise the president and the board of governors of Rutgers, The State University on the selection of the Rutgers University-New Brunswick chancellor;

b. propose capital projects and bonding for Rutgers University-New Brunswick to the board of governors of Rutgers University; and

c. propose an annual budget for Rutgers University-New Brunswick to the board of governors of Rutgers University.

Nothing in this section shall be construed to alter, amend, modify, or diminish the authority of the board of governors of Rutgers, The State University to grant tenure and promotions to faculty at Rutgers University-New

Brunswick, establish standards for academic programs and for the awarding of degrees for Rutgers University-New Brunswick, and make final decisions on capital projects, bonding, and the annual budget for Rutgers University-New Brunswick.

C.18A:65-102 Transfer of monies, personnel.

148. All monies including, but not limited to, grants, appropriations, capital improvement expenditures, research funds, State-funded personnel, institutional support, and grants-in-aid, previously allocated or otherwise provided to the University of Medicine and Dentistry of New Jersey for the use of Robert Wood Johnson Medical School, regardless of source, which remain unexpended on the effective date of P.L.2012, c.45 (C.18A:64M-1 et al.) shall be transferred to Rutgers, The State University.

C.18A:64G-6.1g Five-year period for review of substantive changes.

149. For a period of five years after the effective date of P.L.2012, c.45 (C.18A:64M-1 et al.), any substantive changes that result in the diminution, deterioration or reduction to essential health care services currently provided by University Hospital, including but not limited to, emergency, pediatric, surgical, family health, outpatient ambulatory diagnostic, treatment and clinical services, cancer treatment services and all services essential to maintaining level one trauma status, shall be subject to review by the University Hospital Community Oversight Board and approval by the Department of Health and Senior Services through a licensing review process. In determining whether to approve a substantive change in an essential service provided by University Hospital, among the factors the Department of Health and Senior Services shall consider is whether that service will continue to be provided to the greater Newark community through collaborative or other arrangements with area hospitals.

University Hospital shall provide quarterly financial statements to the Department of Health and Senior Services which shall be posted on the hospital's public Internet website.

C.18A:64G-6.1h Disposition of medical malpractice claims.

150. For medical malpractice claims incurred at University Hospital, occurring before or after the effective date of this act, University Hospital and its employees shall be represented by the Attorney General in all such matters. The Department of the Treasury shall enter into a memorandum of agreement with University Hospital modeled on the June, 2003 memorandum of agreement between the Department of the Treasury and the Univer-

sity of Medicine and Dentistry concerning the Self-Insurance Reserve Fund, and moneys in the fund known as the Self-Insurance Reserve Fund shall be available to University Hospital solely to indemnify and defend medical malpractice claims against employees, officers, and servants at University Hospital.

C.18A:64G-6.1i Liberal construction relative to certain contracts, agreements.

151. a. The provisions of P.L.2012, c.45 (C.18A:64M-1 et al.) and the authorization pursuant to section 3 of P.L.2006, c.95 (C.18A:64G-6.1) for the board of directors of University Hospital to enter into a contract or other agreement with a nonprofit corporation for the operation and management of University Hospital is to be liberally construed to promote the purposes of P.L.2012, c.45 (C.18A:64M-1 et al.) and to permit the contracted manager to operate University Hospital and exercise the powers described herein notwithstanding that its actions might be deemed anti-competitive or a restraint of trade under any state or federal antitrust laws.

b. In the event that the board of directors of University Hospital enters into a contract or other agreement with a nonprofit corporation for the operation and management of University Hospital, the contracted manager may, in addition to any other authorized duties:

(1) make and execute contracts, and any other instruments including agreements in furtherance of the purposes of P.L.2012, c.45 (C.18A:64M-1 et al.) with any health systems and providers of health care services, private payors, or other parties; and

(2) form and operate networks of hospitals, physicians, and other health care providers, arrange for the provision of health care services through such networks, and enter into such agreements, joint ventures, and affiliations directly related to the management of University Hospital.

c. Notwithstanding the provisions of subsections a. and b. of this section, University Hospital shall continue to be the principal teaching hospital of the New Jersey Medical School, the New Jersey Dental School, and any other Newark-based medical education program. University Hospital clinicians shall continue to have faculty appointments in a Newark-based school. Bargaining unit employees employed at University Hospital shall retain their status as public employees within the meaning of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), and such employees shall continue to provide the services they were providing prior to University Hospital entering into a management contract. There shall be no substantive changes that result in the diminution, deterioration, or reduction to essential health care services currently provided by

University Hospital for a period of five years after the effective date of P.L.2012, c.45 (C.18A:64M-1 et al.) without review by the University Hospital Community Oversight Board and approval by the Department of Health and Senior Services, and any management contract shall conform to all other requirements of P.L.2012, c.45 (C.18A:64M-1 et al.).

Repealer.

152. The following sections are repealed:

P.L.1970, c.102 (C.18A:64G-1 et seq.);

Sections 3, 6, 19, 20, 21, and 22 of P.L.1981, c.325 (C.18A:64G-3.1, 18A:64G-4.1, 18A:64G-3.3, 18A:64G-3.4, 18A:64G-3.5, 18A:64G-3.6);

Sections 1, 7, and 8 of P.L.1992, c.84 (C.18A:64G-3.8, 18A:64G-3.9, and 18A:64G-3.10);

Section 4 of P.L.2006, c.95 (C.18A:64G-6.2); and

Section 1 of P.L.1979, c.1 (C.18A:64G-20.1).

153. Section 138 shall take effect immediately, sections 15, 20, 26, 33, 34, 38, and 146 of this act shall take effect and become operational on the 90th day after the date of enactment and the remainder of this act shall take effect on July 1, 2013 and shall first apply to the 2013-2014 academic year, but anticipatory administrative action may be taken in advance of the operative date as shall be necessary for the implementation of this act.

Approved August 22, 2012.

CHAPTER 46

AN ACT establishing a Hooked on Fishing-Not on Drugs Program, supplementing Title 23 of the Revised Statutes and making an appropriation.

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

C.23:2-13 Hooked on Fishing-Not on Drugs Program.

1. a. There is established in the Department of Environmental Protection, Division of Fish and Wildlife, a Hooked on Fishing-Not on Drugs Program, which shall be based on a national program developed by the Future Fisherman Foundation that encourages school-aged children to avoid drug usage by providing alternative activities that involve learning to fish,

appreciating aquatic and environmental resources, and developing positive life skills. The division shall assign staff to develop strategies for assisting school districts or other interested public service organizations in implementing this program throughout the State. Statewide program implementation shall be modeled after the pilot program implemented in Ocean County in calendar year 2000, which may include, but not be limited to, the distribution of materials to promote and operate the program throughout the State. To the maximum extent possible, the division shall implement and operate the program in every county in the State.

b. The division may work with educational, public safety and environmental groups in order to promote volunteerism among these groups for the purpose of acting as program instructors, mentors or advisors. The division may also work with public service organizations, sportsman groups and local merchants to encourage the donation of technical, material and financial assistance to the program.

C.23:2-14 Collection, maintenance of data; annual report.

2. The division shall collect and maintain data on the Hooked on Fishing-Not on Drugs Program and provide an annual report to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), including information on the number of school districts or municipalities that have implemented the program and the number of pupils that are participating in the program. The report shall also include information on the effectiveness of the program in terms of drug usage avoidance or incidents among participating students.

C.23:2-15 Rules, regulations.

3. The Department of Environmental Protection shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to effectuate the provisions of this act.

4. There is appropriated the sum of $200,000 from the Drug Enforcement and Demand Reduction Fund, established pursuant to N.J.S.2C:35-15, to the Department of Environmental Protection to fund the cost of implementing the Hooked on Fishing-Not on Drugs Program established pursuant to this act. The Legislature, to the extent possible, shall ensure that sufficient appropriations from the Drug Enforcement and Demand Reduction Fund or any other appropriate source are provided annually to maintain the operation of the program.

5. This act shall take effect immediately.

Approved September 18, 2012.

CHAPTER 47

AN ACT concerning certain brewery licenses and amending R.S.33:1-10 and P.L.1962, c.152.

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

1. R.S.33:1-10 is amended to read as follows:

Class A licenses; subdivisions; fees.

33:1-10. Class A licenses shall be subdivided and classified as follows:

Plenary brewery license. 1a. The holder of this license shall be entitled, subject to rules and regulations, to brew any malt alcoholic beverages and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse; provided, however, that the delivery of this product by the holder of this license to retailers licensed under this title shall be from inventory in a warehouse located in this State which is operated under a plenary brewery license. The fee for this license shall be $10,625.

Limited brewery license. 1b. The holder of this license shall be entitled, subject to rules and regulations, to brew any malt alcoholic beverages in a quantity to be expressed in said license, dependent upon the following fees and not in excess of 300,000 barrels of 31 fluid gallons capacity per year and to sell and distribute this product to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse; provided, however, that the delivery of this product by the holder of this license to retailers licensed under this title shall be from inventory in a warehouse located in this State which is operated under a limited brewery license. The holder of this license shall be entitled to sell this product at retail to consumers on the licensed premises of the brewery for consumption on the premises, but only in connection with a tour of the brewery, or for consumption off the premises in a quantity of not more than 15.5 fluid gallons per person, and to offer samples for

sampling purposes only pursuant to an annual permit issued by the director. The holder of this license shall not sell food or operate a restaurant on the licensed premises. The fee for this license shall be graduated as follows:

to so brew not more than 50,000 barrels of 31 liquid gallons capacity per annum, $1,250;

to so brew not more than 100,000 barrels of 31 fluid gallons capacity per annum, $2,500;

to so brew not more than 200,000 barrels of 31 fluid gallons capacity per annum, $5,000;

to so brew not more than 300,000 barrels of 31 fluid gallons capacity per annum, $7,500.

For the purposes of this subsection, "sampling" means the selling at a nominal charge or the gratuitous offering of an open container not exceeding four ounces of any malt alcoholic beverage. For the purposes of this subsection, "product" means any malt alcoholic beverage that is produced on the premises licensed under this subsection.

Restricted brewery license. 1c. The holder of this license shall be entitled, subject to rules and regulations, to brew any malt alcoholic beverages in a quantity to be expressed in such license not in excess of 10,000 barrels of 31 gallons capacity per year. Notwithstanding the provisions of R.S.33:1-26, the director shall issue a restricted brewery license only to a person or an entity which has identical ownership to an entity which holds a plenary retail consumption license issued pursuant to R.S.33:1-12, provided that such plenary retail consumption license is operated in conjunction with a restaurant regularly and principally used for the purpose of providing meals to its customers and having adequate kitchen and dining room facilities, and that the licensed restaurant premises is immediately adjoining the premises licensed under this subsection. The holder of this license shall be entitled to sell or deliver the product to that restaurant premises. The holder of this license also shall be entitled to sell and distribute the product to wholesalers licensed in accordance with this chapter. The fee for this license shall be $1,250, which fee shall entitle the holder to brew up to 1,000 barrels of 31 liquid gallons per annum. The licensee also shall pay an additional $250 for every additional 1,000 barrels of 31 fluid gallons produced. The fee shall be paid at the time of application for the license, and additional payments based on barrels produced shall be paid within 60 days following the expiration of the license term upon certification by the licensee of the actual gallons brewed during the license term. No more than 10 restricted brewery licenses shall be issued to a person or entity which holds an interest in a plenary retail consumption license. If the governing body of

the municipality in which the licensed premises will be located should file a written objection, the director shall hold a hearing and may issue the license only if the director finds that the issuance of the license will not be contrary to the public interest. All fees related to the issuance of both licenses shall be paid in accordance with statutory law. The provisions of this subsection shall not be construed to limit or restrict the rights and privileges granted by the plenary retail consumption license held by the holder of the restricted brewery license issued pursuant to this subsection.

The holder of this license shall be entitled to offer samples of its product for promotional purposes at charitable or civic events off the licensed premises pursuant to an annual permit issued by the director.

For the purposes of this subsection, "sampling" means the selling at a nominal charge or the gratuitous offering of an open container not exceeding four ounces of any malt alcoholic beverage product. For the purposes of this subsection, "product" means any malt alcoholic beverage that is produced on the premises licensed under this subsection.

Plenary winery license. 2a. Provided that the holder is engaged in growing and cultivating grapes or fruit used in the production of wine on at least three acres on, or adjacent to, the winery premises, the holder of this license shall be entitled, subject to rules and regulations, to produce any fermented wines, and to blend, fortify and treat wines, and to sell and distribute his products to wholesalers licensed in accordance with this chapter and to churches for religious purposes, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse, and to sell his products at retail to consumers on the licensed premises of the winery for consumption on or off the premises and to offer samples for sampling purposes only. The fee for this license shall be $938. A holder of this license who produces not more than 250,000 gallons per year shall also have the right to sell and distribute his products to retailers licensed in accordance with this chapter, except that the holder of this license shall not use a common carrier for such distribution. The fee for this additional privilege shall be graduated as follows: a licensee who manufactures more than 150,000 gallons, but not in excess of 250,000 gallons per annum, $1,000; a licensee who manufactures more than 100,000 gallons, but not in excess of 150,000 gallons per annum, $500; a licensee who manufactures more than 50,000 gallons, but not in excess of 100,000 gallons per annum, $250; a licensee who manufactures 50,000 gallons or less per annum, $100. A holder of this license who produces not more than 250,000 gallons per year shall have the right to sell such wine at retail in original packages in 15 salesrooms apart from the

winery premises for consumption on or off the premises and for sampling purposes for consumption on the premises, at a fee of $250 for each salesroom. Licensees shall not jointly control and operate salesrooms. Additionally, the holder of this license who produces not more than 250,000 gallons per year may ship not more than 12 cases of wine per year, subject to regulation, to any person within or without this State over 21 years of age for personal consumption and not for resale. A case of wine shall not exceed a maximum of nine liters. A copy of the original invoice shall be available for inspection by persons authorized to enforce the alcoholic beverage laws of this State for a minimum period of three years at the licensed premises of the winery. For the purposes of this subsection, "sampling" means the selling at a nominal charge or the gratuitous offering of an open container not exceeding one and one-half ounces of any wine.

A holder of this license who produces not more than 250,000 gallons per year shall not own, either in whole or in part, or hold, either directly or indirectly, any interest in a winery that produces more than 250,000 gallons per year. In addition, a holder of this license who produces more than 250,000 gallons per year shall not own, either in whole or in part, or hold, either directly or indirectly, any interest in a winery that produces not more than 250,000 gallons per year. For the purposes of this subsection, "product" means any wine that is produced, blended, fortified, or treated by the licensee on its licensed premises situated in the State of New Jersey.

Farm winery license. 2b. The holder of this license shall be entitled, subject to rules and regulations, to manufacture any fermented wines and fruit juices in a quantity to be expressed in said license, dependent upon the following fees and not in excess of 50,000 gallons per year and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter and to churches for religious purposes and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse and to sell at retail to consumers for consumption on or off the licensed premises and to offer samples for sampling purposes only. The license shall be issued only when the winery at which such fermented wines and fruit juices are manufactured is located and constructed upon a tract of land exclusively under the control of the licensee, provided that the licensee is actively engaged in growing and cultivating an area of not less than three acres on or adjacent to the winery premises and on which are growing grape vines or fruit to be processed into wine or fruit juice; and provided, further, that for the first five years of the operation of the winery such fermented wines and fruit juices shall be manufactured from at least 51% grapes or fruit grown in the

State and that thereafter they shall be manufactured from grapes or fruit grown in this State at least to the extent required for labeling as "New Jersey Wine" under the applicable federal laws and regulations. The containers of all wine sold to consumers by such licensee shall have affixed a label stating such information as shall be required by the rules and regulations of the Director of the Division of Alcoholic Beverage Control. The fee for this license shall be graduated as follows: to so manufacture between 30,000 and 50,000 gallons per annum, $375; to so manufacture between 2,500 and 30,000 gallons per annum, $250; to so manufacture between 1,000 and 2,500 gallons per annum, $125; to so manufacture less than 1,000 gallons per annum, $63. No farm winery license shall be held by the holder of a plenary winery license or be situated on a premises licensed as a plenary winery.

The holder of this license shall also have the right to sell and distribute his products to retailers licensed in accordance with this chapter, except that the holder of this license shall not use a common carrier for such distribution. The fee for this additional privilege shall be $100. The holder of this license shall have the right to sell his products in original packages at retail to consumers in 15 salesrooms apart from the winery premises for consumption on or off the premises, and for sampling purposes for consumption on the premises, at a fee of $250 for each salesroom. Licensees shall not jointly control and operate salesrooms. Additionally, the holder of this license may ship not more than 12 cases of wine per year, subject to regulation, to any person within or without this State over 21 years of age for personal consumption and not for resale. A case of wine shall not exceed a maximum of nine liters. A copy of the original invoice shall be available for inspection by persons authorized to enforce the alcoholic beverage laws of this State for a minimum period of three years at the licensed premises of the winery. For the purposes of this subsection, "sampling" means the selling at a nominal charge or the gratuitous offering of an open container not exceeding one and one-half ounces of any wine.

A holder of this license who produces not more than 250,000 gallons per year shall not own, either in whole or in part, or hold, either directly or indirectly, any interest in a winery that produces more than 250,000 gallons per year.

Unless otherwise indicated, for the purposes of this subsection, with respect to farm winery licenses, "manufacture" means the vinification, aging, storage, blending, clarification, stabilization and bottling of wine or juice from New Jersey fruit to the extent required by this subsection.

Wine blending license. 2c. The holder of this license shall be entitled, subject to rules and regulations, to blend, treat, mix, and bottle fermented wines and fruit juices with non-alcoholic beverages, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be $625.

Instructional winemaking facility license. 2d. The holder of this license shall be entitled, subject to rules and regulations, to instruct persons in and provide them with the opportunity to participate directly in the process of winemaking and to directly assist such persons in the process of winemaking while in the process of instruction on the premises of the facility. The holder of this license also shall be entitled to manufacture wine on the premises not in excess of an amount of 10% of the wine produced annually on the premises of the facility, which shall be used only to replace quantities lost or discarded during the winemaking process, to maintain a warehouse, and to offer samples produced by persons who have received instruction in winemaking on the premises by the licensee for sampling purposes only on the licensed premises for the purpose of promoting winemaking for personal or household use or consumption. Wine produced on the premises of an instructional winemaking facility shall be used, consumed or disposed of on the facility's premises or distributed from the facility's premises to a person who has participated directly in the process of winemaking for the person's personal or household use or consumption. The holder of this license may sell mercantile items traditionally associated with winemaking and novelty wearing apparel identified with the name of the establishment licensed under the provisions of this section. The holder of this license may use the licensed premises for an event or affair, including an event or affair at which a plenary retail consumption licensee serves alcoholic beverages in compliance with all applicable statutes and regulations promulgated by the director. The fee for this license shall be $1,000. For the purposes of this subsection, "sampling" means the gratuitous offering of an open container not exceeding one and one-half ounces of any wine.

Out-of-State winery license. 2e. Provided that the applicant does not produce more than 250,000 gallons of wine per year, the holder of a valid winery license issued in any other state may make application to the director for this license. The holder of this license shall have the right to sell and distribute his products to wholesalers licensed in accordance with this chapter and to sell such wine at retail in original packages in 16 salesrooms

apart from the winery premises for consumption on or off the premises at a fee of $250 for each salesroom. Licensees shall not jointly control and operate salesrooms. The annual fee for this license shall be $938. A copy of a current license issued by another state shall accompany the application. The holder of this license also shall have the right to sell and distribute his products to retailers licensed in accordance with this chapter, except that the holder of this license shall not use a common carrier for such distribution. The fee for this additional privilege shall be graduated as follows: a licensee who manufactures more than 150,000 gallons, but not in excess of 250,000 gallons per annum, $1,000; a licensee who manufactures more than 100,000 gallons, but not in excess of 150,000 gallons per annum, $500; a licensee who manufactures more than 50,000 gallons, but not in excess of 100,000 gallons per annum, $250; a licensee who manufactures 50,000 gallons or less per annum, $100. Additionally, the holder of this license may ship not more than 12 cases of wine per year, subject to regulation, to any person within or without this State over 21 years of age for personal consumption and not for resale. A case of wine shall not exceed a maximum of nine liters. A copy of the original invoice shall be available for inspection by persons authorized to enforce the alcoholic beverage laws of this State for a minimum period of three years at the licensed premises of the winery.

The licensee shall collect from the customer the tax due on the sale pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) and shall pay the tax due on the delivery of alcoholic beverages pursuant to the "Alcoholic beverage tax law," R.S.54:41-1 et seq. The Director of the Division of Taxation in the Department of the Treasury shall promulgate such rules and regulations necessary to effectuate the provisions of this paragraph, and may provide by regulation for the co-administration of the tax due on the delivery of alcoholic beverages pursuant to the "Alcoholic beverage tax law," R.S.54:41-1 et seq. with the administration of the tax due on the sale pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

A holder of this license who produces not more than 250,000 gallons per year shall not own, either in whole or in part, or hold, either directly or indirectly, any interest in a winery that produces more than 250,000 gallons per year.

Plenary distillery license. 3a. The holder of this license shall be entitled, subject to rules and regulations, to manufacture any distilled alcoholic beverages and rectify, blend, treat and mix, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chap-

ter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be $12,500.

Limited distillery license. 3b. The holder of this license shall be entitled, subject to rules and regulations, to manufacture and bottle any alcoholic beverages distilled from fruit juices and rectify, blend, treat, mix, compound with wine and add necessary sweetening and flavor to make cordial or liqueur, and to sell and distribute to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution and to warehouse these products. The fee for this license shall be $3,750.

Supplementary limited distillery license. 3c. The holder of this license shall be entitled, subject to rules and regulations, to bottle and rebottle, in a quantity to be expressed in said license, dependent upon the following fees, alcoholic beverages distilled from fruit juices by such holder pursuant to a prior plenary or limited distillery license, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be graduated as follows: to so bottle and rebottle not more than 5,000 wine gallons per annum, $313; to so bottle and rebottle not more than 10,000 wine gallons per annum, $625; to so bottle and rebottle without limit as to amount, $1,250.

Rectifier and blender license. 4. The holder of this license shall be entitled, subject to rules and regulations, to rectify, blend, treat and mix distilled alcoholic beverages, and to fortify, blend, and treat fermented alcoholic beverages, and prepare mixtures of alcoholic beverages, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be $7,500.

Bonded warehouse bottling license. 5. The holder of this license shall be entitled, subject to rules and regulations, to bottle alcoholic beverages in bond on behalf of all persons authorized by federal and State law and regulations to withdraw alcoholic beverages from bond. The fee for this license shall be $625. This license shall be issued only to persons holding permits to operate Internal Revenue bonded warehouses pursuant to the laws of the United States.

The provisions of section 21 of P.L.2003, c.117 amendatory of this section shall apply to licenses issued or transferred on or after July 1, 2003, and to license renewals commencing on or after July 1, 2003.

2. Section 2 of P.L.1962, c.152 (C.33:1-12.32) is amended to read as follow:

C.33:1-12.32 Alcoholic beverage licenses.

2. The provisions of this act shall not apply to the acquisition of an additional license or licenses or an interest therein, when such license is issued to a person for use in connection with the operation of a hotel containing at least 50 sleeping rooms, for use in connection with the operation of a restaurant, for use in connection with the operation of a bowling establishment consisting of more than 20 lanes, but only so long as the person uses the license in connection with the operation of that bowling establishment, or for use on premises within the grounds of an international airport, nor shall the provisions of this act affect the right of any person to dispose of an interest in a license or licenses by will or to the transfer of such an interest by descent and distribution.

Any additional license acquired for use in connection with a restaurant or bowling establishment consisting of more than 20 lanes or for use on premises within the grounds of an international airport, as herein authorized, shall be limited, however, to the sale of alcoholic beverages for consumption on the licensed premises only, except that this restriction shall not apply to the sale of malt alcoholic beverages produced on the licensed premises of a restricted brewery pursuant to R.S.33:1-10.

3. This act shall take effect immediately.

Approved September 19, 2012.

CHAPTER 48

AN ACT concerning the extension of certain permits and approvals affecting the physical development of property located within the State of New Jersey and amending P.L.2008, c.78.

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

1. Section 2 of P.L.2008, c.78 (C.40:55D-136.2) is amended to read as follows:

C.40:55D-136.2 Findings, declarations relative to extension of certain permits and approvals.

2. The Legislature finds and declares that:

a. The most recent national recession has caused one of the longest economic downturns since the Great Depression of the 1930s and has drastically affected various segments of the New Jersey economy, but none as severely as the State's banking, real estate and construction sectors.

b. The real estate finance sector of the economy is in severe decline due to the sub-prime mortgage problem and the resultant widening mortgage finance crisis. The extreme tightening of lending standards for home buyers and other real estate borrowers has reduced access to the capital markets.

c. As a result of the crisis in the real estate finance sector of the economy, real estate developers and redevelopers, including homebuilders, and commercial, office, and industrial developers, have experienced an industry-wide decline, including reduced demand, cancelled orders, declining sales and rentals, price reductions, increased inventory, fewer buyers who qualify to purchase homes, layoffs, and scaled back growth plans.

d. The process of obtaining planning board and zoning board of adjustment approvals for subdivisions, site plans, and variances can be difficult, time consuming and expensive, both for private applicants and government bodies.

e. The process of obtaining the myriad other government approvals, required pursuant to legislative enactments and their implementing rules and regulations, such as wetlands permits, treatment works approvals, on-site wastewater disposal permits, stream encroachment permits, flood hazard area permits, highway access permits, and numerous waivers and variances, also can be difficult and expensive; further, changes in the law can render these approvals, if expired or lapsed, impossible to renew or re-obtain.

f. County and municipal governments obtain determinations of master plan consistency, conformance, or endorsement with State or regional plans, from State and regional government entities which may expire or lapse without implementation due to the state of the economy.

g. The current national recession has severely weakened the building industry, and many landowners and developers are seeing their life's work destroyed by the lack of credit and dearth of buyers and tenants, due to the crisis in real estate financing and the building industry, uncertainty over the

state of the economy, and increasing levels of unemployment in the construction industry.

h. The construction industry and related trades are sustaining severe economic losses, and the lapsing of government development approvals would, if not addressed, exacerbate those losses.

i. Financial institutions that lent money to property owners, builders, and developers are experiencing erosion of collateral and depreciation of their assets as permits and approvals expire, and the extension of these permits and approvals is necessary to maintain the value of the collateral and the solvency of financial institutions throughout the State.

j. Due to the current inability of builders and their purchasers to obtain financing, under existing economic conditions, more and more once-approved permits are expiring or lapsing and, as these approvals lapse, lenders must reappraise and thereafter substantially lower real estate valuations established in conjunction with approved projects, thereby requiring the reclassification of numerous loans which, in turn, affects the stability of the banking system and reduces the funds available for future lending, thus creating more severe restrictions on credit and leading to a vicious cycle of default.

k. As a result of the continued downturn of the economy, and the continued expiration of approvals which were granted by State and local governments, it is possible that thousands of government actions will be undone by the passage of time.

l. Obtaining an extension of an approval pursuant to existing statutory or regulatory provisions can be both costly in terms of time and financial resources, and insufficient to cope with the extent of the present financial situation; moreover, the costs imposed fall on the public as well as the private sector.

m. It is the purpose of this act to prevent the wholesale abandonment of approved projects and activities due to the present unfavorable economic conditions, by tolling the term of these approvals for a period of time, thereby preventing a waste of public and private resources.

2. Section 3 of P.L.2008, c.78 (C.40:55D-136.3) is amended to read as follows:

C.40:55D-136.3 Definitions relative to extension of certain permits and approvals.

3. As used in P.L.2008, c.78 (C.40:55D-136.1 et seq.):

"Approval" means, except as otherwise provided in section 4 of P.L.2008, c.78 (C.40:55D-136.4), any approval of a soil erosion and sediment control plan granted by a local soil conservation district under the au-

thority conferred by R.S.4:24-22 et seq., waterfront development permit issued pursuant to R.S.12:5-1 et seq., permit issued pursuant to "The Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-1 et seq.), permit issued pursuant to the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et al.), approval of an application for development granted by the Delaware and Raritan Canal Commission pursuant to the "Delaware and Raritan Canal State Park Law of 1974," P.L.1974, c.118 (C.13:13A-1 et seq.), permit issued by the New Jersey Meadowlands Commission pursuant to the "Hackensack Meadowlands Reclamation and Development Act," P.L.1968, c.404 (C.13:17-1 et al.), approval of an application for development granted by the Pinelands Commission and determination of municipal and county plan conformance pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), permit issued and center designations pursuant to the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), septic approval granted pursuant to Title 26 of the Revised Statutes, permit granted pursuant to R.S.27:7-1 et seq. or any supplement thereto, right-of-way permit issued by the Department of Transportation pursuant to paragraph (3) of subsection (h) of section 5 of P.L.1966, c.301 (C.27:1A-5), approval granted by a sewerage authority pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.), approval granted by a municipal authority pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), an agreement with a municipality, county, municipal authority, sewerage authority, or other governmental authority for the use or reservation of sewerage capacity, approval issued by a county planning board pursuant to chapter 27 of Title 40 of the Revised Statutes, preliminary and final approval granted in connection with an application for development pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), permit granted pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), plan endorsement and center designations pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.), permit or certification issued pursuant to the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et al.), permit granted authorizing the drilling of a well pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.), certification or permit granted, exemption from a sewerage connection ban granted, wastewater management plan approved, and pollution discharge elimination system permit pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), certification granted pursuant to "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), certification or approval granted pursuant to P.L.1971, c.386

(C.58:11-25.1 et al.), certification issued and water quality management plan approved pursuant to the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), approval granted pursuant to the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et al.), permit issued pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), any municipal, county, regional, or State approval or permit granted under the general authority conferred by State law or rule or regulation, or any other government authorization of any development application or any permit related thereto whether that authorization is in the form of a permit, approval, license, certification, permission, determination, interpretation, exemption, variance, exception, waiver, letter of interpretation, no further action letter, agreement or any other executive or administrative decision which allows a development or governmental project to proceed.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure or facility, or of any grading, soil removal or relocation, excavation or landfill or any use or change in the use of any building or other structure or land or extension of the use of land.

"Environmentally sensitive area" means an area designated pursuant to the State Development and Redevelopment Plan adopted, as of the effective date of P.L.2008, c.78, pursuant to P.L.1985, c.398 (C.52:18A-196 et al.) as Planning Area 4B (Rural/Environmentally Sensitive), Planning Area 5 (Environmentally Sensitive), or a critical environmental site, but shall not include any extension area as defined in this section.

"Extension area" means an area designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3 (Fringe Planning Area), Planning Area 4A (Rural Planning Area), a designated center, or a designated growth center in an endorsed plan until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to refine this definition as it pertains to Statewide planning areas, whichever is later; a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6); regional growth areas, villages, and towns, designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to section 7 of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8); the planning area of the Highlands Region as defined in section 3 of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-

3), and any Highlands center designated by the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4); an urban enterprise zone designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) and as approved by the Department of Community Affairs; or similar areas designated by the Department of Environmental Protection. "Extension area" shall not include an area designated pursuant to the State Development and Redevelopment Plan adopted, as of the effective date of P.L.2008, c.78, pursuant to P.L.1985, c.398 as Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive), except for any area within Planning Area 4B or Planning Area 5 that is a designated center, or a designated growth center in an endorsed plan.

"Extension period" means the period beginning January 1, 2007 and continuing through December 31, 2014.

"Government" means any municipal, county, regional, or State government, or any agency, department, commission or other instrumentality thereof.

3. Section 4 of P.L.2008, c.78 (C.40:55D-136.4) is amended to read as follows:

C.40:55D-136.4 Existing government approval; extension period.

4. a. For any government approval in existence during the extension period, the running of the period of approval is automatically suspended for the extension period, except as otherwise provided hereunder; however, the tolling provided for herein shall not extend the government approval more than six months beyond the conclusion of the extension period. Nothing in P.L.2008, c.78 (C.40:55D-136.1 et seq.) shall shorten the duration that any approval would have had in the absence of P.L.2008, c.78, nor shall P.L.2008, c.78 prohibit the granting of such additional extensions as are provided by law when the tolling granted by P.L.2008, c.78 shall expire. Notwithstanding any previously enacted provision of P.L.2008, c.78, as amended and supplemented, the running of the period of approval of all government approvals which would have been extended pursuant to the definition of "extension area," added by P.L.2012, c.48, shall be calculated, using that definition, retroactive to the enactment of P.L.2008, c.78.

b. Nothing in P.L.2008, c.78 (C.40:55D-136.1 et seq.) shall be deemed to extend or purport to extend:

(1) any permit or approval issued by the government of the United States or any agency or instrumentality thereof, or any permit or approval by whatever authority issued of which the duration of effect or the date or terms of its expiration are specified or determined by or pursuant to law or regulation of the federal government or any of its agencies or instrumentalities;

(2) any permit or approval issued pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.) if the extension would result in a violation of federal law, or any State rule or regulation requiring approval by the Secretary of the Interior pursuant to Pub.L.95-625 (16 U.S.C. s.471i);

(3) any permit or approval issued within an environmentally sensitive area;

(4) any permit or approval within an environmentally sensitive area issued pursuant to the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), or any permit or approval issued within the preservation area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3);

(5) any permit or approval issued by the Department of Transportation pursuant to Title 27 of the Revised Statutes or under the general authority conferred by State law, other than a right-of-way permit issued pursuant to paragraph (3) of subsection (h) of section 5 of P.L.1966, c.301 (C.27:1A-5) or a permit granted pursuant to R.S.27:7-1 et seq. or any supplement thereto;

(6) any permit or approval issued pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), except (a) where work has commenced, in any phase or section of the development, on any site improvement as defined in paragraph (1) of subsection a. of section 41 of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-53) or on any buildings or structures or (b) where the permit or approval authorizes work on real property owned by the government or the federal government;

(7) any coastal center designated pursuant to the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), that as of March 15, 2007 (a) had not submitted an application for plan endorsement to the State Planning Commission, and (b) was not in compliance with the provisions of the Coastal Zone Management Rules at N.J.A.C.7:7E-5B.6; or

(8) any permit or approval within the Highlands planning area located in a municipality subject to the "Highlands Water Protection and Planning Act," P.L.2004, c.120, that has adopted, as of May 1, 2012, in accordance with the Highlands Water Protection and Planning Council conformance approval, a Highlands master plan element, a Highlands land use ordinance, or an environmental resource inventory, except that the provisions of this paragraph shall not apply to any permit or approval within a Highlands center desig-

nated by the Highlands Water Protection and Planning Council, notwithstanding the adoption by the municipality of a Highlands master plan element, a Highlands land use ordinance, or an environmental resource inventory.

c. P.L.2008, c.78 shall not affect any administrative consent order issued by the Department of Environmental Protection in effect or issued during the extension period, nor shall it be construed to extend any approval in connection with a resource recovery facility as defined in section 2 of P.L.1985, c.38 (C.13:1E-137).

d. Nothing in P.L.2008, c.78 shall affect the ability of the Commissioner of Environmental Protection to revoke or modify a specific permit or approval, or extension thereof pursuant to P.L.2008, c.78, when that specific permit or approval contains language authorizing the modification or revocation of the permit or approval by the department.

e. In the event that any approval tolled pursuant to P.L.2008, c.78 is based upon the connection to a sanitary sewer system, the approval's extension shall be contingent upon the availability of sufficient capacity, on the part of the treatment facility, to accommodate the development whose approval has been extended. If sufficient capacity is not available, those permit holders whose approvals have been extended shall have priority with regard to the further allocation of gallonage over those approval holders who have not received approval of a hookup prior to the date of enactment of P.L.2008, c.78. Priority regarding the distribution of further gallonage to any permit holder who has received the extension of an approval pursuant to P.L.2008, c.78 shall be allocated in order of the granting of the original approval of the connection.

f. P.L.2008, c.78 shall not toll any approval issued under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) in connection with an application for development involving a residential use where, subsequent to the expiration of the permit but prior to January 1, 2007, an amendment has been adopted to the master plan and the zoning ordinance to rezone the property to industrial or commercial use when the permit was issued for residential use.

g. Nothing in P.L.2008, c.78 shall be construed or implemented in such a way as to modify any requirement of law that is necessary to retain federal delegation to, or assumption by, the State of the authority to implement a federal law or program.

h. Nothing in P.L.2008, c.78 shall be deemed to extend the obligation of any wastewater management planning agency to submit a wastewater management plan or plan update, or the obligation of a municipality to submit a wastewater management plan or plan update, pursuant to the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.) and the Wa-

ter Quality Management Planning rules, N.J.A.C.7:15-1.1 et seq., adopted by the Department of Environmental Protection, effective July 7, 2008.

i. All underlying municipal, county, and State permits or approvals within the extension area as defined in section 3 of P.L.2008, c.78 (C.40:55D-136.3), as amended, are extended in the Pinelands Area as designated pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.).

4. Section 5 of P.L.2008, c.78 (C.40:55D-136.5) is amended to read as follows:

C.40:55D-136.5 Notice.

5. State agencies shall, within 30 days after the effective date of P.L.2008, c.78 (C.40:55D-136.1 et seq.), and within 30 days after the effective date of any subsequent amendment and supplement thereto, place a notice in the New Jersey Register tolling all approvals in conformance with this act.

5. Section 6 of P.L.2008, c.78 (C.40:55D-136.6) is amended to read as follows:

C.40:55D-136.6 Liberal construction.

6. The provisions of this act shall be liberally construed to effectuate the purposes of this act, and any subsequent amendment and supplement thereto.

6. This act shall take effect immediately.

Approved September 19, 2012.

CHAPTER 49

AN ACT concerning adding the names of certain veterans to certain civil service eligibility lists and supplementing Title 11A of the New Jersey Statutes.

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

C.11A:5-6.1 Addition of names of certain veterans to certain civil service eligibility lists.

1. a. Any member of the New Jersey National Guard or of the Reserve Component of the United States Armed Forces placed on an active open competitive employment list who is called to active federal military service

prior to the expiration of the list shall, within twelve months from the date of the expiration of that list, submit to the Civil Service Commission sufficient proof of military service and an application to be placed on an active open competitive employment list for the same title and jurisdiction, provided that the same test mode was used or test modes were reconciled, as the list the person was on immediately prior to being called to active federal military service, for prospective appointment only, based upon the score obtained on the original list, after disabled veterans and veterans as provided in chapter 5 of Title 11A of the New Jersey Statues. The person shall meet all current eligibility requirements at the time of application for placement on a list for the same title and jurisdiction. The applicant shall be able to request placement on a maximum of two consecutive lists. If the first list that the applicant is placed on expires in less than 12 months, then the applicant shall be placed on a second list, if requested, if the placement can occur within 12 months after the filing of the application, otherwise the applicant shall be placed on only one list. The Civil Service Commission shall develop regulations for reconciling test modes, for the best interest of the applicant, in order to enable the placement of the applicant on the list. No fee shall be charged by the Civil Service Commission to the applicant for placement on the list or for placement on the first of two lists, as appropriate.

b. Upon returning from military leave, if the person receives status as a veteran as defined in N.J.S.11A:5-1, he or she shall receive veteran status for the purposes of subsection a. of this section if a list is generated after the person is granted veteran status.

2. The Civil Service Commission shall make all necessary determinations to effectuate the purposes of this act.

3. This act shall take effect 30 days after enactment.

Approved September 19, 2012.

CHAPTER 50

AN ACT concerning the creation and operation of limited liability companies, supplementing Title 42 of the Revised Statutes and repealing various parts of the statutory law.

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

ARTICLE 1
GENERAL PROVISIONS

C.42:2C-1 Short title.

1. Short Title. This act shall be known and may be cited as the "Revised Uniform Limited Liability Company Act."

C.42:2C-2 Definitions.

2. Definitions. As used in this act:

"Certificate of formation" means the certificate required by section 18 of this act. The term includes the certificate as amended or restated.

"Contribution" means any benefit provided by a person to a limited liability company:

(1) in order to become a member upon formation of the company and in accordance with an agreement between or among the persons who have agreed to become the initial members of the company;

(2) in order to become a member after formation of the company and in accordance with an agreement between the person and the company; or

(3) in the person's capacity as a member and in accordance with the operating agreement or an agreement between the member and the company.

"Debtor in bankruptcy" means a person who is the subject of:

(1) an order for relief under Title 11 of the United States Code or a successor statute of general application; or

(2) a comparable order under federal, state, or foreign law governing insolvency.

"Distribution" except as otherwise provided in subsection g. of section 35 of this act, means a transfer of money or other property from a limited liability company to another person on account of a transferable interest.

"Effective" with respect to a record required or permitted to be delivered to the filing office for filing under this act, means effective under subsection c. of section 22 of this act.

"Filing office" means the Division of Revenue in the Department of the Treasury, or such other State office designated as such by law.

"Foreign limited liability company" means an unincorporated entity formed under the law of a jurisdiction other than this State and denominated by that law as a limited liability company.

"Limited liability company" except in the phrase "foreign limited liability company," means an entity formed under this act.

"Manager" means a person that under the operating agreement of a manager-managed limited liability company is responsible, alone or in con-

cert with others, for performing the management functions stated in subsection c. of section 37 of this act.

"Manager-managed limited liability company" means a limited liability company that qualifies under subsection a. of section 37 of this act.

"Member" means a person that has become a member of a limited liability company pursuant to section 31 of this act and has not dissociated pursuant to section 46 of this act.

"Member-managed limited liability company" means a limited liability company that is not a manager-managed limited liability company.

"Operating agreement" means the agreement, whether or not referred to as an operating agreement and whether oral, in a record, implied, or in any combination thereof, of all the members of a limited liability company, including a sole member, concerning the matters described in subsection a. of section 11 of this act. The term includes the agreement as amended or restated.

"Organizer" means a person that acts to form a limited liability company pursuant to section 18 of this act.

"Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

"Principal office" means the principal executive office of a limited liability company or foreign limited liability company, whether or not the office is located in this State.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Registered office" means:

(1) the office that a limited liability company is required to designate and maintain pursuant to section 14 of this act; or

(2) the principal office of a foreign limited liability company.

"Sign" means, with the present intent to authenticate or adopt a record:

(1) to execute or adopt a tangible symbol; or

(2) to attach to or logically associate with the record an electronic symbol, sound, or process.

"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

"Terminated" means, with respect to a limited liability company, that such company has been dissolved, that all of its affairs have been wound

up, and that all of its assets have been either applied to discharge its obligations to creditors, including members that are creditors, or distributed to its members.

"Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift, and transfer by operation of law.

"Transferable interest" means the right, as originally associated with a person's capacity as a member, to receive distributions from a limited liability company in accordance with the operating agreement, whether or not the person remains a member or continues to own any part of the right.

"Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member.

C.42:2C-3 Knowledge; notice.

3. Knowledge; Notice.

a. A person knows a fact when the person:

(1) has actual knowledge of it; or

(2) is deemed to know it under paragraph (1) of subsection d. of this section or law other than this act.

b. A person has notice of a fact when the person:

(1) has reason to know the fact from all of the facts known to the person at the time in question; or

(2) is deemed to have notice of the fact under paragraph (2) of subsection d. of this section.

c. A person notifies another of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person knows the fact.

d. A person that is not a member is deemed:

(1) to know of a limitation on authority to transfer real property as provided in subsection g. of section 28 of this act; and

(2) to have notice of a limited liability company's:

(a) dissolution, 90 days after a certificate of dissolution, pursuant to subparagraph (a) of paragraph (2) of subsection b. of section 49 of this act becomes effective;

(b) termination, 90 days after a statement of termination, pursuant to subparagraph (f) of paragraph (2) of subsection b. of section 49 of this act becomes effective; and

(c) merger, conversion, or domestication, 90 days after articles of merger, conversion, or domestication under Article 10 (sections 73 through 87 of this act) become effective.

C.42:2C-4 Nature, purposes and duration of limited liability company.

4. Nature, Purpose and Duration of Limited Liability Company.

a. A limited liability company is an entity distinct from its members.

b. A limited liability company may have any lawful purpose, regardless of whether for profit.

c. A limited liability company has perpetual duration.

C.42:2C-5 Powers.

5. Powers. A limited liability company has the capacity to sue and be sued in its own name and the power to do all things necessary or convenient to carry on its activities.

C.42:2C-6 Governing law.

6. Governing Law. The law of this State governs:

a. The internal affairs of a limited liability company; and

b. The liability of a member as member and a manager as manager for the debts, obligations, or other liabilities of a limited liability company.

C.42:2C-7 Supplemental principles of law.

7. Supplemental Principles of Law. Unless displaced by particular provisions of this act, the principles of law and equity supplement this act.

C.42:2C-8 Name.

8. Name.

a. The name of a limited liability company shall contain the words "limited liability company" or the abbreviation "L.L.C." or "LLC". "Limited" may be abbreviated as "Ltd.", and "company" may be abbreviated as "Co.".

b. Unless authorized by subsection c. of this section, the name of a limited liability company shall be distinguishable in the records of the filing office from:

(1) the name of each person that is not an individual and that is incorporated, organized, or authorized to transact business in this State; and

(2) each name reserved under section 10 of this act.

c. Furthermore, the name of a limited liability company shall not contain any word or phrase, or any abbreviation or derivative thereof, the use of which is prohibited or restricted by any other statute of this State, unless the limited liability company has complied with the restrictions.

d. A limited liability company may apply to the filing office for authorization to use a name that does not comply with subsection b. of this

section. The filing office shall authorize use of the name applied for if, as to each noncomplying name:

(1) the present user, registrant, or owner of the noncomplying name consents in a signed record to the use and submits an undertaking in a form satisfactory to the filing office to change the noncomplying name to a name that complies with subsection b. of this section and is distinguishable in the records of the filing office from the name applied for; or

(2) the applicant delivers to the filing office a certified copy of the final judgment of a court establishing the applicant's right to use in this State the name applied for.

e. Subject to section 61, the provisions of this act shall apply to a foreign limited liability company transacting business in this State which has a certificate of authority to transact business in this State or which has applied for a certificate of authority.

C.42:2C-9 Use of name other than actual limited liability company name.

9. Use of Name Other Than Actual Limited Liability Company Name.

a. A domestic limited liability company or foreign limited liability company which conducts activities in this State shall not conduct any of those activities using an alternate name, including an abbreviation of its name or an acronym, unless:

(1) it also uses its actual name in the transaction of any of its activities in a manner that is not deceptive as to its actual identity; or

(2) it has first registered the alternate name as provided in subsection b. of this section.

b. Any limited liability company may adopt and use any alternate name, including a name which would be unavailable as the name of a domestic or foreign limited liability company because of the prohibitions of subsection a. or b. of section 8 of this act, but not including any name not permitted as a limited liability company name by subsection c. of section 8 of this act, by filing an original and a copy of a certificate of registration of alternate name with the filing office executed on behalf of the limited liability company. The certificate shall set forth:

(1) The name, jurisdiction and date of formation of the limited liability company;

(2) The alternate name;

(3) A brief statement of the character or nature of the particular activities to be conducted using the alternate name;

(4) That the limited liability company intends to use the alternate name in this State;

(5) That the limited liability company has not previously used the alternate name in this State in violation of this section or, if it has, the month and year in which it commenced the use.

c. The registration shall be effective for five years from the date of filing and may be renewed successively for additional five-year periods by filing an original and a copy of the certificate of renewal executed on behalf of the limited liability company any time within 90 days prior to, but not later than, the date of expiration of the registration. The certificate of renewal shall set forth the information required in paragraphs (1) through (4) of subsection b. of this section, the date of the certificate of registration then in effect and that the limited liability company is continuing to use the alternate name.

d. This section shall not:

(1) Grant to the registrant of an alternate name any right in the name as against any prior or subsequent use of the name, regardless of whether used as a trademark, trade name, business name or corporate name; or

(2) Interfere with the power of any court to enjoin the use of the name on the basis of the law of unfair competition or on any other basis except the identity or similarity of the alternate name to any corporate, limited partnership or limited liability company name.

e. A limited liability company which has used an alternate name in this State contrary to the provisions of this section shall, upon filing a certificate of registration of alternate name or an untimely certificate of renewal, pay to the filing office the filing fee prescribed for the certificate plus an additional filing fee equal to the full amount of the regular filing fee multiplied by the number of years it has been using the alternate name in violation of this section. For the purpose of this subsection, any part of a year shall be considered a full year.

f. The failure of a limited liability company to file a certificate of registration or renewal of alternate name shall not impair the validity of any contract or act of the limited liability company and shall not prevent the limited liability company from defending any action or proceedings in any court of this State, but the limited liability company shall not maintain any action or proceeding in any court of this State arising out of a contract or act in which it used the alternate name until it has filed the applicable certificate.

g. (1) A limited liability company which files a certificate of registration of alternate name which contains a false statement or omission regarding the date it first used an alternate name in this State shall, if the false statement or omission reduces the amount of the additional fee it paid or

should have paid as provided in subsection e. of this section, forfeit to the State a penalty of not less than $200 nor more than $500.

(2) A limited liability company which should have filed a certificate of registration or renewal of alternate name and fails to do so within 60 days after being notified of its obligation to do so by the filing office, by any other governmental officer, or by any person aggrieved by its failure to do so, shall forfeit to the State a penalty of not less than $200 nor more than $500.

(3) A penalty imposed under this section shall be recovered with costs in an action brought by the Attorney General. The court may proceed on the action in a summary manner.

C.42:2C-10 Reservation of name.

10. Reservation of Name.

a. A person may reserve the exclusive use of the name of a limited liability company, including a fictitious or assumed name for a foreign limited liability company whose name is not available, by delivering an application to the filing office for filing. The application must state the name and address of the applicant and the name proposed to be reserved. If the filing office finds that the name applied for is available, it must be reserved for the applicant's exclusive use for a 120-day period.

b. The owner of a name reserved for a limited liability company may transfer the reservation to another person by delivering to the filing office for filing a signed notice of the transfer which states the name and address of the transferee.

C.42:2C-11 Operating agreement; scope, function, and limitations.

11. Operating Agreement; Scope, Function, and Limitations.

a. Except as provided in subsections b. and c. of this section, the operating agreement governs:

(1) relations among the members as members and between the members and the limited liability company;

(2) the rights and duties under this act of a person in the capacity of manager;

(3) the activities of the company and the conduct of those activities; and

(4) the means and conditions for amending the operating agreement.

b. To the extent the operating agreement does not otherwise provide for a matter described in subsection a. of this section, this act governs the matter.

c. An operating agreement may not:

(1) vary a limited liability company's capacity under section 5 of this act to sue and be sued in its own name;

(2) vary the law applicable under section 6 of this act;

(3) vary the power of the court under section 21 of this act;

(4) subject to subsections d. through g. of this section, eliminate the duty of loyalty, the duty of care, or any other fiduciary duty;

(5) subject to subsections d. through g. of this section, eliminate the contractual obligation of good faith and fair dealing under subsection d. of section 39 of this act;

(6) unreasonably restrict the duties and rights stated in section 40 of this act;

(7) vary the power of a court to decree dissolution in the circumstances specified in paragraphs (4) and (5) of subsection a. of section 48 of this act;

(8) vary the requirement to wind up a limited liability company's business as specified in subsection a. and paragraph (1) of subsection b. of section 49 of this act;

(9) unreasonably restrict the right of a member to maintain an action under Article 9 (sections 67 through 72 of this act);

(10) restrict the right to approve a merger, conversion, or domestication under section 86 of this act to a member that will have personal liability with respect to a surviving, converted, or domesticated organization; or

(11) except as otherwise provided in subsection b. of section 13 of this act, restrict the rights under this act of a person other than a member or manager.

d. If not manifestly unreasonable, the operating agreement may:

(1) restrict or eliminate the duty:

(a) as required in paragraph (1) of subsection b. and subsection g. of section 39 of this act, to account to the limited liability company and to hold as trustee for it any property, profit, or benefit derived by the member in the conduct or winding up of the company's business, from a use by the member of the company's property, or from the appropriation of a limited liability company opportunity;

(b) as required in paragraph (2) of subsection b. and subsection g. of section 39 of this act, to refrain from dealing with the company in the conduct or winding up of the company's business as or on behalf of a party having an interest adverse to the company; and

(c) as required by paragraph (3) of subsection b. and subsection g. of section 39 of this act, to refrain from competing with the company in the conduct of the company's business before the dissolution of the company;

(2) identify specific types or categories of activities that do not violate the duty of loyalty;

(3) alter the duty of care, except to authorize intentional misconduct or knowing violation of law;

(4) alter any other fiduciary duty, including eliminating particular aspects of that duty; and

(5) prescribe the standards by which to measure the performance of the contractual obligation of good faith and fair dealing under subsection d. and subsection g. of section 39 of this act.

e. The operating agreement may specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one or more disinterested and independent persons after full disclosure of all material facts.

f. To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of a responsibility that the member would otherwise have under this act and imposes the responsibility on one or more other members, the operating agreement may, to the benefit of the member that the operating agreement relieves of the responsibility, also eliminate or limit any fiduciary duty that would have pertained to the responsibility.

g. The operating agreement may alter or eliminate the indemnification for a member or manager provided by section 38 of this act and may eliminate or limit a member or manager's liability to the limited liability company and members for money damages, except for:

(1) breach of the duty of loyalty;

(2) a financial benefit received by the member or manager to which the member or manager is not entitled;

(3) a breach of a duty under section 36 of this act;

(4) intentional infliction of harm on the company or a member; or

(5) an intentional violation of criminal law.

h. The court shall decide any claim under paragraph (1) of subsection d. of this section that a term of an operating agreement is manifestly unreasonable. The court:

(1) shall make its determination as of the time the challenged term became part of the operating agreement and by considering only circumstances existing at that time; and

(2) may invalidate the term only if, in light of the purposes and activities of the limited liability company, it is readily apparent that:

(a) the objective of the term is unreasonable; or

(b) the term is an unreasonable means to achieve the provision's objective.

i. This act is to be liberally construed to give the maximum effect to the principle of freedom of contract and to the enforceability of operating agreements.

C.42:2C-12 Operating agreement; effect on limited liability company and persons becoming members; preformation agreement.

12. Operating Agreement; Effect on Limited Liability Company and Persons Becoming Members; Preformation Agreement.

a. A limited liability company is bound by and may enforce the operating agreement, whether or not the company has itself manifested assent to the operating agreement.

b. A person that becomes a member of a limited liability company is deemed to assent to the operating agreement.

c. Two or more persons intending to become the initial members of a limited liability company may make an agreement providing that upon the formation of the company the agreement will become the operating agreement. One person intending to become the initial member of a limited liability company may assent to terms providing that upon the formation of the company the terms will become the operating agreement.

C.42:2C-13 Operating agreement; effect on third parties and relationship to records effective on behalf of limited liability company.

13. Operating Agreement; Effect on Third Parties and Relationship to Records Effective on Behalf of Limited Liability Company.

a. An operating agreement may specify that its amendment requires the approval of a person that is not a party to the operating agreement or the satisfaction of a condition. An amendment is ineffective if its adoption does not include the required approval or satisfy the specified condition.

b. The obligations of a limited liability company and its members to a person in the person's capacity as a transferee or dissociated member are governed by the operating agreement. Subject only to any court order issued under paragraph (2) of subsection b. of section 43 of this act to effectuate a charging order, an amendment to the operating agreement made after a person becomes a transferee or dissociated member is effective with regard to any debt, obligation, or other liability of the limited liability company or its members to the person in the person's capacity as a transferee or dissociated member.

c. If a record that has been delivered by a limited liability company to the filing office for filing and has become effective under this act contains a

provision that would be ineffective under subsection c. of section 11 of this act, if contained in the operating agreement, the provision is likewise ineffective in the record.

d. Subject to subsection c. of this section, if a record that has been delivered by a limited liability company to the filing office for filing and has become effective under this act conflicts with a provision of the operating agreement:

(1) the operating agreement prevails as to members, dissociated members, transferees, and managers; and

(2) the record prevails as to other persons to the extent they reasonably rely on the record.

C.42:2C-14 Office and agent for service of process.

14. Office and Agent for Service of Process.

a. A limited liability company shall designate and continuously maintain in this State:

(1) an office, which need not be a place of its activity in this State; and

(2) an agent for service of process.

b. A foreign limited liability company that has a certificate of authority under section 58 of this act shall designate and continuously maintain in this State an office and an agent for service of process.

c. An agent for service of process of a limited liability company or foreign limited liability company shall be an individual who is a resident of this State or other person with authority to transact business in this State.

C.42:2C-15 Change of designated office or agent for service of process.

15. Change of Designated Office or Agent For Service of Process.

a. A limited liability company or foreign limited liability company may change its registered office, its agent for service of process, or the address of its agent for service of process by delivering to the filing office for filing a statement of change containing:

(1) the name of the company;

(2) the street and mailing addresses of its current registered office;

(3) if the current registered office is to be changed, the street and mailing addresses of the new registered office;

(4) the name and street and mailing addresses of its current agent for service of process; and

(5) if the current agent for service of process or an address of the agent is to be changed, the new information.

b. A registered agent may, with prior notice to the limited liability company for which it is the registered agent, change the address of the registered office of any domestic or foreign limited liability company for which the registered agent is the registered agent to another address in this State by filing in the filing office a statement of change, executed by the registered agent, setting forth the names of each limited liability company, and the address at which the registered agent has maintained the registered office for each limited liability company, and further certifying to the new address to which the registered office will be changed on a given day, and at which new address the registered agent will thereafter maintain the registered office for each limited liability company recited in the statement of change. Upon the filing of such statement of change, the filing office shall furnish to the registered agent a filed copy of the same together with a receipt for the fees, and thereafter, or until further change of address, as authorized by law, the registered office in this State of each limited liability company recited in the statement of change shall be located at the new address of the registered agent thereof as given in such statement of change.

c. In the event of a change of name of any person acting as a registered agent of a limited liability company, the registered agent shall file in the filing office a statement of change, executed by the registered agent, setting forth the new name of the registered agent, the name of the registered agent before it was changed, the name of each limited liability company represented by the registered agent, and the address at which the registered agent has maintained the registered office for each limited liability company. Upon the filing of the statement of change, the filing office shall furnish to the registered agent a filed copy of the same together with a receipt for the fees.

d. Filing a statement of change under this section shall be deemed to be an amendment of the certificate of formation or the certificate of authority of each limited liability company affected thereby and no limited liability company shall be required to take any further action with respect thereto, to amend its certificate of formation or certificate of authority under this act.

e. Subject to subsection c. of section 22 of this act, a statement of change is effective when filed by the filing office.

C.42:2C-16 Resignation of agent for service of process.

16. Resignation of Agent for Service of Process.

a. To resign as an agent for service of process of a limited liability company or foreign limited liability company, the agent shall deliver to the filing office for filing a statement of resignation containing the company name and stating that the agent is resigning.

b. The filing office shall file a statement of resignation delivered under subsection a. of this section and mail or otherwise provide or deliver a copy to the registered office of the company or the principal office of the company if the mailing address of the principal office appears in the records of the filing office and is different from the mailing address of the registered office.

c. An agency for service of process terminates on the earlier of:

(1) the 31st day after the filing office files the statement of resignation;

(2) when a record designating a new agent for service of process is delivered to the filing office for filing on behalf of the limited liability company and becomes effective.

C.42:2C-17 Service of process.

17. Service of Process.

a. An agent for service of process appointed by a limited liability company or foreign limited liability company is an agent of the company for service of any process, notice, or demand required or permitted by law to be served on the company.

b. If a limited liability company or foreign limited liability company does not appoint or maintain an agent for service of process in this State or the agent for service of process cannot with reasonable diligence be found at the agent's street address, the filing office is an agent of the company upon whom process, notice, or demand may be served.

c. Service of any process, notice, or demand on the filing office as agent for a limited liability company or foreign limited liability company may be made by delivering to the filing office duplicate copies of the process, notice, or demand. If a process, notice, or demand is served on the filing office, the filing office shall forward one of the copies by mail or otherwise provide or deliver a copy to the registered office of the company or the principal office of the company if the mailing address of the principal office appears in the records of the filing office and is different from the mailing address of the registered office.

d. Service is effected under subsection c. of this section at the earliest of:

(1) the date the limited liability company or foreign limited liability company receives the process, notice, or demand;

(2) the date shown on the return receipt, if signed on behalf of the company; or

(3) five days after the process, notice, or demand is deposited with the United States Postal Service, if correctly addressed and with sufficient postage.

e. The filing office shall keep a record of each process, notice, and demand served pursuant to this section and record the date of, and the action taken regarding, the service.

f. This section does not affect the right to serve process, notice, or demand in any other manner provided by law.

ARTICLE 2
FORMATION; CERTIFICATE OF FORMATION AND OTHER FILINGS

C.42:2C-18 Formation of limited liability company; certificate of formation.

18. Formation of Limited Liability Company; Certificate of Formation.

a. One or more persons may act as organizers to form a limited liability company by signing and delivering to the filing office for filing a certificate of formation.

b. A certificate of formation shall state:

(1) the name of the limited liability company, which complies with section 8 of this act; and

(2) the street and mailing addresses of the initial registered office and the name of the initial agent at that office for service of process of the company.

c. Subject to subsection c. of section 12 of this act, a certificate of formation may also contain statements as to matters other than those required by subsection b. of this section. However, a statement in a certificate of formation is not effective as a statement of authority.

d. A limited liability company is formed when the filing office has filed the certificate of formation and the company has at least one member, unless the certificate states a delayed effective date pursuant to subsection c. of section 22 of this act.

e. If the certificate states a delayed effective date, a limited liability company is not formed if, before the certificate takes effect, a certificate of dissolution is signed and delivered to the filing office for filing and the filing office files the certificate.

f. Subject to any delayed effective date and except in a proceeding by this State to dissolve a limited liability company, the filing of the certificate of formation by the filing office is conclusive proof that the organizer satisfied all conditions to the formation of a limited liability company.

C.42:2C-19 Amendment or restatement of certificate of formation.

19. Amendment or Restatement of Certificate of Formation.

a. A certificate of formation may be amended or restated at any time.

b. To amend its certificate of formation, a limited liability company shall deliver to the filing office for filing an amendment stating:

(1) the name of the company;

(2) the date of filing of its certificate of formation;

(3) such other information as may be required by the filing office to correctly identify the company; and

(4) the changes the amendment makes to the certificate as most recently amended or restated.

c. To restate its certificate of formation, a limited liability company shall deliver to the filing office for filing a restated certificate of formation, designated as such in its heading, stating:

(1) in the heading or an introductory paragraph, the company's present name, the date of the filing of the company's initial certificate of formation and such other information as may be required by the filing office to correctly identify the company;

(2) if the company's name has been changed at any time since the company's formation, each of the company's former names; and

(3) the changes the restated certificate of formation makes to the certificate of formation as most recently amended or restated.

d. Subject to subsection c. of section 12 and subsection c. of section 22 of this act, an amendment to or a restated certificate of formation is effective when filed by the filing office.

e. If a member of a member-managed limited liability company, or a manager of a manager-managed limited liability company, knows that any information in a filed certificate of formation was inaccurate when the certificate was filed or has become inaccurate owing to changed circumstances, the member or manager shall promptly:

(1) cause the certificate to be amended; or

(2) if appropriate, deliver to the filing office for filing a statement of change under section 15 or a certificate of correction under section 23 of this act.

C.42:2C-20 Signing of records to be delivered for filing to filing office.

20. Signing of Records to be Delivered for Filing to Filing Office.

a. A record delivered to the filing office for filing pursuant to this act shall be signed as follows:

(1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, a record signed on behalf of a limited liability company shall be signed by a person authorized by the company.

(2) A limited liability company's initial certificate of formation shall be signed by at least one person acting as an organizer.

(3) A record filed on behalf of a dissolved limited liability company that has no members shall be signed by the person winding up the company's activities under subsection c. of section 49 of this act or a person appointed under subsection d. of section 49 of this act to wind up those activities.

(4) A certificate of dissolution under subsection e. of section 18 of this act shall be signed by each organizer that signed the initial certificate of formation, but a personal representative of a deceased or incompetent organizer may sign in place of the decedent or incompetent.

(5) A statement of denial by a person under section 29 of this act shall be signed by that person.

(6) Any other record shall be signed by the person on whose behalf the record is delivered to the filing office.

b. Any record filed under this act may be signed by an agent, including an attorney in fact.

C.42:2C-21 Signing and filing pursuant to judicial order.

21. Signing and Filing Pursuant to Judicial Order.

a. If a person required by this act to sign a record or deliver a record to the filing office for filing does not do so, any other person that is aggrieved may petition the Superior Court to order:

(1) the person to sign the record;

(2) the person to deliver the record to the filing office for filing; or

(3) the filing office to file the record unsigned.

b. If a petitioner under subsection a. of this section is not the limited liability company or foreign limited liability company to which the record pertains, the petitioner shall make the company a party to the action.

C.42:2C-22 Delivery to and filing of records by filing office; effective time and date.

22. Delivery to and Filing of Records by Filing Office; Effective Time and Date.

a. A record authorized or required to be delivered to the filing office for filing under this act shall be captioned to describe the record's purpose, be in a medium permitted by the filing office, and be delivered to the filing office. If the filing fees have been paid, unless the filing office determines that a record does not comply with the filing requirements of this act, the filing office shall file the record and:

(1) for a statement of denial under section 29 of this act, send an acknowledgement confirming the filing and a receipt for the fees to the person who submitted the record; and

(2) for all other records, send an acknowledgement confirming the filing and a receipt for the fees to the person who submitted the record.

b. Upon request and payment of the requisite fee, the filing office shall send to the requester a certified copy of a requested record.

c. Except as otherwise provided in sections 15 and 23 of this act, a record delivered to the filing office for filing under this act may specify a delayed effective date. Subject to section 15, subsection d. of section 18 and section 23 of this act, a record filed by the filing office is effective:

(1) if the record does not specify a delayed effective date, on the date the record is filed as evidenced by the filing office's endorsement of the date on the record; and

(2) if the record specifies a delayed effective date after the date the record is filed as evidenced by the filing office's endorsement of the date on the record, on the delayed effective date.

C.42:2C-23 Correcting filed record.

23. Correcting Filed Record.

a. A limited liability company or foreign limited liability company may deliver to the filing office for filing a certificate of correction to correct a record previously delivered by the company to the filing office and filed by the filing office, if at the time of filing the record contained inaccurate information or was defectively signed.

b. A certificate of correction under subsection a. of this section may not state a delayed effective date and shall:

(1) describe the record to be corrected, including its filing date, or attach a copy of the record as filed;

(2) specify the inaccurate information and the reason it is inaccurate or the manner in which the signing was defective; and

(3) correct the defective signature or inaccurate information.

c. When filed by the filing office, a certificate of correction under subsection a. of this section is effective retroactively as of the effective date of the record the certificate corrects, but the certificate is effective when filed:

(1) for the purposes of subsection d. of section 3 of this act; and

(2) as to persons that previously relied on the uncorrected record and would be adversely affected by the retroactive effect.

C.42:2C-24 Liability for inaccurate information in filed record.

24. Liability for Inaccurate Information in Filed Record.

a. If a record delivered to the filing office for filing under this act and filed by the filing office contains inaccurate information, a person that suffers a loss by reliance on the information may recover damages for the loss from:

(1) a person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be inaccurate at the time the record was signed; and

(2) subject to subsection b. of this section, a member of a member-managed limited liability company or the manager of a manager-managed limited liability company, if:

(a) the record was delivered for filing on behalf of the company; and

(b) the member or manager had notice of the inaccuracy for a reasonably sufficient time before the information was relied upon so that, before the reliance, the member or manager reasonably could have:

(i) effected an amendment under section 19 of this act;

(ii) filed a petition under section 21 of this act; or

(iii) delivered to the filing office for filing a certificate of change under section 15 or a certificate of correction under section 23 of this act.

b. To the extent that the operating agreement of a member-managed limited liability company expressly relieves a member of responsibility for maintaining the accuracy of information contained in records delivered on behalf of the company to the filing office for filing under this act and imposes that responsibility on one or more other members, the liability stated in paragraph (2) of subsection a. of this section applies to those other members and not to the member that the operating agreement relieves of the responsibility.

c. An individual who signs a record authorized or required to be filed under this act affirms under penalty of perjury that the information stated in the record is accurate.

C.42:2C-25 Certificate of standing.

25. Certificate of Standing.

a. The filing office, upon request and payment of the requisite fee, shall furnish to any person a certificate of standing for a limited liability company if the records filed in the filing office show that the company has been formed under section 18 of this act. A certificate of standing shall state:

(1) the company's name;

(2) that the company was duly formed under the laws of this State and the date of formation;

(3) whether all fees and penalties due under this act or other law to the filing office have been paid;

(4) whether the company's most recent annual report required by section 26 of this act has been filed in the filing office;

(5) whether the filing office has administratively revoked the company; and

(6) whether the filing office has filed a certificate of dissolution.

b. The filing office, upon request and payment of the requisite fee, shall furnish to any person a certificate of standing for a foreign limited liability company if the records filed in the office of the filing office show that the filing office has filed a certificate of authority, has not revoked the certificate of authority, and has not filed a notice of cancellation. A certificate of standing shall state:

(1) the company's name and any alternate name adopted under subsection a. of section 61 of this act for use in this State;

(2) that the company is authorized to transact business in this State;

(3) whether all fees and penalties due to the filing office under this act or other law have been paid;

(4) whether the company's most recent annual report required by section 26 of this act has been filed in the filing office;

(5) that the filing office has not revoked the company's certificate of authority and has not filed a certificate of cancellation; and

(6) other facts of record in the office of the filing office which are specified by the person requesting the certificate.

c. Subject to any qualification stated in the certificate, a certificate of standing issued by the filing office is conclusive evidence that the limited liability company is in existence or the foreign limited liability company is authorized to transact business in this State.

C.42:2C-26 Annual report for filing office.

26. Annual Report for Filing Office.

a. Each domestic and foreign limited liability company shall file an annual report with the filing office, setting forth:

(1) the name and address of the limited liability company;

(2) the name and address of the registered agent of the limited liability company; and

(3) the name and addresses of the managing members or managers, as the case may be.

b. If no annual report is filed as required by this section for two consecutive years:

(1) the certificate of a domestic limited liability company shall be transferred to an inactive list maintained by the filing office. A limited liability company on the inactive list shall remain a limited liability company and the limited liability of its members and managers shall not be affected by its transfer to this list. The name of a limited liability company on the inactive list shall, subject to any other rights that limited liability company may have to its name, be available for use by any other limited liability company, including a newly-formed limited liability company.

(2) the certificate of a foreign limited liability company may be revoked by the filing office.

(3) if the certificate of a domestic limited liability company has been transferred to the inactive list or if the certificate of a foreign limited liability company has been revoked, the certificate shall be reinstated by proclamation of the filing office upon payment of all fees due to the filing office, consisting of a reinstatement filing fee, current annual report fee, all delinquent annual report fees, and a late filing fee. The reinstatement relates back to the date of transfer of the certificate of a domestic limited liability company to the inactive list or to the date of revocation of the certificate of a foreign limited liability company, as the case may be, and shall validate all actions taken in the interim. In the event that in the interim the name of the limited liability company has become unavailable, the filing office shall reinstate the certificate upon, in the case of a domestic limited liability company, the filing of an amendment to its certificate of formation to change the name to an available name, and in the case of a foreign limited liability company, the filing of an amended certificate of authority changing the name to an available name. The filing office shall provide the forms necessary to effect annual report reinstatements.

ARTICLE 3
RELATIONS OF MEMBERS AND MANAGERS TO PERSONS DEALING WITH LIMITED LIABILITY COMPANY

C.42:2C-27 No agency power of member as member.

27. No Agency Power of Member as Member.

a. A member is not an agent of a limited liability company solely by reason of being a member.

b. A person's status as a member does not prevent or restrict law other than this act from imposing liability on a limited liability company because of the person's conduct.

C.42:2C-28 Statement of authority.

28. Statement of Authority.

a. A limited liability company may deliver to the filing office for filing a statement of authority. The statement:

(1) shall include the name of the company, the street and mailing addresses of its registered office and such other information as may be required by the filing office to correctly identify the company;

(2) with respect to any position that exists in or with respect to the company, may state the authority, or limitations on the authority, of all persons holding the position to:

(a) execute an instrument transferring real property held in the name of the company; or

(b) enter into other transactions on behalf of, or otherwise act for or bind, the company; and

(3) may state the authority, or limitations on the authority, of a specific person to:

(a) execute an instrument transferring real property held in the name of the company; or

(b) enter into other transactions on behalf of, or otherwise act for or bind, the company.

b. To amend or cancel a statement of authority filed with the filing office under subsection a. of section 22 of this act, a limited liability company shall deliver to the filing office for filing an amendment or cancellation stating:

(1) the name of the company;

(2) the street and mailing addresses of the company's registered office;

(3) such other information as may be required by the filing office to correctly identify the company;

(4) the caption of the statement being amended or canceled and the date the statement being affected became effective; and

(5) the contents of the amendment or a declaration that the statement being affected is canceled.

c. A statement of authority affects only the power of a person to bind a limited liability company to persons that are not members.

d. Subject to subsection c. of this section and subsection d. of section 3 of this act, and except as otherwise provided in subsections f., g. and h. of this section, a limitation on the authority of a person or a position contained in an effective statement of authority is not by itself evidence of knowledge or notice of the limitation by any person.

e. Subject to subsection c. of this section, a grant of authority not pertaining to transfers of real property and contained in an effective statement

of authority is conclusive in favor of a person that gives value in reliance on the grant, except to the extent that when the person gives value:

(1) the person has knowledge to the contrary;

(2) the statement has been canceled or restrictively amended under subsection b. of this section; or

(3) a limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective.

f. Subject to subsection c. of this section, an effective statement of authority that grants authority to transfer real property held in the name of the limited liability company and that is recorded by certified copy in the office for recording transfers of the real property is conclusive in favor of a person that gives value in reliance on the grant without knowledge to the contrary, except to the extent that when the person gives value:

(1) the statement has been canceled or restrictively amended under subsection b. of this section and a certified copy of the cancellation or restrictive amendment has been recorded in the office for recording transfers of the real property; or

(2) a limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective and a certified copy of the later-effective statement is recorded in the office for recording transfers of the real property.

g. Subject to subsection c. of this section, if a certified copy of an effective statement containing a limitation on the authority to transfer real property held in the name of a limited liability company is recorded in the office for recording transfers of that real property, all persons are deemed to know of the limitation.

h. Subject to subsection i. of this section, an effective certificate of dissolution is a cancellation of any filed statement of authority for the purposes of subsection f. of this section and is a limitation on authority for the purposes of subsection g. of this section.

i. After a certificate of dissolution becomes effective, a limited liability company may deliver to the filing office for filing and, if appropriate, may record a statement of authority that is designated as a post-dissolution statement of authority. The statement operates as provided in subsections f. and g. of this section.

j. An effective statement of denial operates as a restrictive amendment under this section and may be recorded by certified copy for the purposes of paragraph (1) of subsection f. of this section.

C.42:2C-29 Statement of denial.

29. Statement of Denial. A person named in a filed statement of authority granting that person authority may deliver to the filing office for filing a statement of denial that:

a. Provides the name of the limited liability company and such other information as may be required by the filing office to correctly identify the company and the caption of the statement of authority to which the statement of denial pertains; and

b. Denies the grant of authority.

C.42:2C-30 Liability of members and managers.

30. Liability of Members and Managers.

a. The debts, obligations, or other liabilities of a limited liability company, whether arising in contract, tort, or otherwise:

(1) are solely the debts, obligations, or other liabilities of the company; and

(2) do not become the debts, obligations, or other liabilities of a member or manager solely by reason of the member acting as a member or manager acting as a manager.

b. The failure of a limited liability company to observe any particular formalities relating to the exercise of its powers or management of its activities is not a ground for imposing liability on the members or managers for the debts, obligations, or other liabilities of the company.

ARTICLE 4
RELATIONS OF MEMBERS TO EACH OTHER AND TO LIMITED LIABILITY COMPANY

C.42:2C-31 Becoming a member.

31. Becoming a Member.

a. If a limited liability company is to have only one member upon formation, the person becomes a member as agreed by that person and the organizer of the company. That person and the organizer may be, but need not be, different persons. If different, the organizer acts on behalf of the initial member.

b. If a limited liability company is to have more than one member upon formation, those persons become members as agreed by the persons before the formation of the company. The organizer acts on behalf of the persons in forming the company and may be, but need not be, one of the persons.

c. After formation of a limited liability company, a person becomes a member:

(1) as provided in the operating agreement;

(2) as the result of a transaction effective under Article 10 (sections 73 through 87 of this act);

(3) with the consent of all the members; or

(4) if, within 90 consecutive days after the company ceases to have any members:

(a) the last person to have been a member, or the legal representative of that person, designates a person to become a member; and

(b) the designated person consents to become a member.

d. A person may become a member without acquiring a transferable interest and without making or being obligated to make a contribution to the limited liability company.

C.42:2C-32 Form of contribution.

32. Form of Contribution. A contribution may consist of tangible or intangible property or other benefit to a limited liability company, including money, services performed, promissory notes, other agreements to contribute money or property, and contracts for services to be performed.

C.42:2C-33 Liability for contributions.

33. Liability for Contributions.

a. A person's obligation to make a contribution to a limited liability company is not excused by the person's death, disability, or other inability to perform personally. If a person does not make a required contribution of property or services, the person or the person's estate is obligated, at the option of the company, to contribute money equal to the value of the part of the contribution which has not been made.

b. A creditor of a limited liability company which extends credit or otherwise acts in reliance on an obligation described in subsection a. of this section may enforce the obligation.

C.42:2C-34 Sharing of and right to distributions before dissolution.

34. Sharing of and Right to Distributions before Dissolution.

a. Any distributions made by a limited liability company before its dissolution and winding up shall be in equal shares among members and dissociated members, except to the extent necessary to comply with any transfer effective under section 42 and any charging order in effect under section 43 of this act.

b. A person has a right to a distribution before the dissolution and winding up of a limited liability company only if the company decides to

make an interim distribution. A person's dissociation does not entitle the person to a distribution.

c. A person does not have a right to demand or receive a distribution from a limited liability company in any form other than money. Except as otherwise provided in subsection c. of section 56 of this act, a limited liability company may distribute an asset in kind if each part of the asset is fungible with each other part and each person receives a percentage of the asset equal in value to the person's share of distributions.

d. If a member or transferee becomes entitled to receive a distribution, the member or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution.

C.42:2C-35 Limitations on distribution.

35. Limitations on Distribution.

a. A limited liability company may not make a distribution if after the distribution:

(1) the company would not be able to pay its debts as they become due in the ordinary course of the company's activities; or

(2) the company's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the company were to be dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and termination of members whose preferential rights are superior to those of persons receiving the distribution.

b. A limited liability company may base a determination that a distribution is not prohibited under subsection a. of this section on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable under the circumstances.

c. Except as otherwise provided in subsection f. of this section, the effect of a distribution under subsection a. of this section is measured:

(1) in the case of a distribution by purchase, redemption, or other acquisition of a transferable interest in the company, as of the date money or other property is transferred or debt incurred by the company; and

(2) in all other cases, as of the date:

(a) the distribution is authorized, if the payment occurs within 120 days after that date; or

(b) the payment is made, if the payment occurs more than 120 days after the distribution is authorized.

d. A limited liability company's indebtedness to a member incurred by reason of a distribution made in accordance with this section is at parity with the company's indebtedness to its general, unsecured creditors.

e. A limited liability company's indebtedness, including indebtedness issued in connection with or as part of a distribution, is not a liability for purposes of subsection a. of this section if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could be made to members under this section.

f. If indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness is treated as a distribution, the effect of which is measured on the date the payment is made.

g. As used in this section, "distribution" does not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business under a bona fide retirement plan or other benefits program.

C.42:2C-36 Liability for improper distributions.

36. Liability for Improper Distributions.

a. Except as otherwise provided in subsection b. of this section, if a member of a member-managed limited liability company or manager of a manager-managed limited liability company consents to a distribution made in violation of section 35 of this act and in consenting to the distribution fails to comply with section 39 of this act, the member or manager is personally liable to the company for the amount of the distribution that exceeds the amount that could have been distributed without the violation of section 35 of this act.

b. To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of the authority and responsibility to consent to distributions and imposes that authority and responsibility on one or more other members, the liability stated in subsection a. of this section applies to the other members and not the member that the operating agreement relieves of authority and responsibility.

c. A person that receives a distribution knowing that the distribution to that person was made in violation of section 35 of this act is personally liable to the limited liability company but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid under section 35 of this act.

d. A person against which an action is commenced because the person is liable under subsection a. of this section may:

(1) implead any other person that is subject to liability under subsection a. of this section and seek to compel contribution from the person; and

(2) implead any person that received a distribution in violation of subsection c. of this section and seek to compel contribution from the person in the amount the person received in violation of subsection c. of this section.

e. An action under this section is barred if not commenced within two years after the distribution.

C.42:2C-37 Management of limited liability company.

37. Management of Limited Liability Company.

a. A limited liability company is a member-managed limited liability company unless the operating agreement:

(1) expressly provides that:

(a) the company is or will be "manager-managed;"

(b) the company is or will be "managed by managers;" or

(c) management of the company is or will be "vested in managers;" or

(2) includes words of similar import.

b. In a member-managed limited liability company, the following rules apply:

(1) The management and conduct of the company are vested in the members.

(2) Each member has equal rights in the management and conduct of the company's activities.

(3) A difference arising among members as to a matter in the ordinary course of the activities of the company may be decided by a majority of the members.

(4) An act outside the ordinary course of the activities of the company may be undertaken only with the consent of all members.

(5) The operating agreement may be amended only with the consent of all members.

c. In a manager-managed limited liability company, the following rules apply:

(1) Except as otherwise expressly provided in this act, any matter relating to the activities of the company is decided exclusively by the managers.

(2) Each manager has equal rights in the management and conduct of the activities of the company.

(3) A difference arising among managers as to a matter in the ordinary course of the activities of the company may be decided by a majority of the managers.

(4) The consent of all members is required to:

(a) sell, lease, exchange, or otherwise dispose of all, or substantially all, of the company's property, with or without the good will, outside the ordinary course of the company's activities;

(b) approve a merger, conversion, or domestication under Article 10 (sections 73 through 87 of this act);

(c) undertake any other act outside the ordinary course of the company's activities; and

(d) amend the operating agreement.

(5) A manager may be chosen at any time by the consent of a majority of the members and remains a manager until a successor has been chosen, unless the manager at an earlier time resigns, is removed, or dies, or, in the case of a manager that is not an individual, terminates. A manager may be removed at any time by the consent of a majority of the members without notice or cause.

(6) A person need not be a member to be a manager, but the dissociation of a member that is also a manager removes the person as a manager. If a person that is both a manager and a member ceases to be a manager, that cessation does not by itself dissociate the person as a member.

(7) A person's ceasing to be a manager does not discharge any debt, obligation, or other liability to the limited liability company or members which the person incurred while a manager.

d. An action requiring the consent of members under this act may be taken without a meeting, and a member may appoint a proxy or other agent to consent or otherwise act for the member by signing an appointing record, personally or by the member's agent.

e. The dissolution of a limited liability company does not affect the applicability of this section. However, a person that wrongfully causes dissolution of the company loses the right to participate in management as a member and a manager.

f. This act does not entitle a member to remuneration for services performed for a member-managed limited liability company, except for reasonable compensation for services rendered in winding up the activities of the company.

C.42:2C-38 Indemnification and insurance.

38. Indemnification and Insurance.

a. As used in this section:

(1) "Company agent" means any person who is or was a member of a member-managed company, a manager of a manager-managed company, an officer, employee or agent of the indemnifying company or of any constitu-

ent company absorbed by the indemnifying company in a consolidation or merger and any person who is or was a member, manager, officer, director, trustee, employee or agent of any other enterprise, serving as such at the request of the indemnifying company, or any such constituent company, or the legal representatives of any such member, manager, officer, director, trustee, employee or agent.

(2) "Other enterprise" and "another enterprise" mean any domestic or foreign limited liability company other than the company, and any corporation, partnership, joint venture, sole proprietorship, trust or other enterprise, whether or not for profit, served by a company agent;

(3) "Expenses" means reasonable costs, disbursements and attorney's fees;

(4) "Liabilities" means amounts paid or incurred in satisfaction of settlements, judgments, fines and penalties; and

(5) "Proceeding" means any pending, threatened or completed civil, criminal, administrative or arbitrative action, suit or proceeding, and any appeal therein, and any inquiry or investigation which could lead to that action or proceeding.

(6) References to an "other enterprise" or "another enterprise" include employee benefit plans; and references to "fines" include any excise taxes assessed on a person with respect to an employee benefit plan.

b. A limited liability company shall indemnify a company agent against expenses to the extent that such company agent has been successful on the merits or otherwise in any proceeding brought against the company agent by reason of the company agent serving as a company agent or serving another enterprise at the request of the limited liability company. If the company agent is successful on the merits or otherwise in defense of any claim, issue or matter in any such proceeding, indemnification shall be provided under this subsection with respect to the claim, issue or matter.

c. A limited liability company shall indemnify a company agent against any debt, obligation, expense or other liability incurred by that company agent in the course of the company agent's activities on behalf of the limited liability company or another enterprise at the request of the limited liability company, if, in making the payment or incurring the debt, obligation, expense or other liability, the company agent complied with the duties stated in sections 35 and 39 of this act.

d. A limited liability company may purchase and maintain insurance on behalf of any company agent against any expenses incurred in any proceeding and any liabilities asserted against the company agent in his or her capacity as a company agent, whether or not the limited liability company

could eliminate or limit the person's liability to the company for the conduct giving rise to the liability under subsection g. of section 11 of this act. The limited liability company may purchase such insurance from, or such insurance may be reinsured in whole or in part by, an insurer owned by or otherwise affiliated with the limited liability company, whether or not such insurer does business with other insureds.

C.42:2C-39 Standards of conduct for members and managers.

39. Standards of Conduct for Members and Managers.

a. A member of a member-managed limited liability company owes to the company and, subject to subsection b. of section 67 of this act, the other members, the duties of loyalty and care stated in subsections b. and c. of this section.

b. The fiduciary duty of loyalty of a member in a member-managed limited liability company includes the duties:

(1) to account to the company and to hold as trustee for it any property, profit, or benefit derived by the member:

(a) in the conduct or winding up of the company's activities;

(b) from a use by the member of the company's property; or

(c) from the appropriation of a company opportunity;

(2) to refrain from dealing with the company in the conduct or winding up of the company's activities as or on behalf of a person having an interest adverse to the company; and

(3) to refrain from competing with the company in the conduct of the company's activities before the dissolution of the company.

c. The duty of care of a member of a member-managed limited liability company in the conduct and winding up of the company's activities is to refrain from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

d. A member shall discharge the duties under this act or under the operating agreement and exercise any rights consistently with the contractual obligation of good faith and fair dealing.

e. A member does not violate a duty or obligation under this act or under the operating agreement merely because the member's conduct furthers the member's own interest.

f. All of the members of a member-managed limited liability company or a manager-managed limited liability company may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty.

g. It is a defense to a claim under paragraph (2) of subsection b. of this section and any comparable claim in equity or at common law that the transaction was fair to the limited liability company.

h. If, as permitted by subsection f. of this section or the operating agreement, a member enters into a transaction with the company that would otherwise be prohibited by paragraph (2) of subsection b. of this section, the member's rights and obligations are the same as those of a person not a member.

i. In a manager-managed limited liability company, the following rules apply:

(1) Subsections a., b., c. and g. of this section apply to the manager or managers and not the members, and the duty stated under paragraph (3) of subsection b. of this section continues until winding up is completed.

(2) Subsections d. and e. of this section apply to the managers as well as the members and, subject to subsection d. of this section, a member does not have any duty to the company or any other member solely by reason of being a member.

(3) The power to ratify stated in subsection f. of this section pertains only to the members.

C.42:2C-40 Right of members, managers, and dissociated members to information.

40. Right of Members, Managers, and Dissociated Members to Information.

a. In a member-managed limited liability company, the following rules apply:

(1) On reasonable notice, a member may inspect and copy during regular business hours, at a reasonable location specified by the company, any record maintained by the company regarding the company's activities, financial condition, and other circumstances, to the extent the information is material to the member's rights and duties under the operating agreement or this act.

(2) The company shall furnish to each member:

(a) without demand, any information concerning the company's activities, financial condition, and other circumstances which the company knows and is material to the proper exercise of the member's rights and duties under the operating agreement or this act, except to the extent the company can establish that it reasonably believes the member already knows the information; and

(b) on demand, any other information concerning the company's activities, financial condition, and other circumstances, except to the extent

the demand or information demanded is unreasonable or otherwise improper under the circumstances.

(3) The duty to furnish information under paragraph (2) of this subsection also applies to each member to the extent the member knows any of the information described in paragraph (2).

b. In a manager-managed limited liability company, the following rules apply:

(1) The informational rights stated in subsection a. of this section and the duty stated in paragraph (3) of subsection a. of this section apply to the managers and not the members.

(2) During regular business hours and at a reasonable location specified by the company, a member may obtain from the company and inspect and copy full information regarding the activities, financial condition, and other circumstances of the company as is just and reasonable if:

(a) the member seeks the information for a purpose material to the member's interest as a member;

(b) the member makes a demand in a record received by the company, describing with reasonable particularity the information sought and the purpose for seeking the information; and

(c) the information sought is directly connected to the member's purpose.

(3) Within 10 days after receiving a demand pursuant to subparagraph (b) of paragraph (2) of this subsection, the company shall in a record inform the member that made the demand:

(a) of the information that the company will provide in response to the demand and when and where the company will provide the information; and

(b) if the company declines to provide any demanded information, the company's reasons for declining.

(4) Whenever this act or an operating agreement provides for a member to give or withhold consent to a matter, before the consent is given or withheld, the company shall, without demand, provide the member with all information that is known to the company and is material to the member's decision.

c. On 10 days' demand made in a record received by a limited liability company, a dissociated member may have access to information to which the person was entitled while a member if the information pertains to the period during which the person was a member, the person seeks the information in good faith, and the person satisfies the requirements imposed on a member by paragraph (2) of subsection b. of this section. The company shall respond to a demand made pursuant to this subsection in the manner provided in paragraph (3) of subsection b. of this section.

d. A limited liability company may charge a person that makes a demand under this section the reasonable costs of copying, limited to the costs of labor and material.

e. A member or dissociated member may exercise rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the operating agreement or under subsection g. of this section applies both to the agent or legal representative and the member or dissociated member.

f. The rights under this section do not extend to a person as transferee.

g. In addition to any restriction or condition stated in its operating agreement, a limited liability company, as a matter within the ordinary course of its activities, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this subsection, the company has the burden of proving reasonableness.

ARTICLE 5
TRANSFERABLE INTERESTS AND RIGHTS OF TRANSFEREES AND CREDITORS

C.42:2C-41 Nature of transferable interest.

41. Nature of Transferable Interest.

A transferable interest shall be personal property.

C.42:2C-42 Transfer of transferable interest.

42. Transfer of Transferable Interest.

a. A transfer, in whole or in part, of a transferable interest:

(1) is permissible;

(2) does not by itself cause a member's dissociation or a dissolution and winding up of the limited liability company's activities; and

(3) subject to section 44 of this act, does not entitle the transferee to:

(a) participate in the management or conduct of the company's activities; or

(b) except as otherwise provided in subsection c. of this section, have access to records or other information concerning the company's activities.

b. A transferee has the right to receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled.

c. In a dissolution and winding up of a limited liability company, a transferee is entitled to an account of the company's transactions only from the date of dissolution.

d. A transferable interest may be evidenced by a certificate of the interest issued by the limited liability company in a record, and, subject to this section, the interest represented by the certificate may be transferred by a transfer of the certificate.

e. A limited liability company need not give effect to a transferee's rights under this section until the company has notice of the transfer.

f. A transfer of a transferable interest in violation of a restriction on transfer contained in the operating agreement is ineffective as to a person having notice of the restriction at the time of transfer.

g. Except as otherwise provided in paragraph (2) of subsection d. of section 46 of this act, when a member transfers a transferable interest, the transferor retains the rights of a member other than the interest in distributions transferred and retains all duties and obligations of a member.

h. When a member transfers a transferable interest to a person that becomes a member with respect to the transferred interest, the transferee is liable for the member's obligations under section 43 and subsection c. of section 36 of this act known to the transferee when the transferee becomes a member.

C.42:2C-43 Charging order.

43. Charging Order.

a. On application by a judgment creditor of a member or transferee, a court may enter a charging order against the transferable interest of the judgment debtor for the unsatisfied amount of the judgment. A charging order constitutes a lien on a judgment debtor's transferable interest and requires the limited liability company to pay over to the person to which the charging order was issued any distribution that would otherwise be paid to the judgment debtor.

b. To the extent necessary to effectuate the collection of distributions pursuant to a charging order in effect under subsection a. of this section, the court may:

(1) appoint a receiver of the distributions subject to the charging order, with the power to make all inquiries the judgment debtor might have made; and

(2) make all other orders necessary to give effect to the charging order.

c. Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the court may foreclose the

lien and order the sale of the transferable interest. The purchaser at the foreclosure sale only obtains the transferable interest, does not thereby become a member, and is subject to section 42 of this act.

d. At any time before foreclosure under subsection c. of this section, the member or transferee whose transferable interest is subject to a charging order under subsection a. of this section may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the court that issued the charging order.

e. At any time before foreclosure under subsection c. of this section, a limited liability company or one or more members whose transferable interests are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and thereby succeed to the rights of the judgment creditor, including the charging order.

f. This act shall not deprive any member or transferee of the benefit of any exemption laws applicable to the member's or transferee's transferable interest.

g. This section provides the exclusive remedy by which a person seeking to enforce a judgment against a member or transferee may, in the capacity of judgment creditor, satisfy the judgment from the judgment debtor's transferable interest.

C.42:2C-44 Power of personal representative of deceased member.

44. Power of Personal Representative of Deceased Member. If a member dies, the deceased member's personal representative or other legal representative may exercise the rights of a transferee provided in subsection c. of section 42 of this act and, for the purposes of settling the estate, the rights of a current member under section 40 of this act.

ARTICLE 6
MEMBER'S POWER TO DISSOCIATE; WRONGFUL DISSOCIATION

C.42:2C-45 Member's power to dissociate; wrongful dissociation.

45. Member's Power to Dissociate; Wrongful Dissociation.

a. A person has the power to dissociate as a member at any time, rightfully or wrongfully, by withdrawing as a member by express will under section 46 of this act.

b. A person's dissociation from a limited liability company is wrongful only if the dissociation:

(1) is in breach of an express provision of the operating agreement; or

(2) occurs before the termination of the company and:

(a) the person is expelled as a member by judicial order under subsection e. of section 46 of this act;

(b) the person is dissociated under paragraph (1) of subsection g. of section 46 of this act, by becoming a debtor in bankruptcy; or

(c) in the case of a person that is not a trust other than a business trust, an estate, or an individual, the person is expelled or otherwise dissociated as a member because it willfully dissolved or terminated; or

(3) in the case of a company for a definite term or particular undertaking, by withdrawing as a member by express will under section 46 of this act before the expiration of the term or the completion of the undertaking.

c. A person that wrongfully dissociates as a member is liable to the limited liability company and, subject to section 67 of this act, to the other members for damages caused by the dissociation. The liability is in addition to any other debt, obligation, or other liability of the member to the company or the other members.

C.42:2C-46 Events causing dissociation.

46. Events Causing Dissociation. A person is dissociated as a member from a limited liability company when:

a. The company has notice of the person's express will to withdraw as a member, but, if the person specified a withdrawal date later than the date the company had notice, on that later date;

b. An event stated in the operating agreement as causing the person's dissociation occurs;

c. The person is expelled as a member pursuant to the operating agreement;

d. The person is expelled as a member by the unanimous consent of the other members if:

(1) it is unlawful to carry on the company's activities with the person as a member;

(2) there has been a transfer of all of the person's transferable interest in the company, other than:

(a) a transfer for security purposes; or

(b) a charging order in effect under section 43 of this act which has not been foreclosed;

(3) the person is a corporation and, within 90 days after the company notifies the person that it will be expelled as a member because the person has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdic-

tion of its incorporation, the certificate of dissolution has not been revoked or its charter or right to conduct business has not been reinstated; or

(4) the person is a limited liability company or partnership that has been dissolved and whose business is being wound up;

e. On application by the company, the person is expelled as a member by judicial order because the person:

(1) has engaged, or is engaging, in wrongful conduct that has adversely and materially affected, or will adversely and materially affect, the company's activities;

(2) has willfully or persistently committed, or is willfully and persistently committing, a material breach of the operating agreement or the person's duties or obligations under section 39 of this act; or

(3) has engaged, or is engaging, in conduct relating to the company's activities which makes it not reasonably practicable to carry on the activities with the person as a member;

f. In the case of a person who is an individual:

(1) the person dies; or

(2) in a member-managed limited liability company:

(a) a guardian or general conservator for the person is appointed; or

(b) there is a judicial order that the person has otherwise become incapable of performing the person's duties as a member under this act or the operating agreement;

g. In a member-managed limited liability company, the person:

(1) becomes a debtor in bankruptcy;

(2) executes an assignment for the benefit of creditors; or

(3) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all of the person's property;

h. In the case of a person that is a trust or is acting as a member by virtue of being a trustee of a trust, the trust's entire transferable interest in the company is distributed;

i. In the case of a person that is an estate or is acting as a member by virtue of being a personal representative of an estate, the estate's entire transferable interest in the company is distributed;

j. In the case of a member that is not an individual, partnership, limited liability company, corporation, trust, or estate, the termination of the member;

k. The company participates in a merger under Article 10 (sections 73 through 87 of this act) if:

(1) the company is not the surviving entity; or

(2) otherwise as a result of the merger, the person ceases to be a member;

l. The company participates in a conversion under Article 10 (sections 73 through 87 of this act);

m. The company participates in a domestication under Article 10 (sections 73 through 87 of this act), if, as a result of the domestication, the person ceases to be a member; or

n. The company terminates.

C.42:2C-47 Effect of person's dissociation as member.

47. Effect of Person's Dissociation as Member.

a. When a person is dissociated as a member of a limited liability company:

(1) the person's right to participate as a member in the management and conduct of the company's activities terminates;

(2) if the company is member-managed, the person's fiduciary duties as a member end with regard to matters arising and events occurring after the person's dissociation; and

(3) subject to section 44 and Article 10 (sections 73 through 87 of this act), any transferable interest owned by the person immediately before dissociation in the person's capacity as a member is owned by the person solely as a transferee.

b. A person's dissociation as a member of a limited liability company does not of itself discharge the person from any debt, obligation, or other liability to the company or the other members which the person incurred while a member.

c. A court that expels a member from a company pursuant to subsection e. of section 46 of this act may order the sale of the interests held by such person immediately before dissociation to either the company or to any other persons who are parties to the action if the court determines, in its discretion, that such an order is required by any other law, rule or regulation, or that such an order would be fair and equitable to all parties under all of the circumstances of the case.

ARTICLE 7
DISSOLUTION AND WINDING UP

C.42:2C-48 Events causing dissolution.

48. Events Causing Dissolution.

a. A limited liability company is dissolved, and its activities shall be wound up, upon the occurrence of any of the following:

(1) an event or circumstance that the operating agreement states causes dissolution;

(2) the consent of all the members;

(3) the passage of 90 consecutive days during which the company has no members;

(4) on application by a member, the entry by the Superior Court of an order dissolving the company on the grounds that:

(a) the conduct of all or substantially all of the company's activities is unlawful; or

(b) it is not reasonably practicable to carry on the company's activities in conformity with one or both of the certificate of formation and the operating agreement; or

(5) on application by a member, the entry by the Superior Court of an order dissolving the company on the grounds that the managers or those members in control of the company:

(a) have acted, are acting, or will act in a manner that is illegal or fraudulent; or

(b) have acted or are acting in a manner that is oppressive and was, is, or will be directly harmful to the applicant.

(6) A certificate of dissolution is filed before the delayed effective date of a certificate of formation pursuant to subsection e. of section 18 of this act.

b. In a proceeding brought under paragraph (4) or (5) of subsection a. of this section, the court may order or a party may seek a remedy other than dissolution, including, but not limited to, the appointment of a custodian or one or more provisional managers. The court shall appoint a custodian or one or more provisional managers if it appears to the court that such an appointment may be in the best interests of the limited liability company and its members. In any proceeding under this section, the court shall allow reasonable compensation to any custodian or provisional manager for his or her services and reimbursement or direct payment of all his or her reasonable costs and expenses, which amounts shall be paid by the limited liability company. The court may appoint a custodian or one or more provisional managers in a summary proceeding or otherwise; or order the sale of all interests held by a member who is a party to the proceeding to either the limited liability company or any other member who is a party to the proceeding, if the court determines in its discretion that such an order would be fair and equitable to all parties under all of the circumstances of the case.

c. If the court determines that any party to a proceeding brought under paragraph (4) or (5) of subsection a. of this section has acted vexatiously, or otherwise not in good faith, it may in its discretion award reasonable ex-

penses, including counsel fees incurred in connection with the action, to the injured party or parties.

C.42:2C-49 Winding up.

49. Winding Up.

a. A dissolved limited liability company shall wind up its activities, and the company continues after dissolution only for the purpose of winding up.

b. In winding up its activities, a limited liability company:

(1) shall discharge the company's debts, obligations, or other liabilities, settle and close the company's activities, and marshal and distribute the assets of the company; and

(2) shall:

(a) deliver to the filing office for filing a certificate of dissolution stating the name of the company and such other information as may be required by the filing office to correctly identify the company and that the company is dissolved;

(b) preserve the company activities and property as a going concern for a reasonable time;

(c) prosecute and defend actions and proceedings, whether civil, criminal, or administrative;

(d) transfer the company's property;

(e) settle disputes by mediation or arbitration;

(f) deliver to the filing office for filing a statement of termination stating the name of the company and that the company is terminated; and

(g) perform other acts necessary or appropriate to the winding up.

c. If a dissolved limited liability company has no members, the legal representative of the last person to have been a member may wind up the activities of the company. If the person does so, the person has the powers of a sole manager under subsection c. of section 37 of this act and is deemed to be a manager for the purposes of paragraph (2) of subsection a. of section 30 of this act.

d. If the legal representative under subsection c. of this section declines or fails to wind up the company's activities, a person may be appointed to do so by the consent of transferees owning a majority of the rights to receive distributions as transferees at the time the consent is to be effective. A person appointed under this subsection:

(1) has the powers of a sole manager under subsection c. of section 37 of this act and is deemed to be a manager for the purposes of paragraph (2) of subsection a. of section 30 of this act; and

(2) shall promptly deliver to the filing office for filing an amendment to the company's certificate of formation to:

(a) state that the company has no members;

(b) state that the person has been appointed pursuant to this subsection to wind up the company; and

(c) provide the street and mailing addresses of the person.

e. The Superior Court may order judicial supervision of the winding up of a dissolved limited liability company, including the appointment of a person to wind up the company's activities:

(1) on application of a member, if the applicant establishes good cause;

(2) on the application of a transferee, if:

(a) the company does not have any members;

(b) the legal representative of the last person to have been a member declines or fails to wind up the company's activities; and

(c) within a reasonable time following the dissolution a person has not been appointed pursuant to subsection d. of this section; or

(3) in connection with a proceeding under paragraph (4) or (5) of subsection a. of section 48 of this act.

C.42:2C-50 Known claims against dissolved limited liability company.

50. Known Claims Against Dissolved Limited Liability Company.

a. Except as otherwise provided in subsection d. of this section, a dissolved limited liability company may give notice of a known claim under subsection b. of this section, which has the effect as provided in subsection c. of this section.

b. A dissolved limited liability company may in a record notify its known claimants of the dissolution. The notice shall:

(1) specify the information required to be included in a claim;

(2) provide a mailing address to which the claim is to be sent;

(3) state the deadline for receipt of the claim, which may not be less than 120 days after the date the notice is received by the claimant; and

(4) state that the claim will be barred if not received by the deadline.

c. A claim against a dissolved limited liability company is barred if the requirements of subsection b. of this section are met and:

(1) the claim is not received by the specified deadline; or

(2) if the claim is timely received but rejected by the company:

(a) the company causes the claimant to receive a notice in a record stating that the claim is rejected and will be barred unless the claimant commences an action against the company to enforce the claim within 90 days after the claimant receives the notice; and

(b) the claimant does not commence the required action within the 90 days.

d. This section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that on that date is contingent.

C.42:2C-51 Other claims against dissolved limited liability company.

51. Other Claims Against Dissolved Limited Liability Company.

a. A dissolved limited liability company may publish notice of its dissolution and request persons having claims against the company to present them in accordance with the notice.

b. The notice authorized by subsection a. of this section shall:

(1) be published at least once in a newspaper of general circulation in the county in this State in which the dissolved limited liability company's principal office is located or, if it has none in this State, in the county in which the company's registered office is or was last located;

(2) describe the information required to be contained in a claim and provide a mailing address to which the claim is to be sent; and

(3) state that a claim against the company is barred unless an action to enforce the claim is commenced within five years after publication of the notice.

c. If a dissolved limited liability company publishes a notice in accordance with subsection b. of this section, unless the claimant commences an action to enforce the claim against the company within five years after the publication date of the notice, the claim of each of the following claimants is barred:

(1) a claimant that did not receive notice in a record under section 50 of this act;

(2) a claimant whose claim was timely sent to the company but not acted on; and

(3) a claimant whose claim is contingent at, or based on an event occurring after, the effective date of dissolution.

d. A claim not barred under this section may be enforced:

(1) against a dissolved limited liability company, to the extent of its undistributed assets; and

(2) if assets of the company have been distributed after dissolution, against a member or transferee to the extent of that person's proportionate share of the claim or of the assets distributed to the member or transferee after dissolution, whichever is less, but a person's total liability for all

claims under this paragraph does not exceed the total amount of assets distributed to the person after dissolution.

C.42:2C-52 Claims against member or transferee barred unless filed within five years after limited liability company dissolved.

52. Claims Against Member or Transferee Barred Unless Filed Within Five Years After Limited Liability Company Dissolved.

a. A claimant, and all those claiming through or under the claimant, shall be forever barred from suing a member or transferee on any claim, or otherwise realizing upon or enforcing any claim against a member or transferee, unless an action is commenced against the member or transferee, pursuant to paragraph (2) of subsection d. of section 51 of this act, or otherwise, within five years after the limited liability company was dissolved.

b. This section shall not:

(1) apply to claims against members or transferees which are in litigation on the effective date of this section;

(2) operate to extend any otherwise applicable statute of limitations; or

(3) affect any rights of creditors under the "Uniform Fraudulent Transfer Act," R.S.25:2-20 et seq.

C.42:2C-53 Administrative action.

53. Administrative Action.

a. The filing office may place a limited liability company on the inactive list if the company does not:

(1) pay, within 60 days after the due date, any fee or penalty due to the filing office under this act or law other than this act; or

(2) file annual reports for two consecutive years pursuant to section 26 of this act.

b. If the filing office determines that a ground exists for placing a company on the inactive list, the filing office shall provide notice of the filing office's intent to the registered office of the company or the principal office of the company if the mailing address of the principal office appears in the records of the filing office and is different from the mailing address of the registered office.

c. If within 60 days after service of the notice pursuant to subsection b. of this section a limited liability company does not correct each ground for being placed on the inactive list or demonstrate to the reasonable satisfaction of the filing office that each ground determined by the filing office does not exist, the filing office shall place the company on the inactive list and file a declaration of the action. The filing office shall send a notice of the action to the registered office of the company or the principal office of the company if

the mailing address of the principal office appears in the records of the filing office and is different from the mailing address of the registered office.

d. A limited liability company that has been placed on the inactive list continues in existence but, subject to section 54 of this act, may carry on only activities necessary to wind up its activities and liquidate its assets under sections 49 and 56 of this act and to notify claimants under sections 50 and 51 of this act.

e. An inactivation of a limited liability company does not terminate the authority of its agent for service of process.

C.42:2C-54 Reinstatement following administrative dissolution.

54. Reinstatement Following Administrative Dissolution.

a. A limited liability company that has been placed on the inactive list may apply to the filing office for reinstatement. The application shall be delivered to the filing office for filing and state:

(1) the name of the company and such other information as may be required by the filing office to correctly identify the company; and

(2) that the company's name satisfies the requirements of section 8 of this act.

b. If the filing office determines that an application under subsection a. of this section contains the required information and that the information is correct, the filing office shall reinstate the company and provide notice of the reinstatement to the company.

c. When a reinstatement becomes effective, it relates back to and takes effect as of the effective date of the filing office action placing the company on the inactive list, and the limited liability company may resume its activities as if the filing office action had not occurred.

C.42:2C-55 Appeal from rejection of reinstatement.

55. Appeal from Rejection of Reinstatement.

a. If the filing office rejects a limited liability company's application for reinstatement, the filing office shall present a notice to the company explaining the reason for rejection.

b. Within 30 days after a rejection of reinstatement under subsection a. of this section, a limited liability company may appeal from the rejection by petitioning the court to set aside the filing office action. The petition shall be served on the filing office and contain a copy of the company's application for reinstatement and the filing office's notice of rejection.

c. The court may order the filing office to reinstate a limited liability company or take other action the court considers appropriate.

C.42:2C-56 Distribution of assets in winding up limited liability company's activities.

56. Distribution of Assets in Winding Up Limited Liability Company's Activities.

a. In winding up its activities, a limited liability company shall apply its assets to discharge its obligations to creditors, including members that are creditors.

b. After a limited liability company complies with subsection a. of this section, any surplus shall be distributed in the following order, subject to any charging order in effect under section 43 of this act:

(1) to each person owning a transferable interest that reflects contributions made by a member and not previously returned, an amount equal to the value of the unreturned contributions; and

(2) in equal shares among members and dissociated members, except to the extent necessary to comply with any transfer effective under section 42 of this act.

c. If a limited liability company does not have sufficient surplus to comply with paragraph (1) of subsection b. of this section, any surplus shall be distributed among the owners of transferable interests in proportion to the value of their respective unreturned contributions.

d. All distributions made under subsections b. and c. of this section shall be paid in money.

ARTICLE 8
FOREIGN LIMITED LIABILITY COMPANIES

C.42:2C-57 Governing law.

57. Governing Law.

a. The law of the state or other jurisdiction under which a foreign limited liability company is formed governs:

(1) the internal affairs of the company; and

(2) the liability of a member as member and a manager as manager for the debts, obligations, or other liabilities of the company.

b. A foreign limited liability company may not be denied a certificate of authority by reason of any difference between the laws of the jurisdiction under which the company is formed and the law of this State.

c. A certificate of authority does not authorize a foreign limited liability company to engage in any business or exercise any power that a limited liability company may not engage in or exercise in this State.

C.42:2C-58 Application for certificate of authority; amendments to certificate of authority.

58. Application for Certificate of Authority ; Amendments to Certificate of Authority.

Before doing business in this State, a foreign limited liability company shall obtain a certificate of authority to transact business in this State.

a. A foreign limited liability company may apply for a certificate of authority to transact business in this State by delivering an application to the filing office for filing. The application shall state:

(1) the name of the company and, if the name does not comply with section 8 of this act, an alternate name adopted pursuant to subsection a. of section 61 of this act;

(2) the name of the state or other jurisdiction under whose law the company is formed;

(3) the street and mailing addresses of the company's principal office and, if the laws of the jurisdiction under which the company is formed require the company to maintain an office in that jurisdiction, the street and mailing addresses of the required office; and

(4) the name and street and mailing addresses of the company's initial agent for service of process in this State.

b. If any statement in the application for a certificate of authority of a foreign limited liability company was false when made or any arrangements or other facts described have changed, making the application false in any respect, the foreign limited liability company shall promptly file in the filing office an amended application, executed by an authorized person, correcting the statement.

C.42:2C-59 Activities not constituting transacting business.

59. Activities Not Constituting Transacting Business.

a. Activities of a foreign limited liability company which do not constitute transacting business in this State within the meaning of this section include:

(1) maintaining, defending, or settling an action or proceeding;

(2) carrying on any activity concerning its internal affairs, including holding meetings of its members or managers;

(3) maintaining accounts in financial institutions;

(4) maintaining offices or agencies for the transfer, exchange, and registration of the company's own securities or maintaining trustees or depositories with respect to those securities;

(5) selling through independent contractors;

(6) soliciting or obtaining orders, whether by mail or electronic means or through employees or agents or otherwise, if the orders require acceptance outside this State before they become contracts;

(7) creating or acquiring indebtedness, mortgages, or security interests in real or personal property;

(8) securing or collecting debts or enforcing mortgages or other security interests in property securing the debts and holding, protecting, or maintaining property so acquired;

(9) conducting an isolated transaction that is completed within 30 days and is not in the course of similar transactions; and

(10) transacting business in interstate commerce.

b. For purposes of this section, the ownership in this State of income-producing real property or tangible personal property, other than property excluded under subsection a. of this section, constitutes transacting business in this State.

c. This section does not apply in determining the contacts or activities that may subject a foreign limited liability company to service of process, taxation, or regulation under law of this State other than this act.

C.42:2C-60 Filing of certificate of authority.

60. Filing of Certificate of Authority. Unless the filing office determines that an application for a certificate of authority does not comply with the filing requirements of this act, the filing office, upon payment of all filing fees, shall file the application of a foreign limited liability company, prepare and file a certificate of authority to transact business in this State, and provide a copy of the filed certificate, together with a receipt for the fees, to the company or its representative.

C.42:2C-61 Noncomplying name of foreign limited liability company.

61. Noncomplying Name of Foreign Limited Liability Company.

a. A foreign limited liability company whose name does not comply with section 8 of this act may not obtain a certificate of authority until it adopts, for the purpose of transacting business in this State, an alternate name that complies with section 8 of this act. A foreign limited liability company that adopts an alternate name under this subsection and obtains a certificate of authority with the alternate name need not comply with R.S.56:1-1 et seq. After obtaining a certificate of authority with an alternate name, a foreign limited liability company shall transact business in this State under the alternate name unless the company is authorized under R.S.56:1-1 et seq. to transact business in this State under another name.

b. If a foreign limited liability company authorized to transact business in this State changes its name to one that does not comply with section 8 of this act, it may not thereafter transact business in this State until it complies with subsection a. of this section and obtains an amended certificate of authority.

C.42:2C-62 Revocation of certificate of authority.

62. Revocation of Certificate of Authority.

a. A certificate of authority of a foreign limited liability company to transact business in this State may be revoked by the filing office in the manner provided in subsections b. and c. of this section, if the company does not:

(1) pay, within 60 days after the due date, any fee or penalty due to the filing office under this act or law other than this act;

(2) file annual reports for two consecutive years pursuant to section 26 of this act.

b. To revoke a certificate of authority of a foreign limited liability company, the filing office shall provide notice of the filing office's intent to the registered office of the company or the principal office of the company if the mailing address of the principal office appears in the records of the filing office and is different from the mailing address of the registered office.

c. If, within 60 days after service of the notice pursuant to subsection b. of this section, a company does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the filing office that each ground determined by the filing office does not exist, the filing office shall revoke the company and file a declaration of the action. The filing office shall send the company a notice of the action to the registered office of the company or the principal office of the company if the mailing address of the principal office appears in the records of the filing office and is different from the mailing address of the registered office.

d. The authority of a foreign limited liability company to transact business in this State ceases on the effective date of the notice of revocation unless before that date the company cures each ground for revocation stated in the notice filed under subsection b. of this section

C.42:2C-63 Reinstatement of certificate of authority.

63. Reinstatement of Certificate of Authority.

a. A foreign limited liability company that has been revoked may apply to the filing office for reinstatement. The application shall be delivered to the filing office for filing and state:

(1) the name of the company and such other information as may be required by the filing office to correctly identify the company; and

(2) that the company's name satisfies the requirements of section 8 of this act.

b. If the filing office determines that an application under subsection a. of this section contains the required information and that the information is correct, the filing office shall reinstate the company and provide notice of the reinstatement to the company.

c. When a reinstatement becomes effective, it relates back to and takes effect as of the effective date of the filing office revocation action, and the foreign limited liability company may resume its activities as if the filing office action had not occurred.

C.42:2C-64 Cancellation of certificate of authority.

64. Cancellation of Certificate of Authority. To cancel its certificate of authority to transact business in this State, a foreign limited liability company shall deliver to the filing office for filing a certificate of cancellation stating the name of the company and such other information as may be required by the filing office to correctly identify the company and that the company desires to cancel its certificate of authority. The certificate of authority is canceled when the certificate of cancellation becomes effective.

C.42:2C-65 Effect of failure to have certificate of authority.

65. Effect of Failure to Have Certificate of Authority.

a. A foreign limited liability company transacting business in this State may not maintain an action or proceeding in this State unless it has a certificate of authority to transact business in this State.

b. The failure of a foreign limited liability company to have a certificate of authority to transact business in this State does not impair the validity of a contract or act of the company or prevent the company from defending an action or proceeding in this State.

c. A member or manager of a foreign limited liability company is not liable for the debts, obligations, or other liabilities of the company solely because the company transacted business in this State without a certificate of authority.

d. If a foreign limited liability company transacts business in this State without a certificate of authority or cancels its certificate of authority, it appoints the filing office as its agent for service of process for rights of action arising out of the transaction of business in this State.

C.42:2C-66 Action by attorney general.

66. Action by Attorney General. The Attorney General of the State of New Jersey may maintain an action to enjoin a foreign limited liability company from transacting business in this State in violation of this act. A foreign limited liability company doing business in this State without first having obtained a certificate of authority to transact business shall be fined and shall pay to the State Treasurer $200 for each year or part thereof during which the foreign limited liability company failed to obtain a certificate of authority. The penalty shall be recovered with costs in an action prosecuted by the Attorney General. The Superior Court may proceed in the action in a summary manner or otherwise.

ARTICLE 9
ACTIONS BY MEMBERS

C.42:2C-67 Direct action by member.

67. Direct Action by Member.

a. Subject to subsection b. of this section, a member may maintain a direct action against another member, a manager, or the limited liability company to enforce the member's rights and otherwise protect the member's interests, including rights and interests under the operating agreement or this act or arising independently of the membership relationship.

b. A member maintaining a direct action under this section shall plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited liability company.

C.42:2C-68 Derivative action.

68. Derivative Action. A member may maintain a derivative action to enforce a right of a limited liability company if:

a. the member first makes a demand on the other members in a member-managed limited liability company, or the managers of a manager-managed limited liability company, requesting that they cause the company to bring an action to enforce the right, and the managers or other members do not bring the action within a reasonable time; or

b. A demand under subsection a. of this section would be futile.

C.42:2C-69 Proper plaintiff.

69. Proper Plaintiff.

a. Except as otherwise provided in subsection b. of this section, a derivative action under section 68 of this act may be maintained only by a

person that is a member at the time the action is commenced and remains a member while the action continues.

b. If the sole plaintiff in a derivative action dies while the action is pending, the court may permit another member of the limited liability company to be substituted as plaintiff.

C.42:2C-70 Pleading.

70. Pleading. In a derivative action under section 68 of this act, the complaint shall state with particularity:

a. The date and content of plaintiff's demand and the response to the demand by the managers or other members; or

b. If a demand has not been made, the reasons a demand under subsection a. of section 68 of this act would be futile.

C.42:2C-71 Special litigation committee.

71. Special Litigation Committee.

a. If a limited liability company is named as or made a party in a derivative proceeding, the company may appoint a special litigation committee to investigate the claims asserted in the proceeding and determine whether pursuing the action is in the best interests of the company. If the company appoints a special litigation committee, on motion by the committee made in the name of the company, except for good cause shown, the court shall stay discovery for the time reasonably necessary to permit the committee to make its investigation. This subsection shall not prevent the court from enforcing a person's right to information under section 40 of this act or, for good cause shown, granting extraordinary relief in the form of a temporary restraining order or preliminary injunction.

b. A special litigation committee may be composed of one or more disinterested and independent individuals, who may be members.

c. A special litigation committee may be appointed:

(1) in a member-managed limited liability company:

(a) by the consent of a majority of the members not named as defendants or plaintiffs in the proceeding; and

(b) if all members are named as defendants or plaintiffs in the proceeding, by a majority of the members named as defendants; or

(2) in a manager-managed limited liability company:

(a) by a majority of the managers not named as defendants or plaintiffs in the proceeding; and

(b) if all managers are named as defendants or plaintiffs in the proceeding, by a majority of the managers named as defendants.

d. After appropriate investigation, a special litigation committee may determine that it is in the best interests of the limited liability company that the proceeding:

(1) continue under the control of the plaintiff;

(2) continue under the control of the committee;

(3) be settled on terms approved by the committee; or

(4) be dismissed.

e. After making a determination under subsection d. of this section, a special litigation committee shall file with the court a statement of its determination and its report supporting its determination, giving notice to the plaintiff. The court shall determine whether the members of the committee were disinterested and independent and whether the committee conducted its investigation and made its recommendation in good faith, independently, and with reasonable care, with the committee having the burden of proof. If the court finds that the members of the committee were disinterested and independent and that the committee acted in good faith, independently, and with reasonable care, the court shall enforce the determination of the committee. Otherwise, the court shall dissolve the stay of discovery entered under subsection a. of this section and allow the action to proceed under the direction of the plaintiff.

C.42:2C-72 Proceeds and expenses.

72. Proceeds and Expenses.

a. Except as otherwise provided in subsection b. of this section:

(1) any proceeds or other benefits of a derivative action under section 68 of this act, whether by judgment, compromise, or settlement, belong to the limited liability company and not to the plaintiff; and

(2) if the plaintiff receives any proceeds, the plaintiff shall remit them immediately to the company.

b. If a derivative action under section 68 of this act is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees and costs, from the recovery of the limited liability company.

ARTICLE 10
MERGER, CONVERSION AND DOMESTICATION

C.42:2C-73 Definitions.

73. Definitions. As used in this Article 10 (sections 73 through 87 of this act):

"Constituent limited liability company" means a constituent organization that is a limited liability company.

"Constituent organization" means an organization that is party to a merger.

"Converted organization" means the organization into which a converting organization converts pursuant to sections 78 through 81 of this act.

"Converting limited liability company" means a converting organization that is a limited liability company.

"Converting organization" means an organization that converts into another organization pursuant to section 78 of this act.

"Domesticated company" means the company that exists after a domesticating foreign limited liability company or limited liability company effects a domestication pursuant to sections 82 through 85 of this act.

"Domesticating company" means the company that effects a domestication pursuant to sections 82 through 85 of this act.

"Governing statute" means the statute that governs an organization's internal affairs.

"Organization" means a general partnership, including a limited liability partnership, limited partnership, including a limited liability limited partnership, limited liability company, business trust, corporation, or any other person having a governing statute. The term includes a domestic or foreign organization regardless of whether organized for profit.

"Organizational documents" means:

(1) for a domestic or foreign general partnership, its partnership agreement;

(2) for a limited partnership or foreign limited partnership, its certificate of limited partnership and partnership agreement;

(3) for a domestic or foreign limited liability company, its certificate or articles of formation and operating agreement, or comparable records as provided in its governing statute;

(4) for a business trust, its agreement of trust and declaration of trust;

(5) for a domestic or foreign corporation for profit, its articles of incorporation, bylaws, and other agreements among its shareholders which are authorized by its governing statute, or comparable records as provided in its governing statute; and

(6) for any other organization, the basic records that create the organization and determine its internal governance and the relations among the persons that own it, have an interest in it, or are members of it.

"Personal liability" means liability for a debt, obligation, or other liability of an organization which is imposed on a person that co-owns, has an interest in, or is a member of the organization:

(1) by the governing statute solely by reason of the person co-owning, having an interest in, or being a member of the organization; or

(2) by the organization's organizational documents under a provision of the governing statute authorizing those documents to make one or more specified persons liable for all or specified debts, obligations, or other liabilities of the organization solely by reason of the person or persons co-owning, having an interest in, or being a member of the organization.

"Surviving organization" means an organization into which one or more other organizations are merged whether the organization preexisted the merger or was created by the merger.

C.42:2C-74 Merger.

74. Merger.

a. A limited liability company may merge with one or more other constituent organizations pursuant to this section, sections 75 through 77 of this act, and a plan of merger, if:

(1) the governing statute of each of the other organizations authorizes the merger;

(2) the merger is not prohibited by the law of a jurisdiction that enacted any of the governing statutes; and

(3) each of the other organizations complies with its governing statute in effecting the merger.

b. A plan of merger shall be in a record and shall include:

(1) the name and form of each constituent organization;

(2) the name and form of the surviving organization and, if the surviving organization is to be created by the merger, a statement to that effect;

(3) the terms and conditions of the merger, including the manner and basis for converting the interests in each constituent organization into any combination of money, interests in the surviving organization, and other consideration;

(4) if the surviving organization is to be created by the merger, the surviving organization's organizational documents that are proposed to be in a record; and

(5) if the surviving organization is not to be created by the merger, any amendments to be made by the merger to the surviving organization's organizational documents that are, or are proposed to be, in a record.

C.42:2C-75 Action on plan of merger by constituent limited liability company.

75. Action on Plan of Merger by Constituent Limited Liability Company.

a. Subject to section 86 of this act, a plan of merger shall be consented to by all the members of a constituent limited liability company.

b. Subject to section 86 of this act and any contractual rights, after a merger is approved, and at any time before articles of merger are delivered to the filing office for filing under section 76 of this act, a constituent limited liability company may amend the plan or abandon the merger:

(1) as provided in the plan; or

(2) except as otherwise prohibited in the plan, with the same consent as was required to approve the plan.

C.42:2C-76 Filings required for merger; effective date.

76. Filings Required for Merger; Effective Date.

a. After each constituent organization has approved a merger, articles of merger shall be signed on behalf of:

(1) each constituent limited liability company, as provided in subsection a. of section 20 of this act; and

(2) each other constituent organization, as provided in its governing statute.

b. Articles of merger under this section shall include:

(1) the name and form of each constituent organization and the jurisdiction of its governing statute;

(2) the name and form of the surviving organization, the jurisdiction of its governing statute, and, if the surviving organization is created by the merger, a statement to that effect;

(3) the date the merger is effective under the governing statute of the surviving organization;

(4) if the surviving organization is to be created by the merger:

(a) if it will be a limited liability company, the company's certificate of formation; or

(b) if it will be an organization other than a limited liability company, the organizational document that creates the organization that is in a public record;

(5) if the surviving organization preexists the merger, any amendments provided for in the plan of merger for the organizational document that created the organization that are in a public record;

(6) a statement as to each constituent organization that the merger was approved as required by the organization's governing statute;

(7) if the surviving organization is a foreign organization not authorized to transact business in this State, the street and mailing addresses of an office that the filing office may use for the purposes of subsection b. of section 77 of this act; and

(8) any additional information required by the governing statute of any constituent organization.

c. The surviving organization shall deliver the articles of merger for filing in the office of the filing office.

d. A merger becomes effective under this act:

(1) if the surviving organization is a limited liability company, upon the later of:

(a) compliance with subsection c. of this section; or

(b) subject to subsection c. of section 22 of this act, as specified in the articles of merger; or

(2) if the surviving organization is not a limited liability company, as provided by the governing statute of the surviving organization.

C.42:2C-77 Effect of merger.

77. Effect of Merger.

a. When a merger becomes effective:

(1) the surviving organization continues or comes into existence;

(2) each constituent organization that merges into the surviving organization ceases to exist as a separate entity;

(3) all property owned by each constituent organization that ceases to exist vests in the surviving organization;

(4) all debts, obligations, or other liabilities of each constituent organization that has ceased to exist continue as debts, obligations, or other liabilities of the surviving organization;

(5) an action or proceeding pending by or against any constituent organization that ceases to exist may be continued as if the merger had not occurred;

(6) except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of each constituent organization that ceases to exist vest in the surviving organization;

(7) except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect; and

(8) except as otherwise agreed, if a constituent limited liability company ceases to exist, the merger does not dissolve the limited liability company for the purposes of Article 7, Dissolution and Winding Up (sections 48 through 56 of this act);

(9) if the surviving organization is created by the merger:

(a) if it is a limited liability company, the certificate of formation becomes effective; or

(b) if it is an organization other than a limited liability company, the organizational document that creates the organization becomes effective; and

(10) if the surviving organization preexisted the merger, any amendments provided for in the articles of merger for the organizational document that created the organization become effective.

b. A surviving organization that is a foreign organization consents to the jurisdiction of the courts of this State to enforce any debt, obligation, or other liability owed by a constituent organization, if before the merger the constituent organization was subject to suit in this State on the debt, obligation, or other liability. A surviving organization that is a foreign organization and not authorized to transact business in this State appoints the filing office as its agent for service of process for the purposes of enforcing a debt, obligation, or other liability under this subsection. Service on the filing office under this subsection shall be made in the same manner and shall have the same consequences as in subsections c. and d. of section 17 of this act.

C.42:2C-78 Conversion.

78. Conversion.

a. An organization, other than a limited liability company or a foreign limited liability company, may convert to a limited liability company, and a limited liability company may convert to an organization other than a foreign limited liability company pursuant to this section, sections 79 through 81 of this act, and a plan of conversion, if:

(1) the other organization's governing statute authorizes the conversion;

(2) the conversion is not prohibited by the law of the jurisdiction that enacted the other organization's governing statute; and

(3) the other organization complies with its governing statute in effecting the conversion.

b. A plan of conversion shall be in a record and shall include:

(1) the name and form of the organization before conversion;

(2) the name and form of the organization after conversion;

(3) the terms and conditions of the conversion, including the manner and basis for converting interests in the converting organization into any combination of money, interests in the converted organization, and other consideration; and

(4) the organizational documents of the converted organization that are, or are proposed to be, in a record.

C.42:2C-79 Action on plan of conversion by converting limited liability company.

79. Action on Plan of Conversion by Converting Limited Liability Company.

a. Subject to section 86 of this act, a plan of conversion shall be consented to by all the members of a converting limited liability company.

b. Subject to section 86 of this act and any contractual rights, after a conversion is approved, and at any time before articles of conversion are delivered to the filing office for filing under section 80 of this act, a converting limited liability company may amend the plan or abandon the conversion:

(1) as provided in the plan; or

(2) except as otherwise prohibited in the plan, by the same consent as was required to approve the plan.

C.42:2C-80 Filing required for conversion; effective date.

80. Filings Required for Conversion; Effective Date.

a. After a plan of conversion is approved:

(1) a converting limited liability company shall deliver to the filing office for filing articles of conversion, which shall be signed as provided in subsection a. of section 20 of this act and shall include:

(a) a statement that the limited liability company has been converted into another organization;

(b) the name and form of the organization and such other information as may be required by the filing office to correctly identify the company and the jurisdiction of its governing statute;

(c) the date the conversion is effective under the governing statute of the converted organization;

(d) a statement that the conversion was approved as required by this act;

(e) a statement that the conversion was approved as required by the governing statute of the converted organization; and

(f) if the converted organization is a foreign organization not authorized to transact business in this State, the street and mailing addresses of an office which the filing office may use for the purposes of subsection c. of section 81 of this act; and

(2) if the converting organization is not a converting limited liability company, the converting organization shall deliver to the filing office for filing a certificate of formation, which shall include, in addition to the information required by subsection b. of section 18 of this act:

(a) a statement that the converted organization was converted from another organization;

(b) the name and form of that converting organization and the jurisdiction of its governing statute; and

(c) a statement that the conversion was approved in a manner that complied with the converting organization's governing statute.

b. A conversion becomes effective:

(1) if the converted organization is a limited liability company, when the certificate of formation takes effect; and

(2) if the converted organization is not a limited liability company, as provided by the governing statute of the converted organization.

C.42:2C-81 Effect of conversion.

81. Effect of Conversion.

a. An organization that has been converted pursuant to this Article 10 (sections 73 through 87 of this act) is for all purposes the same entity that existed before the conversion.

b. When a conversion takes effect:

(1) all property owned by the converting organization remains vested in the converted organization;

(2) all debts, obligations, or other liabilities of the converting organization continue as debts, obligations, or other liabilities of the converted organization;

(3) an action or proceeding pending by or against the converting organization may be continued as if the conversion had not occurred;

(4) except as prohibited by law other than this act, all of the rights, privileges, immunities, powers, and purposes of the converting organization remain vested in the converted organization;

(5) except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect; and

(6) except as otherwise agreed, the conversion does not dissolve a converting limited liability company for the purposes of Article 7, Dissolution and Winding Up (sections 48 through 56 of this act).

c. A converted organization that is a foreign organization consents to the jurisdiction of the courts of this State to enforce any debt, obligation, or other liability for which the converting limited liability company is liable if, before the conversion, the converting limited liability company was subject to suit in this State on the debt, obligation, or other liability. A converted organization that is a foreign organization and not authorized to transact business in this State appoints the filing office as its agent for service of process for purposes of enforcing a debt, obligation, or other liability under this subsection. Service on the filing office under this subsection shall be made in the same manner and has the same consequences as in subsections c. and d. of section 17 of this act.

C.42:2C-82 Domestication.

82. Domestication.

a. A foreign limited liability company may become a limited liability company pursuant to this section, sections 83 through 85 of this act, and a plan of domestication, if:

(1) the foreign limited liability company's governing statute authorizes the domestication;

(2) the domestication is not prohibited by the law of the jurisdiction that enacted the governing statute; and

(3) the foreign limited liability company complies with its governing statute in effecting the domestication.

b. A limited liability company may become a foreign limited liability company pursuant to this section, sections 83 through 85 of this act, and a plan of domestication, if:

(1) the foreign governing statute authorizes the domestication;

(2) the domestication is not prohibited by the law of the jurisdiction that enacted the governing statute; and

(3) the limited liability company complies with the foreign governing statute in effecting the domestication.

c. A plan of domestication shall be in a record and shall include:

(1) the name of the domesticating company before domestication and such other information as may be required by the filing office to correctly identify the company and the jurisdiction of its governing statute;

(2) the name of the domesticated company after domestication and the jurisdiction of its governing statute;

(3) the terms and conditions of the domestication, including the manner and basis for converting interests in the domesticating company into any combination of money, interests in the domesticated company, and other consideration; and

(4) the organizational documents of the domesticated company that are, or are proposed to be, in a record.

C.42:2C-83 Action on plan of domestication by domesticating limited liability company.

83. Action on Plan of Domestication By Domesticating Limited Liability Company.

a. A plan of domestication shall be consented to:

(1) by all the members, subject to section 86 of this act, if the domesticating company is a limited liability company; and

(2) as provided in the domesticating company's governing statute, if the company is a foreign limited liability company.

b. Subject to any contractual rights, after a domestication is approved, and at any time before articles of domestication are delivered to the filing office for filing under section 84 of this act, a domesticating limited liability company may amend the plan or abandon the domestication:

(1) as provided in the plan; or

(2) except as otherwise prohibited in the plan, by the same consent as was required to approve the plan.

C.42:2C-84 Filings required for domestication; effective date.

84. Filings Required for Domestication; Effective Date.

a. After a plan of domestication is approved, a domesticating company shall deliver to the filing office for filing articles of domestication, which shall include:

(1) a statement, as the case may be, that the company has been domesticated from or into another jurisdiction;

(2) the name of the domesticating company and such other information as may be required by the filing office to correctly identify the company and the jurisdiction of its governing statute;

(3) the name of the domesticated company and the jurisdiction of its governing statute;

(4) the date the domestication is effective under the governing statute of the domesticated company;

(5) if the domesticating company was a limited liability company, a statement that the domestication was approved as required by this act;

(6) if the domesticating company was a foreign limited liability company, a statement that the domestication was approved as required by the governing statute of the other jurisdiction; and

(7) if the domesticated company was a foreign limited liability company not authorized to transact business in this State, the street and mailing addresses of an office that the filing office may use for the purposes of subsection b. of section 85 of this act.

b. A domestication becomes effective:

(1) when the certificate of formation takes effect, if the domesticated company is a limited liability company; and

(2) according to the governing statute of the domesticated company, if the domesticated organization is a foreign limited liability company.

C.42:2C-85 Effect of domestication.

85. Effect of Domestication.

a. When a domestication takes effect:

(1) the domesticated company is for all purposes the company that existed before the domestication;

(2) all property owned by the domesticating company remains vested in the domesticated company;

(3) all debts, obligations, or other liabilities of the domesticating company continue as debts, obligations, or other liabilities of the domesticated company;

(4) an action or proceeding pending by or against a domesticating company may be continued as if the domestication had not occurred;

(5) except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of the domesticating company remain vested in the domesticated company;

(6) except as otherwise provided in the plan of domestication, the terms and conditions of the plan of domestication take effect; and

(7) except as otherwise agreed, the domestication does not dissolve a domesticating limited liability company for the purposes of Article 7, Dissolution and Winding Up (sections 48 through 56 of this act).

b. A domesticated company that is a foreign limited liability company consents to the jurisdiction of the courts of this State to enforce any debt, obligation, or other liability owed by the domesticating company, if, before the domestication, the domesticating company was subject to suit in this State on the debt, obligation, or other liability. A domesticated company that is a foreign limited liability company and not authorized to transact business in this State appoints the filing office as its agent for service of process for purposes of enforcing a debt, obligation, or other liability under this subsection. Service on the filing office under this subsection shall be made in the same manner and has the same consequences as in subsections c. and d. of section 17 of this act.

c. If a limited liability company has adopted and approved a plan of domestication under section 82 of this act providing for the company to be domesticated in a foreign jurisdiction, a statement surrendering the company's certificate of formation shall be delivered to the filing office for filing setting forth:

(1) the name of the company and such other information as may be required by the filing office to correctly identify the company;

(2) a statement that the certificate of formation is being surrendered in connection with the domestication of the company in a foreign jurisdiction;

(3) a statement that the domestication was approved as required by this act; and

(4) the jurisdiction of formation of the domesticated foreign limited liability company.

C.42:2C-86 Restrictions on approval of mergers, conversions, and domestications.

86. Restrictions on Approval of Mergers, Conversions, and Domestications.

a. If a member of a constituent, converting, or domesticating limited liability company will have personal liability with respect to a surviving, converted, or domesticated organization, approval or amendment of a plan of merger, conversion, or domestication are ineffective without the consent of the member, unless:

(1) the company's operating agreement provides for approval of a merger, conversion, or domestication with the consent of fewer than all the members; and

(2) the member has consented to the provision of the operating agreement.

b. A member does not give the consent required by subsection a. of this section merely by consenting to a provision of the operating agreement that permits the operating agreement to be amended with the consent of fewer than all the members.

C.42:2C-87 Article not exclusive.

87. Article Not Exclusive.

a. This Article 10 (sections 73 through 87 of this act) does not preclude an entity from being merged, converted, or domesticated under law other than this act.

b. Without limiting the foregoing, it is intended that a limited liability company, whenever formed, that acquires the assets, liabilities and business of a predecessor organization with common ownership, shall be presumed to have the rights, privileges and perquisites of the predecessor organization. Furthermore, in computing time periods and continuity of ownership for determining eligibility for government grants, property rights, or other entitlements, there shall be a tacking of time periods with respect to the limited liability company and the predecessor organization.

c. Nothing in this section 87 is intended to require the assignment of a contract in violation of its express terms.

ARTICLE 11
MISCELLANEOUS PROVISIONS

C.42:2C-88 Uniformity of application and construction.

88. Uniformity of Application and Construction. In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

C.42:2C-89 Relation to electronic signatures in global and national commerce act.

89. Relation to Electronic Signatures In Global and National Commerce Act. This act modifies, limits, and supersedes the federal "Electronic Signatures in Global and National Commerce Act," Pub.L.106-229, 15 U.S.C. s.7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. s.7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. s.7003(b).

C.42:2C-90 Savings clause.

90. Savings Clause. This act does not affect an action commenced, proceeding brought, or right accrued before this act takes effect.

C.42:2C-91 Application to existing relationships.

91. Application to Existing Relationships.

a. Before the first day of the 18th month next following the enactment date of this act, this act governs only:

(1) a limited liability company formed on or after the effective date of this act; and

(2) a limited liability company formed before the effective date of this act, which elects, in the manner provided in its operating agreement or by law for amending the operating agreement, to be subject to this act.

b. On and after the first day of the 18 month next following the enactment date of this act, this act governs all limited liability companies.

C.42:2C-92 Tax classification.

92. Tax Classification.

a. For all purposes of taxation under the laws of this State , a limited liability company formed under this act or qualified to do business in this State as a foreign limited liability company with two or more members shall be classified as a partnership unless classified otherwise for federal income tax purposes, in which case the limited liability company shall be classified in the same manner as it is classified for federal income tax purposes. For all purposes of taxation under the laws of this State, a member or a transferee of a member of a limited liability company formed under this act or qualified

to do business in this State as a foreign limited liability company shall be treated as a partner in a partnership unless the limited liability company is classified otherwise for federal income tax purposes, in which case the member or transferee of a member shall have the same status as the member or transferee of a member has for federal income tax purposes.

b. For all purposes of taxation on income under the laws of this State and only for those purposes, a limited liability company formed under this act or qualified to do business in this State as a foreign limited liability company with one member is disregarded as an entity separate from its owner, unless classified otherwise for federal tax purposes, in which case the limited liability company will be classified in the same manner as it is classified for federal income tax purposes. For all purposes of taxation on income under the laws of this State and only for those purposes, the sole member or a transferee of all of the limited liability company interest of the sole member of a limited liability company formed under this act or qualified to do business in this State as a foreign limited liability company is treated as the direct owner of the underlying assets of the limited liability company and of its operations, unless the limited liability company is classified otherwise for federal income tax purposes, in which case the member or transferee of a member will have the same status as the member or transferee of a member has for federal income tax purposes.

C.42:2C-93 Fees.

93. Fees.

a. No document required to be filed under this act shall be effective until the applicable fee required by this section is paid. The following fees shall be paid to and collected by the State Treasurer for the use of the State:

(1) Upon the receipt for filing of a certificate of registration of alternate name or a certificate of renewal pursuant to section 9 of this act, a fee in the amount of $50.

(2) Upon the receipt for filing of an application for reservation of name, an application for renewal of reservation or a notice of transfer or cancellation of reservation pursuant to section 10 of this act, a fee in the amount of $50.

(3) Upon the receipt for filing of a statement under section 15 of this act, a fee in the amount of $25, upon the receipt for filing of a statement under section 16 of this act, a fee in the amount of $25 and a further fee of $10 for each limited liability company affected by that statement.

(4) Upon the receipt for filing of a certificate of formation under section 18 of this act, a fee in the amount of $125; and upon receipt for filing,

a certificate of correction under section 23 of this act, a certificate of amendment or restatement under section 19 of this act, a certificate of dissolution under section 49 of this act, or articles of merger under section 76 of this act, a fee in the amount of $100.

(5) Upon the filing of articles of conversion under section 80 of this act, a fee in the amount of $100.

(6) Upon filing of an annual report, a fee in the amount of $50.00.

(7) Upon requesting a reinstatement of a certificate of a limited liability company, a late filing fee of $200.00 and a reinstatement filing fee of $75.00.

(8) For certifying copies of any paper on file as provided for by this act, a fee in the amount of $25 for each copy certified.

(9) The State Treasurer may issue copies of instruments on file as well as other copies, and for all of those copies, whether certified or not, a fee in the amount of $10 for the first page and $2 per page thereafter shall be paid.

(10) Upon the receipt for filing of an application for certificate of authority as a foreign limited liability company under section 58 of this act or a certificate of cancellation under section 64 of this act, a fee in the amount of $125.

(11) For preclearance of any document for filing, a fee in the amount of $100.

(12) For preparing and providing a written report of a record search, a fee in the amount of $50.

(13) For issuing any certificate of the State Treasurer, including but not limited to a certificate of good standing, other than a certification of a copy under paragraph (8) of this subsection, a fee in the amount of $50, except that for issuing any certificate of the State Treasurer that recites all of a limited liability company's filings with the State Treasurer, a fee of $100 shall be paid for each such certificate.

(14) For receiving and filing or indexing any certificate, affidavit, agreement or any other paper provided for by this act, for which no different fee is specifically prescribed, a fee in the amount of $75.

(15) The State Treasurer may in his discretion charge a fee of $50 for each check received for payment of any fee that is returned due to insufficient funds or the result of a stop payment order.

b. In addition to those fees charged under subsection a. of this section, there shall be collected by and paid to the State Treasurer the following:

(1) for all services described in subsection a. of this section that are requested to be completed within the same day as the day of the request, an additional sum of up to $50; and

(2) for all services described in subsection a. of this section that are requested to be completed within a 24-hour period from the time of the request, an additional sum of up to $25.

The State Treasurer shall establish, and may from time to time amend, a schedule of specific fees payable pursuant to this subsection.

c. The State Treasurer may in his discretion permit the extension of credit for the fees required by this section upon such terms as he shall deem to be appropriate.

C.42:2C-94 Notices.

94. Notices. In computing the period of time for the giving of any notice:

a. Required or permitted by this act; or

b. Unless otherwise provided therein, an operating agreement, the day on which the notice is given shall be excluded, and the day on which the matter noticed is to occur shall be included.

Repealer.

95. Repeals. Effective on the first day of the 18th month next following the enactment date of this act, the following are repealed:

P.L.1993, c.210 (C.42:2B-1 et seq.); Section 22 of P.L.1997, c.139 (C.42:2B-8.1);

Section 14 of P.L.1997, c.139 (C.42:2B-24.1); and

Sections 1 and 2 of P.L.2003, c.12 (C.42:2B-49.1 and 42:2B-49.2).

96. Effective Date. This act shall take effect on the 180th day next following enactment.

Approved September 19, 2012.

CHAPTER 51

AN ACT concerning sudden cardiac events and schools and supplementing Title 18A of the New Jersey Statutes.

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

C.18A:40-41a Schools required to have automated external defibrillator.

1. a. Notwithstanding the provisions of any law, rule, or regulation to the contrary, beginning on September 1, 2014, the board of education of a public school district and the governing board or chief school administrator

of a nonpublic school that includes any of the grades kindergarten through 12 shall ensure that:

(1) each public or nonpublic school has an automated external defibrillator, as defined in section 2 of P.L.1999, c.34 (C.2A:62A-24), which is made available in an unlocked location on school property with an appropriate identifying sign. The defibrillator shall be accessible during the school day and any other time when a school-sponsored athletic event or team practice is taking place in which pupils of the district or nonpublic school are participating. The defibrillator shall be within reasonable proximity of the school athletic field or gymnasium, as applicable;

(2) a team coach, licensed athletic trainer, or other designated staff member if there is no coach or licensed athletic trainer, who is present during the athletic event or team practice, is trained in cardio-pulmonary resuscitation and the use of the defibrillator in accordance with the provisions of section 3 of P.L.1999, c.34 (C.2A:62A-25). A school district or nonpublic school shall be deemed to be in compliance with this requirement if a State-certified emergency services provider or other certified first responder is on site at the event or practice; and

(3) each defibrillator is tested and maintained according to the manufacturer's operational guidelines and notification is provided to the appropriate first aid, ambulance, or rescue squad or other appropriate emergency medical services provider regarding the defibrillator, the type acquired, and its location in accordance with section 3 of P.L.1999, c.34 (C.2A:62A-25).

b. A school district or nonpublic school and its employees shall be immune from civil liability in the acquisition and use of defibrillators pursuant to the provisions of section 5 of P.L.1999, c.34 (C.2A:62A-27).

C.18A:40-41b Emergency action plan.

2. a. The board of education of a public school district and the governing body or chief school administrator of a nonpublic school that includes any of the grades kindergarten through 12 shall establish and implement an emergency action plan for responding to a sudden cardiac event including, but not limited to, an event in which the use of an automated external defibrillator may be necessary.

b. The emergency action plan shall be consistent with the provisions of section 1 of this act and also, at minimum, include the following:

(1) a list of no less than five school employees, team coaches, or licensed athletic trainers who hold current certifications from the American Red Cross, American Heart Association, or other training program recognized by the Department of Health and Senior Services, in cardio-

pulmonary resuscitation and in the use of a defibrillator. The list shall be updated, as necessary, at least once in each semester of the school year; and

(2) detailed procedures on responding to a sudden cardiac event including, but not limited to, the identification of the persons in the school who will be responsible for: responding to the person experiencing the sudden cardiac event, calling 911, starting cardio-pulmonary resuscitation, retrieving and using the defibrillator, and assisting emergency responders in getting to the individual experiencing the sudden cardiac event.

C.18A:40-41c Rules, regulations.

3. The State Board of Education, in consultation with the Commissioner of Health and Senior Services, and in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations as may be necessary to implement the provisions of this act.

4. This act shall take effect immediately.

Approved September 19, 2012.

CHAPTER 52

AN ACT concerning the slaughter of horses and sale of horseflesh for human consumption, amending R.S.4:22-26, and supplementing Title 4 of the Revised Statutes.

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

C.4:22-25.5 Slaughter, transport of horses for human consumption; disorderly persons offense.

1. a. Any person who knowingly slaughters a horse for human consumption commits a disorderly persons offense.

b. Any person who sells, barters, or offers for sale or barter, at wholesale or retail, for human consumption, the flesh of a horse or any product made in whole or in part from the flesh of a horse commits a disorderly persons offense, provided that the person knew or reasonably should have known that the flesh was from a horse, or that the product was made in whole or in part from the flesh of a horse.

c. Any person who knowingly transports a horse for the purpose of slaughter for human consumption, or who knowingly transports horsemeat,

or any product made in whole or in part from the flesh of a horse, for the purpose of human consumption, commits a disorderly persons offense.

d. Notwithstanding the provisions of Title 2C of the New Jersey Statutes to the contrary, any person found guilty of violating this section shall be subject to a fine of not less than $100 and a term of imprisonment of not less than 30 days.

e. Nothing in this section shall be construed to impose liability on a newspaper that inadvertently, unintentionally, or unknowingly accepts or publishes advertising that includes the offering for sale, trade, or distribution of any item in violation of any provision of this section. However, if a newspaper knowingly accepts or publishes advertising that includes the offering for sale, trade, or distribution any such item, the newspaper shall be in violation of the applicable provisions of this section.

2. R.S.4:22-26 is amended to read as follows:

Penalties for various acts constituting cruelty.

4:22-26. A person who shall:

a. (1) Overdrive, overload, drive when overloaded, overwork, deprive of necessary sustenance, abuse, or needlessly kill a living animal or creature, or cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done;

(2) Torment, torture, maim, hang, poison, unnecessarily or cruelly beat, or needlessly mutilate a living animal or creature, or cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done;

(3) Cruelly kill, or cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, the cruel killing of, a living animal or creature, or otherwise cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, the death of a living animal or creature from commission of any act described in paragraph (2) of this subsection;

b. (Deleted by amendment, P.L.2003, c.232).

c. Inflict unnecessary cruelty upon a living animal or creature, by any direct or indirect means, including but not limited to through the use of another living animal or creature; or unnecessarily fail to provide a living animal or creature of which the person has charge either as an owner or otherwise with proper food, drink, shelter or protection from the weather;

or leave it unattended in a vehicle under inhumane conditions adverse to the health or welfare of the living animal or creature;

d. Receive or offer for sale a horse that is suffering from abuse or neglect, or which by reason of disability, disease, abuse or lameness, or any other cause, could not be worked, ridden or otherwise used for show, exhibition or recreational purposes, or kept as a domestic pet without violating the provisions of this article;

e. Keep, use, be connected with or interested in the management of, or receive money or other consideration for the admission of a person to, a place kept or used for the purpose of fighting or baiting a living animal or creature;

f. Be present and witness, pay admission to, encourage, aid or assist in an activity enumerated in subsection e. of this section;

g. Permit or suffer a place owned or controlled by him to be used as provided in subsection e. of this section;

h. Carry, or cause to be carried, a living animal or creature in or upon a vehicle or otherwise, in a cruel or inhumane manner;

i. Use a dog or dogs for the purpose of drawing or helping to draw a vehicle for business purposes;

j. Impound or confine or cause to be impounded or confined in a pound or other place a living animal or creature, and shall fail to supply it during such confinement with a sufficient quantity of good and wholesome food and water;

k. Abandon a maimed, sick, infirm or disabled animal or creature to die in a public place;

l. Willfully sell, or offer to sell, use, expose, or cause or permit to be sold or offered for sale, used or exposed, a horse or other animal having the disease known as glanders or farcy, or other contagious or infectious disease dangerous to the health or life of human beings or animals, or who shall, when any such disease is beyond recovery, refuse, upon demand, to deprive the animal of life;

m. Own, operate, manage or conduct a roadside stand or market for the sale of merchandise along a public street or highway; or a shopping mall, or a part of the premises thereof; and keep a living animal or creature confined, or allowed to roam in an area whether or not the area is enclosed, on these premises as an exhibit; except that this subsection shall not be applicable to: a pet shop licensed pursuant to P.L.1941, c.151 (C.4:19-15.1 et seq.); a person who keeps an animal, in a humane manner, for the purpose of the protection of the premises; or a recognized breeders' association, a 4-H club, an educational agricultural program, an equestrian team, a humane

society or other similar charitable or nonprofit organization conducting an exhibition, show or performance;

n. Keep or exhibit a wild animal at a roadside stand or market located along a public street or highway of this State; a gasoline station; or a shopping mall, or a part of the premises thereof;

o. Sell, offer for sale, barter or give away or display live baby chicks, ducklings or other fowl or rabbits, turtles or chameleons which have been dyed or artificially colored or otherwise treated so as to impart to them an artificial color;

p. Use any animal, reptile, or fowl for the purpose of soliciting any alms, collections, contributions, subscriptions, donations, or payment of money except in connection with exhibitions, shows or performances conducted in a bona fide manner by recognized breeders' associations, 4-H clubs or other similar bona fide organizations;

q. Sell or offer for sale, barter, or give away living rabbits, turtles, baby chicks, ducklings or other fowl under two months of age, for use as household or domestic pets;

r. Sell, offer for sale, barter or give away living baby chicks, ducklings or other fowl, or rabbits, turtles or chameleons under two months of age for any purpose not prohibited by subsection q. of this section and who shall fail to provide proper facilities for the care of such animals;

s. Artificially mark sheep or cattle, or cause them to be marked, by cropping or cutting off both ears, cropping or cutting either ear more than one inch from the tip end thereof, or half cropping or cutting both ears or either ear more than one inch from the tip end thereof, or who shall have or keep in the person's possession sheep or cattle, which the person claims to own, marked contrary to this subsection unless they were bought in market or of a stranger;

t. Abandon a domesticated animal;

u. For amusement or gain, cause, allow, or permit the fighting or baiting of a living animal or creature;

v. Own, possess, keep, train, promote, purchase, or knowingly sell a living animal or creature for the purpose of fighting or baiting that animal or creature;

w. Gamble on the outcome of a fight involving a living animal or creature;

x. Knowingly sell or barter or offer for sale or barter, at wholesale or retail, the fur or hair of a domestic dog or cat or any product made in whole or in part from the fur or hair of a domestic dog or cat, unless such fur or

hair for sale or barter is from a commercial grooming establishment or a veterinary office or clinic or is for use for scientific research;

y. (1) Knowingly sell or barter, or offer for sale or barter, at wholesale or retail, for human consumption, the flesh of a domestic dog or cat, or any product made in whole or in part from the flesh of a domestic dog or cat;

(2) Knowingly slaughter a horse for human consumption;

(3) Knowingly sell or barter, or offer for sale or barter, at wholesale or retail, for human consumption, the flesh of a horse, or any product made in whole or in part from the flesh of a horse, or knowingly accept or publish newspaper advertising that includes the offering for sale, trade, or distribution of any such item for human consumption;

(4) Knowingly transport a horse for the purpose of slaughter for human consumption;

(5) Knowingly transport horsemeat, or any product made in whole or in part from the flesh of a horse, for the purpose of human consumption;

z. Surgically debark or silence a dog in violation of section 1 or 2 of P.L.2002, c.102 (C.4:19-38 or C.4:19-39);

aa. Use a live pigeon, fowl or other bird for the purpose of a target, or to be shot at either for amusement or as a test of skill in marksmanship, except that this subsection and subsections bb. and cc. shall not apply to the shooting of game;

bb. Shoot at a bird used as described in subsection aa. of this section, or is a party to such shooting; or

cc. Lease a building, room, field or premises, or knowingly permit the use thereof for the purposes of subsection aa. or bb. of this section --

Shall forfeit and pay a sum according to the following schedule, to be sued for and recovered, with costs, in a civil action by any person in the name of the New Jersey Society for the Prevention of Cruelty to Animals or a county society for the prevention of cruelty to animals, as appropriate, or, in the name of the municipality if brought by a certified animal control officer or animal cruelty investigator:

For a violation of subsection e., f., g., u., v., w., or z. of this section or of paragraph (3) of subsection a. of this section, or for a second or subsequent violation of paragraph (2) of subsection a. of this section, a sum of not less than $3,000 nor more than $5,000;

For a violation of subsection l. of this section or for a first violation of paragraph (2) of subsection a. of this section, a sum of not less than $1,000 nor more than $3,000;

For a violation of subsection x. or paragraph (1) of subsection y. of this section, a sum of not less than $500 nor more than $1,000 for each domes-

tic dog or cat fur or fur or hair product or domestic dog or cat carcass or meat product sold, bartered, or offered for sale or barter;

For a violation of paragraph (2), (3), (4), or (5) of subsection y. of this section, a sum of not less than $500 nor more than $1,000 for each horse slaughtered or transported for the purpose of slaughter for human consumption, or for each horse carcass or meat product transported, sold or bartered, or offered or advertised for sale or barter;

For a violation of subsection t. of this section, a sum of not less than $500 nor more than $1,000, but if the violation occurs on or near a highway, a mandatory sum of $1,000;

For a violation of subsection c., d., h., j., k., aa., bb., or cc. of this section or of paragraph (1) of subsection a. of this section, a sum of not less than $250 nor more than $1,000; and

For a violation of subsection i., m., n., o., p., q., r., or s. of this section, a sum of not less than $250 nor more than $500.

3. This act shall take effect immediately.

Approved September 19, 2012.

CHAPTER 53

AN ACT concerning wheelchair securement and amending P.L.2008, c.79.

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

1. Section 1 of P.L.2008, c.79 (C.39:3-76.2l) is amended to read as follows:

C.39:3-76.2l Use of securement devices required.

1. a. The driver of a passenger automobile shall secure or cause to be secured any passenger using a wheelchair in a properly adjusted and fastened wheelchair securement and occupant securement device. The securement devices shall be in compliance with Federal Motor Vehicle Safety Standards.

For the purposes of this act, the term "passenger automobile" shall include vans, pick-up trucks, and utility vehicles.

b. A private entity which is primarily engaged in the business of providing transportation for passengers using wheelchairs shall secure or cause to be secured any passenger using a wheelchair using a properly adjusted and fastened four-point securement system. The private entity shall also properly secure any unoccupied wheelchair.

For the purposes of this subsection:

"Four-point securement system" means a complete four-point system that includes four wheelchair restraints to secure a wheelchair to the vehicle floor; a lap and shoulder belt that integrates to the rear wheelchair restraints; and floor anchorages installed in the vehicle floor.

2. This act shall take effect on the 365th day next following enactment.

Approved September 19, 2012.

CHAPTER 54

AN ACT concerning certain cable television price changes and channel offerings, supplementing P.L.1972, c.186 (C.48:5A-1 et seq.).

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

C.48:5A-11.11 CATV, advance notification, certain; requirement eliminated.

1. Notwithstanding any law, rule, regulation or order to the contrary, a cable television company shall not be required to provide advance notification to the Office of Cable Television, to the cable television company's subscribers, or to the municipalities in its service area, a. prior to implementing a decrease in the price it charges its subscribers for cable television service, provided that the decrease in price is not due to a change in service, or b. prior to the addition of new channels to the cable television company's channel offerings.

Nothing in this section shall be construed to supersede, or deny a subscriber any rights or protections provided by, the New Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.).

2. This act shall take effect on the 60th day after the date of enactment, but the Board of Public Utilities may take such anticipatory adminis-

trative action in advance thereof as shall be necessary for the implementation of this act.

Approved September 19, 2012.

CHAPTER 55

AN ACT concerning energy savings improvement programs, amending various parts of the statutory law, and supplementing Title 52 of the Revised Statutes.

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

1. Section 1 of P.L.2009, c.4 (C.18A:18A-4.6) is amended to read as follows:

C.18A:18A-4.6 Implementation of energy savings improvements program by board of education; definitions.

1. a. (1) A board of education, as defined in N.J.S.18A:18A-2, may implement an energy savings improvement program in the manner provided by this section whenever it determines that the savings generated from reduced energy use from the program will be sufficient to cover the cost of the program's energy conservation measures as set forth in an energy savings plan. Under such a program, a board of education may enter into an energy savings services contract with an energy services company to implement the program or the board may authorize separate contracts to implement the program. The provisions of N.J.S.18A:18A-1 et seq. shall apply to any contracts awarded pursuant to this section to the extent that the provisions of such law are not inconsistent with any provision of this section.

(2) A board of education facility alteration required to properly implement other energy efficiency or energy conservation measures, or both, may be included as part of an energy savings services contract, in which case, notwithstanding any other provision of law, rule, regulation, or order to the contrary, the facility alteration may be undertaken or supervised by the energy services company performing the energy savings services contract if:

(a) the total cost of the improvement does not exceed 15 percent of the total cost of the work to be performed under the energy savings services contract; and

(b) (i) the improvement is necessary to conform to a law, rule, or regulation, or order, or (ii) an analysis within an approved proposal, or the board

of education, at the time of the award of the proposal, demonstrates that there is an economic advantage to the board of education implementing the improvement as part of the energy savings services contract, and the savings rationale for the improvement is documented and supported by reasonable justification.

b. (1) To be eligible to enter into an energy savings services contract, an energy services company shall be a commercial entity that is qualified to provide energy savings services in accordance with the provisions of this section. A board of education may determine to enter into an energy savings services contract either through public advertising for bids and the receipt of bids therefor or through competitive contracting in lieu of public bidding in the manner provided by sections 45 through 49 of P.L.1999, c.440 (C.18A:18A-4.1 et seq.).

(2) (a) Public works activities performed under an energy savings improvement program shall be subject to all requirements regarding public bidding, bid security, performance guarantees, insurance and other public contracting requirements that are applicable to public works contracts, to the extent not inconsistent with this section. A general contractor, energy services company serving as general contractor, or any subcontractor hired for the furnishing of plumbing and gas fitting and all kindred work, and of steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, structural steel and ornamental iron work, shall be classified by the Division of Property Management and Construction in the Department of the Treasury in order to perform public works activities under an energy savings improvement program.

(b) Individuals or organizations performing energy audits, acting as commissioning agents, or conducting verification of energy savings plans, implementation of energy conservation measures, or verifying guarantees shall be prequalified by the Division of Property Management and Construction in the Department of the Treasury to perform their work under an energy savings improvement program.

(3) (a) An energy services company may be designated as the general contractor for improvements to be made pursuant to an energy savings plan, provided that the hiring of subcontractors that are required to be classified pursuant to subparagraph (a) of paragraph (2) of this subsection shall be performed in accordance with the procedures and requirements set forth pursuant to the public bidding requirements of the board of education. A contract with an energy savings company shall include, but not be limited to: preparation of an energy savings plan; the responsibilities of the parties for project schedules, installations, performance and quality, payment of

subcontractors, project completion, commissioning, savings implementation; a requirement that the savings to be achieved by energy conservation measures be verified upon commissioning of the improvements; allocation of State and federal rebates and tax credits; and any other provisions deemed necessary by the parties.

(b) All workers performing public works activities for subcontractors awarded contracts by an energy services company pursuant to this section shall be paid prevailing wages in accordance with the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.). All subcontractors shall comply with the provisions of "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.). Only firms appropriately classified as contractors by the Division of Property Management and Construction shall be eligible to be awarded a contract as a subcontractor of an energy services company under this section for performing public works activities pursuant to regulations adopted by the Division of Property Management and Construction.

(c) In order to expedite communications with an energy services company and facilitate the implementation of an energy savings improvement program, a board of education may designate or appoint an employee of the board of education with decision-making authority to coordinate with the energy services company and to address issues associated with the implementation of an energy savings improvement program as they arise, provided that any decision requiring a change order shall be made only upon the approval of the board of education.

(4) Except as provided in paragraph (5) of this subsection, a subsidiary or wholly-owned or partially-owned affiliate of the energy services company shall not be an eligible contractor or subcontractor under an energy savings services contract.

(5) When the energy services company is the manufacturer of direct digital control systems and contracts with the board of education to provide a guaranteed energy savings option pursuant to subsection f. of this section, the specification of such direct digital control systems may be treated as proprietary goods and if so treated, the bid specification shall set forth an allowance price for its supply by the energy services company which shall be used by all bidders in the public bidding process. Direct digital controls shall be open protocol format and shall meet the interoperability guidelines established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers. Each contract to be entered into pursuant to this section between a board of education and an energy services company that is the manufacturer of direct digital control systems where such direct digi-

tal control systems are treated as proprietary goods as part of the contract, shall first be reviewed and approved by the Board of Public Utilities for the purpose of affirming the reasonableness of such allowance price. If the board does not disapprove of the contract within 14 days of receipt thereof, the contract shall be deemed approved.

c. An energy savings improvement program may be financed through a lease-purchase agreement or through the issuance of energy savings obligations pursuant to this subsection.

(1) An energy savings improvement program may be financed through a lease-purchase agreement between a board of education and an energy services company or other public or private entity. Under a lease-purchase agreement, ownership of the energy savings equipment or improved facilities shall pass to the board of education when all lease payments have been made. Notwithstanding the provisions of section 46 of P.L.1999, c.440 (C.18A:18A-4.2) or any other law to the contrary, the duration of such a lease-purchase agreement shall not exceed 15 years, except that the duration of a lease purchase agreement for a combined heat and power or cogeneration project shall not exceed 20 years. For the purposes of this paragraph, the duration of the repayment term of a lease-purchase agreement shall commence on the date upon which construction and installation of the energy savings equipment, "combined heat and power facility" or "cogeneration facility," as those terms are defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), or other energy conservation measures undertaken pursuant to the energy savings plan, have been completed.

(2) Any lease-purchase agreement entered into pursuant to this subsection may contain: a clause making it subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation; and a non-substitution clause maintaining that if the agreement is terminated for non-appropriation, the board of education may not replace the leased equipment or facilities with equipment or facilities that perform the same or similar functions.

(3) A board of education may arrange for incurring energy savings obligations to finance an energy savings improvement program. Energy savings obligations may be funded through appropriations for utility services in the annual budget of the board and may be issued as refunding bonds pursuant to P.L.1969, c.130 (C.18A:24-61.1 et seq.), including the issuance of bond anticipation notes as may be necessary, provided that all such bonds and notes mature within the periods authorized for such energy savings obligations. Energy savings obligations may be issued either through

the board of education or another public agency authorized to undertake financing on behalf of the board.

(4) Lease-purchase agreements and energy savings obligations shall not be used to finance maintenance, guarantees, or verification of guarantees of energy conservation measures. Lease-purchase agreements and energy savings obligations may be used to finance the cost of an energy audit or the cost of verification of energy savings as part of adopting an energy savings plan. Notwithstanding any law to the contrary, lease-purchase agreements and energy savings certificates shall not be excepted from any budget or tax levy limitation otherwise provided by law. Maturity schedules of lease-purchase agreements or energy savings obligations shall not exceed the estimated average useful life of the energy conservation measures.

d. (1) The energy audit component of an energy savings improvement program shall be conducted either by the board of education or by a qualified third party retained by the board for that purpose. It shall not be conducted by an energy services company subsequently hired to develop an energy savings improvement program. The energy audit shall identify the current energy use of any or all facilities and energy conservation measures that can be implemented in which the energy savings and energy efficiency could be realized and maximized.

(2) To implement an energy savings improvement program, a board of education shall develop an energy savings plan that consists of one or more energy conservation measures. The plan shall:

(a) contain the results of an energy audit;

(b) describe the energy conservation measures that will comprise the program;

(c) estimate greenhouse gas reductions resulting from those energy savings;

(d) identify all design and compliance issues that require the professional services of an architect or engineer and identify who will provide these services;

(e) include an assessment of risks involved in the successful implementation of the plan;

(f) identify the eligibility for, and costs and revenues associated with the PJM Independent System Operator for demand response and curtailable service activities;

(g) include schedules showing calculations of all costs of implementing the proposed energy conservation measures and the projected energy savings;

(h) identify maintenance requirements necessary to ensure continued energy savings, and describe how they will be fulfilled; and

(i) if developed by an energy services company, a description of, and cost estimates of an energy savings guarantee.

All professionals providing engineering services under the plan shall have errors and omissions insurance.

(3) Prior to the adoption of the plan by the governing body, the board of education shall contract with a qualified third party to verify the projected energy savings to be realized from the proposed program have been calculated as required by subsection e. of this section.

(4) Upon adoption, the plan shall be submitted to the Board of Public Utilities, which shall post it on the Internet on a public webpage maintained for such purpose. If the board of education maintains its own website, it shall also post the plan on that site. The Board of Public Utilities may require periodic reporting concerning the implementation of the plan.

(5) Verification by a qualified third party shall be required when energy conservation measures are placed in service or commissioned, to ensure the savings projected in the energy savings plan shall be achieved.

(6) Energy-related capital improvements that do not reduce energy usage may be included in an energy savings improvement program but the cost of such improvements shall not be financed as a lease-purchase or through energy savings obligations authorized by subsection c. of this section. Nothing herein is intended to prevent financing of such capital improvements through otherwise authorized means.

(7) A qualified third party when required by this subsection may include an employee of the board of education who is properly trained and qualified to perform such work.

e. (1) (a) The calculation of energy savings for the purposes of determining that the energy savings resulting from the program will be sufficient to cover the cost of the program's energy conservation measures, as provided in subsection a. of this section, shall involve determination of the dollar amount saved through implementation of an energy savings improvement program using the guidelines of the International Performance Measurement and Verification Protocol or other protocols approved by the Board of Public Utilities and standards adopted by the Board of Public Utilities pursuant to this section. The calculation shall include all applicable State and federal rebates and tax credits, but shall not include the cost of an energy audit and the cost of verifying energy savings. The calculation shall state which party has made application for rebates and credits and how these applications translate into energy savings.

(b) During the procurement phase of an energy savings improvement program, an energy services company's proposal submitted in response to a request for proposal shall not include a savings calculation that assumes, includes, or references capital cost avoidance savings, the current or projected value of a "solar renewable energy certificate," as defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), or other environmental or similar attributes or benefits of whatever nature that derive from the generation of renewable energy, and any costs or discounts associated with maintenance services, an energy savings guarantee, or third party verification of energy conservation measures and energy savings. The calculation of energy savings shall utilize and specifically reference as a benchmark the actual demand and energy components of the public utility tariff rate applicable to the board of education then in effect, and not a blended rate that aggregates, combines, or restates in any manner the distinct demand and energy components of the public utility tariff rate into a single combined or restated tariff rate. If an energy services company submits a proposal to a board of education that does not calculate projected energy savings in the manner required by this subsection, such proposal shall be rejected by the board of education.

(2) For the purposes of this section, the Board of Public Utilities shall adopt standards and uniform values for interest rates and escalation of labor, electricity, oil, and gas, as well as standards for presenting these costs in a life cycle and net present value format, standards for the presentation of obligations for carbon reductions, and other standards that the board may determine necessary.

f. (1) When an energy services company is awarded an energy savings services contract, it shall offer the board of education the option to purchase, for an additional amount, an energy savings guarantee. The guarantee, if accepted by a separate vote of the board of education, shall insure that the energy savings resulting from the energy savings improvement program, determined periodically over the duration of the guarantee, will be sufficient to defray all payments required to be made pursuant to the lease-purchase agreement or energy savings obligation, and if the savings are not sufficient, the energy services company will reimburse the board for any additional amounts. Annual costs of a guarantee shall not be financed or included as costs in an energy savings plan but shall be fully disclosed in an energy savings plan.

(2) When a guaranteed energy savings option is purchased, the contract shall require a qualified third party to verify the energy savings at intervals established by the parties.

(3) When an energy services company is awarded an energy savings services contract to provide or perform goods or services for the purpose of enabling a board of education to conserve energy through energy efficiency equipment, including a "combined heat and power facility" as that term is defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), on a self-funded basis, such contract shall extend for a term of up to 15 years for energy efficiency projects, and for up to 20 years for a combined heat and power facility after construction completion. If a board of education shall elect to contract with an energy services company for an energy savings guarantee in connection with a contract awarded pursuant to this section, such guarantee may extend for a term of up to 15 years for energy efficiency projects, or up to 20 years for a combined heat and power facility after construction completion.

g. As used in this section:

"direct digital control systems" means the devices and computerized control equipment that contain software and computer interfaces that perform the logic that control a building's heating, ventilating, and air conditioning system. Direct digital controls shall be open protocol format and shall meet the interoperability guidelines established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers;

"energy conservation measure" means an improvement that results in reduced energy use, including, but not limited to, installation of energy efficient equipment; demand response equipment; combined heat and power systems; facilities for the production of renewable energy; water conservation measures, fixtures or facilities; building envelope improvements that are part of an energy savings improvement program; and related control systems for each of the foregoing;

"energy related capital improvement" means a capital improvement that uses energy but does not result in a reduction of energy use;

"energy saving obligation" means a bond, note or other agreement evidencing the obligation to repay borrowed funds incurred in order to finance energy saving improvements;

"energy savings" means a measured reduction in fuel, energy, operating or maintenance costs resulting from the implementation of one or more energy conservation measures services when compared with an established baseline of previous fuel, energy, operating or maintenance costs, including, but not limited to, future capital replacement expenditures avoided as a result of equipment installed or services performed as part of an energy savings plan;

"energy savings improvement program" means an initiative of a board of education to implement energy conservation measures in existing facilities, provided that the value of the energy savings resulting from the program will be sufficient to cover the cost of the program's energy conservation measures;

"energy savings plan" means the document that describes the actions to be taken to implement the energy savings improvement program;

"energy savings services contract" means a contract with an energy savings company to develop an energy savings plan, prepare bid specifications, manage the performance, provision, construction, and installation of energy conservation measures by subcontractors, to offer a guarantee of energy savings derived from the implementation of an energy savings plan, and may include a provision to manage the bidding process;

"energy services company" means a commercial entity that is qualified to develop and implement an energy savings plan in accordance with the provisions of this section;

"public works activities" means any work subject to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.); and

"water conservation measure" means an alteration to a facility or equipment that reduces water consumption, maximizes the efficiency of water use, or reduces water loss.

h. (1) The Director of the Division of Local Government Services in the Department of Community Affairs, the State Treasurer, and the Board of Public Utilities may take such action as is deemed necessary and consistent with the intent of this section to implement its provisions.

(2) The Director of the Division of Local Government Services in the Department of Community Affairs, the State Treasurer and the Board of Public Utilities may adopt implementation guidelines or directives, and adopt such administrative rules, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary for the implementation of those agencies' respective responsibilities under this section, except that notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Director of the Division of Local Government Services in the Department of Community Affairs, the State Treasurer, and the Board of Public Utilities may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as deemed necessary to implement the provisions of this act which shall be effective for a period not to exceed 12 months and shall thereafter be amended, adopted or re-adopted in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

2. Section 4 of P.L.2009, c.4 (C.18A:65A-1) is amended to read as follows:

C.18A:65A-1 Implementation of energy savings improvement program by public institution of higher education; definitions.

4. a. (1) The board of trustees of a public institution of higher education may implement an energy savings improvement program in the manner provided by this section whenever it determines that the savings generated from reduced energy use from the program will be sufficient to cover the cost of the program's energy conservation measures as set forth in an energy savings plan. Under such a program, a board of trustees may enter into an energy savings services contract with an energy services company to implement the program or the board may authorize separate contracts to implement the program. The provisions of: N.J.S.18A:64-1 et seq., in the case of any State college; P.L.1995, c.400 (C.18A:64E-12 et seq.), in the case of the New Jersey Institute of Technology; N.J.S.18A:65-1 et seq., in the case of Rutgers, the State University; P.L.2012, c.45 (C.18A:64M-1 et al.), in the case of Rowan University; and N.J.S.18A:64A-1 et seq., in the case of the county colleges; shall apply to any contracts awarded pursuant to this section to the extent that the provisions of such law are not inconsistent with any provision of this section.

In the case of Rutgers, the State University, references in this section to the board of trustees shall mean the Rutgers board of governors.

(2) An educational facility alteration required to properly implement other energy efficiency or energy conservation measures, or both, may be included as part of an energy savings services contract, in which case, notwithstanding any other provision of law, rule, regulation, or order to the contrary, the facility alteration may be undertaken or supervised by the energy services company performing the energy savings services contract if:

(a) the total cost of the improvement does not exceed 15 percent of the total cost of the work to be performed under the energy savings services contract; and

(b) (i) the improvement is necessary to conform to a law, rule, or regulation, or order, or (ii) an analysis within an approved proposal, or the board of trustees, at the time of the award of the proposal, demonstrates that there is an economic advantage to the board of trustees implementing the improvement as part of the energy savings services contract, and the savings rationale for the improvement is documented and supported by reasonable justification.

b. (1) To be eligible to enter into an energy savings services contract, an energy services company shall be a commercial entity that is qualified to

provide energy savings services in accordance with the provisions of this section. A public institution of higher education may enter into an energy savings services contract through public advertising for bids and the receipt of bids therefor.

(2) (a) Public works activities performed under an energy savings improvement program shall be subject to all requirements regarding public bidding, bid security, performance guarantees, insurance and other public contracting requirements that are applicable to public works contracts, to the extent not inconsistent with this section. A general contractor, energy services company serving as general contractor, or any subcontractor hired for the furnishing of plumbing and gas fitting and all kindred work, and of steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, structural steel and ornamental iron work, shall be classified by the Division of Property Management and Construction in the Department of the Treasury in order to perform public works activities under an energy savings improvement program.

(b) Individuals or organizations performing energy audits, acting as commissioning agents, or conducting verification of energy savings plans, implementation of energy conservation measures, or verifying guarantees shall be prequalified by the Division of Property Management and Construction in the Department of the Treasury to perform their work under an energy savings improvement program.

(c) Where there is a need for compatibility of a direct digital control system with previously installed control systems and equipment, the bid specifications may include a requirement for proprietary goods, and if so included, the bid specification shall set forth an allowance price for its supply which shall be used by all bidders in the public bidding process.

(3) (a) An energy services company may be designated as the general contractor for improvements to be made pursuant to an energy savings plan, provided that the hiring of subcontractors that are required to be classified pursuant to subparagraph (a) of paragraph (2) of this subsection shall be performed in accordance with the procedures and requirements set forth pursuant to the public bidding requirements of the board of trustees. A contract with an energy savings company shall include, but not be limited to: preparation of an energy savings plan; the responsibilities of the parties for project schedules, installations, performance and quality, payment of subcontractors, project completion, commissioning, savings implementation; a requirement that the savings to be achieved by energy conservation measures be verified upon commissioning of the improvements; allocation of

State and federal rebates and tax credits; and any other provisions deemed necessary by the parties.

(b) All workers performing public works activities for subcontractors awarded contracts by an energy services company pursuant to this section shall be paid prevailing wages in accordance with the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.). All subcontractors shall comply with the provisions of "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.). Only firms appropriately classified as contractors by the Division of Property Management and Construction shall be eligible to be awarded a contract as a subcontractor of an energy services company under this section for performing public works activities pursuant to regulations adopted by the Division of Property Management and Construction.

(c) In order to expedite communications with an energy services company and facilitate the implementation of an energy savings improvement program, a board of trustees may designate or appoint an employee of the public institution of higher education with decision-making authority to coordinate with the energy services company and to address issues associated with the implementation of an energy savings improvement program as they arise, provided that any decision requiring a change order shall be made only upon the approval of the board of trustees of the public institution of higher education.

(4) A subsidiary or wholly-owned or partially-owned affiliate of the energy services company shall not be an eligible contractor or subcontractor under an energy savings services contract.

c. An energy savings improvement program may be financed through a lease-purchase agreement or through the issuance of energy savings obligations pursuant to this subsection.

(1) An energy savings improvement program may be financed through a lease-purchase agreement between a board of trustees and an energy services company or other public or private entity. Under a lease-purchase agreement, ownership of the energy savings equipment or improved facilities shall pass to the board of trustees when all lease payments have been made. Notwithstanding the provisions of any other law to the contrary, the duration of such a lease-purchase agreement shall not exceed 15 years, except that the duration of a lease purchase agreement for a combined heat and power or cogeneration project shall not exceed 20 years. For the purposes of this paragraph, the duration of the repayment term of a lease-purchase agreement shall commence on the date upon which construction and installation of the energy savings equipment, "combined heat and power facility"

or "cogeneration facility," as those terms are defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), or other energy conservation measures undertaken pursuant to the energy savings plan, have been completed.

(2) Any lease-purchase or other agreement entered into in connection with an energy savings improvement program may be a general obligation of the public institution of higher education pursuant to this subsection, and may contain: a clause making it subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation; and a non-substitution clause maintaining that if the agreement is terminated for non-appropriation, the board of trustees may not replace the leased equipment or facilities with equipment or facilities that perform the same or similar functions.

(3) A board of trustees may arrange for incurring energy savings obligations to finance an energy savings improvement program and may enter into any agreement with the New Jersey Educational Facilities Authority or other persons in connection with the issuance by the authority of its obligations on behalf of the public institution of higher education in order to finance the institution's energy savings improvement program. Energy savings obligations may be funded through appropriations for utility services in the annual budget of the board, or incurred as a general obligation of the public institution of higher education in connection with the issuance by the New Jersey Educational Facilities Authority of bonds or notes pursuant to N.J.S.18A:72A-2 et seq., or, in the case of a county college, by a sponsoring county as a refunding bond pursuant to N.J.S.40A:2-52 et seq., including the issuance of bond anticipation notes as may be necessary, provided that all such bonds and notes mature within the periods authorized for such energy savings obligations.

(4) Lease-purchase agreements and energy savings obligations shall not be used to finance maintenance, guarantees, or verification of guarantees of energy conservation measures. Lease-purchase agreements and energy savings obligations may be used to finance the cost of an energy audit or the cost of verification of energy savings as part of adopting an energy savings plan. Maturity schedules of lease-purchase agreements or energy savings obligations shall not exceed the estimated average useful life of the energy conservation measures.

d. (1) The energy audit component of an energy savings improvement program shall be conducted either by the board of trustees or by a qualified third party retained by the board for that purpose. It shall not be conducted by an energy services company subsequently hired to develop an energy savings improvement program. The energy audit shall identify the current

energy use of any or all facilities and energy conservation measures that can be implemented in which the energy savings and energy efficiency could be realized and maximized.

(2) To implement an energy savings improvement program, a board of trustees shall develop an energy savings plan that consists of one or more energy conservation measures. The plan shall:

(a) contain the results of an energy audit;

(b) describe the energy conservation measures that will comprise the program;

(c) estimate greenhouse gas reductions resulting from those energy savings;

(d) identify all design and compliance issues that require the professional services of an architect or engineer and identify who will provide these services;

(e) include an assessment of risks involved in the successful implementation of the plan;

(f) identify the eligibility for, and costs and revenues associated with the PJM Independent System Operator for demand response and curtailable service activities;

(g) include schedules showing calculations of all costs of implementing the proposed energy conservation measures and the projected energy savings;

(h) identify maintenance requirements necessary to ensure continued energy savings, and describe how they will be fulfilled; and

(i) if developed by an energy services company, a description of, and cost estimates of an energy savings guarantee.

All professionals providing engineering services under the plan shall have errors and omissions insurance.

(3) Prior to the adoption of the plan, the board of trustees shall contract with a qualified third party to verify the projected energy savings to be realized from the proposed program have been calculated as required by subsection e. of this section.

(4) Upon adoption, the plan shall be submitted to the Board of Public Utilities, which shall post it on the Internet on a public webpage maintained for such purpose. If the board of trustees maintains its own website, it shall also post the plan on that site. The Board of Public Utilities may require periodic reporting concerning the implementation of the plan.

(5) Verification by a qualified third party shall be required when energy conservation measures are placed in service or commissioned, to ensure the savings projected in the energy savings plan shall be achieved.

(6) Energy-related capital improvements that do not reduce energy usage may be included in an energy savings improvement program but the cost of such improvements shall not be financed as a lease-purchase or through energy savings obligations authorized by subsection c. of this section. Nothing herein is intended to prevent the financing of such capital improvements through otherwise authorized means.

(7) A qualified third party when required by this subsection may include an employee of the public institution of higher education who is properly trained and qualified to perform such work.

e. (1) (a) The calculation of energy savings for the purposes of determining that the energy savings resulting from the program will be sufficient to cover the cost of the program's energy conservation measures, as provided in subsection a. of this section, shall involve determination of the dollar amount saved through implementation of an energy savings improvement program using the guidelines of the International Performance Measurement and Verification Protocol or other protocols approved by the Board of Public Utilities and standards adopted by the Board of Public Utilities pursuant to this section. The calculation shall include all applicable State and federal rebates and tax credits, but shall not include the cost of an energy audit and the cost of verifying energy savings. The calculation shall state which party has made application for rebates and credits and how these applications translate into energy savings.

(b) During the procurement phase of an energy savings improvement program, an energy services company's proposal submitted in response to a request for proposal shall not include a savings calculation that assumes, includes, or references capital cost avoidance savings, the current or projected value of a "solar renewable energy certificate," as defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), or other environmental or similar attributes or benefits of whatever nature that derive from the generation of renewable energy, and any costs or discounts associated with maintenance services, an energy savings guarantee, or third party verification of energy conservation measures and energy savings. The calculation of energy savings shall utilize and specifically reference as a benchmark the actual demand and energy components of the public utility tariff rate applicable to the board of trustees then in effect, and not a blended rate that aggregates, combines, or restates in any manner the distinct demand and energy components of the public utility tariff rate into a single combined or restated tariff rate. If an energy services company submits a proposal to a board of trustees that does not calculate projected energy savings in the manner required by this subsection, such proposal shall be rejected by the board of trustees.

(2) For the purposes of this section, the Board of Public Utilities shall adopt standards and uniform values for interest rates and escalation of labor, electricity, oil, and gas, as well as standards for presenting these costs in a life cycle and net present value format, standards for the presentation of obligations for carbon reductions, and other standards that the board may determine necessary.

f. (1) When an energy services company is awarded an energy savings services contract, it shall offer the board of trustees the option to purchase, for an additional amount, an energy savings guarantee. The guarantee, if accepted by a separate vote of the board of trustees, shall insure that the energy savings resulting from the energy savings improvement program, determined periodically over the duration of the guarantee, will be sufficient to defray all payments required to be made pursuant to the lease-purchase agreement or energy savings obligation, and if the savings are not sufficient, the energy services company will reimburse the board of trustees for any additional amounts. Annual costs of a guarantee shall not be financed or included as costs in an energy savings plan but shall be fully disclosed in an energy savings plan.

(2) When a guaranteed energy savings option is purchased, the contract shall require a qualified third party to verify the energy savings at intervals established by the parties.

(3) When an energy services company is awarded an energy savings services contract to provide or perform goods or services for the purpose of enabling a board of trustees to conserve energy through energy efficiency equipment, including a "combined heat and power facility" as that term is defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), on a self-funded basis, such contract shall extend for a term of up to 15 years for energy efficiency projects, and for up to 20 years for a combined heat and power facility after construction completion. If a board of trustees shall elect to contract with an energy services company for an energy savings guarantee in connection with a contract awarded pursuant to this section, such guarantee may extend for a term of up to 15 years for energy efficiency projects, or up to 20 years for a combined heat and power facility after construction completion.

g. As used in this section:

"direct digital control systems" means the devices and computerized control equipment that contain software and computer interfaces that perform the logic that control a building's heating, ventilating, and air conditioning system. Direct digital controls shall be open protocol format and

shall meet the interoperability guidelines established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers;

"educational facility" means a structure suitable for use as a dormitory, dining hall, student union, administrative building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, teaching hospital, and parking, maintenance, storage or utility facility or energy conservation measures and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, and public libraries, and the necessary and usual attendant and related facilities and equipment, but shall not include any facility used or to be used for sectarian instruction or as a place for religious worship;

"energy conservation measure" means an improvement that results in reduced energy use, including, but not limited to, installation of energy efficient equipment; demand response equipment; combined heat and power systems; facilities for the production of renewable energy; water conservation measures, fixtures or facilities; building envelope improvements that are part of an energy savings improvement program; and related control systems for each of the foregoing;

"energy related capital improvement" means a capital improvement that uses energy but does not result in a reduction of energy use;

"energy saving obligation" means a bond, note or other agreement evidencing the obligation to repay borrowed funds incurred in order to finance energy saving improvements;

"energy savings" means a measured reduction in fuel, energy, operating or maintenance costs resulting from the implementation of one or more energy conservation measures services when compared with an established baseline of previous fuel, energy, operating or maintenance costs, including, but not limited to, future capital replacement expenditures avoided as a result of equipment installed or services performed as part of an energy savings plan;

"energy savings improvement program" means an initiative of a public institution of higher education to implement energy conservation measures in existing facilities, provided that the value of the energy savings resulting from the program will be sufficient to cover the cost of the program's energy conservation measures;

"energy savings plan" means the document that describes the actions to be taken to implement the energy savings improvement program;

"energy savings services contract" means a contract with an energy savings company to develop an energy savings plan, prepare bid specifica-

tions, manage the performance, provision, construction, and installation of energy conservation measures by subcontractors, to offer a guarantee of energy savings derived from the implementation of an energy savings plan, and may include a provision to manage the bidding process;

"energy services company" means a commercial entity that is qualified to develop and implement an energy savings plan in accordance with the provisions of this section;

"public works activities" means any work subject to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.); and

"water conservation measure" means an alteration to a facility or equipment that reduces water consumption, maximizes the efficiency of water use, or reduces water loss.

h. (1) The State Treasurer and the Board of Public Utilities may take such action as is deemed necessary and consistent with the intent of this section to implement its provisions.

(2) The State Treasurer and the Board of Public Utilities may adopt implementation guidelines or directives, and adopt such administrative rules, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary for the implementation of those agencies' respective responsibilities under this section, except that notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the State Treasurer and the Board of Public Utilities may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as deemed necessary to implement the provisions of this act which shall be effective for a period not to exceed 12 months and shall thereafter be amended, adopted or re-adopted in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

3. Section 6 of P.L.2009, c.4 (C.40A:11-4.6) is amended to read as follows:

C.40A:11-4.6 Implementation of energy savings improvement program by contracting unit; definitions.

6. a. (1) A contracting unit, as defined in P.L.1971, c.198 (C.40A:11-1 et seq.), may implement an energy savings improvement program in the manner provided by this section whenever it determines that the savings generated from reduced energy use from the program will be sufficient to cover the cost of the program's energy conservation measures as set forth in an energy savings plan. Under such a program, a contracting unit may enter into an energy savings services contract with an energy services com-

pany to implement the program or the contracting unit may authorize separate contracts to implement the program. The provisions of P.L.1971, c.198 (C.40A:11-1 et seq.) shall apply to any contracts awarded pursuant to this section to the extent that the provisions of such law are not inconsistent with any provision of this section.

(2) A contracting unit facility alteration required to properly implement other energy efficiency or energy conservation measures, or both, may be included as part of an energy savings services contract, in which case, notwithstanding any other provision of law, rule, regulation, or order to the contrary, the facility alteration may be undertaken or supervised by the energy services company performing the energy savings services contract if:

(a) the total cost of the improvement does not exceed 15 percent of the total cost of the work to be performed under the energy savings services contract; and

(b) (i) the improvement is necessary to conform to a law, rule, or regulation, or order, or (ii) an analysis within an approved proposal, or the contracting unit, at the time of the award of the proposal, demonstrates that there is an economic advantage to the contracting unit implementing the improvement as part of the energy savings services contract, and the savings rationale for the improvement is documented and supported by reasonable justification.

b. (1) To be eligible to enter into an energy savings services contract, an energy services company shall be a commercial entity that is qualified to provide energy savings services in accordance with the provisions of this section. A contracting unit may determine to enter into an energy savings services contract either through public advertising for bids and the receipt of bids therefor or through competitive contracting in lieu of public bidding in the manner provided by sections 1 through 5 of P.L.1999, c.440 (C.40A:11-4.1 et seq.).

(2) (a) Public works activities performed under an energy savings improvement program shall be subject to all requirements regarding public bidding, bid security, performance guarantees, insurance and other public contracting requirements that are applicable to public works contracts, to the extent not inconsistent with this section. A general contractor, energy services company serving as general contractor, or any subcontractor hired for the furnishing of plumbing and gas fitting and all kindred work, and of steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, structural steel and ornamental iron work, shall be classified by the Division of Property Management and Construction in the Department of the Treasury in order to perform public works activities under an energy savings improvement program.

(b) Individuals or organizations performing energy audits, acting as commissioning agents, or conducting verification of energy savings plans, implementation of energy conservation measures, or verifying guarantees shall be prequalified by the Division of Property Management and Construction in the Department of the Treasury to perform their work under an energy savings improvement program.

(3) (a) An energy services company may be designated as the general contractor for improvements to be made pursuant to an energy savings plan, provided that the hiring of subcontractors that are required to be classified pursuant to subparagraph (a) of paragraph (2) of this subsection shall be performed in accordance with the procedures and requirements set forth pursuant to the public bidding requirements of the contracting unit. A contract with an energy savings company shall include, but not be limited to: preparation of an energy savings plan; the responsibilities of the parties for project schedules, installations, performance and quality, payment of subcontractors, project completion, commissioning, savings implementation; a requirement that the savings to be achieved by energy conservation measures be verified upon commissioning of the improvements; allocation of State and federal rebates and tax credits; and any other provisions deemed necessary by the parties.

(b) All workers performing public works activities for subcontractors awarded contracts by an energy services company pursuant to this section shall be paid prevailing wages in accordance with the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.). All subcontractors shall comply with the provisions of "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.). Only firms appropriately classified as contractors by the Division of Property Management and Construction shall be eligible to be awarded a contract as a subcontractor of an energy services company under this section for performing public works activities pursuant to regulations adopted by the Division of Property Management and Construction.

(c) In order to expedite communications with an energy services company and facilitate the implementation of an energy savings improvement program, a contracting unit may designate or appoint an employee of the contracting unit with decision-making authority to coordinate with the energy services company and to address issues associated with the implementation of an energy savings improvement program as they arise, provided that any decision requiring a change order shall be made only upon the approval of the contracting unit.

(4) Except as provided in paragraph (5) of this subsection, a subsidiary or wholly-owned or partially-owned affiliate of the energy services company shall not be an eligible contractor or subcontractor under an energy savings services contract.

(5) When the energy services company is the manufacturer of direct digital control systems and contracts with the contracting unit to provide a guaranteed energy savings option pursuant to subsection f. of this section, the specification of such direct digital control systems may be treated as proprietary goods and if so treated, the bid specification shall set forth an allowance price for its supply by the energy services company which shall be used by all bidders in the public bidding process. Direct digital controls shall be open protocol format and shall meet the interoperability guidelines established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers. Each contract to be entered into pursuant to this section between a contracting unit and an energy services company that is the manufacturer of direct digital control systems where such direct digital control systems are treated as proprietary goods as part of the contract, shall first be reviewed and approved by the Board of Public Utilities for the purpose of affirming the reasonableness of such allowance price. If the board does not disapprove of the contract within 14 days of receipt thereof, the contract shall be deemed approved.

c. An energy savings improvement program may be financed through a lease-purchase agreement or through the issuance of energy savings obligations pursuant to this subsection.

(1) An energy savings improvement program may be financed through a lease-purchase agreement between a contracting unit and an energy services company or other public or private entity. Under a lease-purchase agreement, ownership of the energy savings equipment or improved facilities shall pass to the contracting unit when all lease payments have been made. Notwithstanding the provisions of any other law to the contrary, the duration of such a lease-purchase agreement shall not exceed 15 years, except that the duration of a lease purchase agreement for a combined heat and power or cogeneration project shall not exceed 20 years. For the purposes of this paragraph, the duration of the repayment term of a lease-purchase agreement shall commence on the date upon which construction and installation of the energy savings equipment, "combined heat and power facility" or "cogeneration facility," as those terms are defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), or other energy conservation measures undertaken pursuant to the energy savings plan, have been completed.

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(2) Any lease-purchase agreement entered into pursuant to this subsection, may contain: a clause making it subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation; and a non-substitution clause maintaining that if the agreement is terminated for non-appropriation, the contracting unit may not replace the leased equipment or facilities with equipment or facilities that perform the same or similar functions.

(3) A contracting unit may arrange for incurring energy savings obligations to finance an energy savings improvement program. Energy savings obligations may be funded through appropriations for utility services in the annual budget of the contracting unit and may be issued as refunding bonds pursuant to N.J.S.40A:2-52 et seq., including the issuance of bond anticipation notes as may be necessary, provided that all such bonds and notes mature within the periods authorized for such energy savings obligations. Energy savings obligations may be issued either through the contracting unit or another public agency authorized to undertake financing on behalf of the unit.

(4) Lease-purchase agreements and energy savings obligations shall not be used to finance maintenance, guarantees, or verification of guarantees of energy conservation measures. Lease-purchase agreements and energy savings obligations may be used to finance the cost of an energy audit or the cost of verification of energy savings as part of adopting an energy savings plan. Notwithstanding any law to the contrary, lease-purchase agreements and energy savings certificates shall not be excepted from any budget or tax levy limitation otherwise provided by law. Maturity schedules of lease-purchase agreements or energy savings obligations shall not exceed the estimated average useful life of the energy conservation measures.

d. (1) The energy audit component of an energy savings improvement program shall be conducted either by the contracting unit or by a qualified independent third party retained by the governing body for that purpose. It shall not be conducted by an energy services company subsequently hired to develop an energy savings improvement program. The energy audit shall identify the current energy use of any or all facilities and energy conservation measures that can be implemented in which the energy savings and energy efficiency could be realized and maximized.

(2) To implement an energy savings improvement program, a contracting unit shall develop a plan that consists of one or more energy conservation measures. The plan shall:

(a) contain the results of an energy audit;

(b) describe the energy conservation measures that will comprise the program;

(c) estimate greenhouse gas reductions resulting from those energy savings;

(d) identify all design and compliance issues that require the professional services of an architect or engineer and identify who will provide these services;

(e) include an assessment of risks involved in the successful implementation of the plan;

(f) identify the eligibility for, and costs and revenues associated with the PJM Independent System Operator for demand response and curtailable service activities;

(g) include schedules showing calculations of all costs of implementing the proposed energy conservation measures and the projected energy savings;

(h) identify maintenance requirements necessary to ensure continued energy savings, and describe how they will be fulfilled; and

(i) if developed by an energy services company, a description of, and cost estimates of an energy savings guarantee.

All professionals providing engineering services under the plan shall have errors and omissions insurance.

(3) Prior to the adoption of the plan, the contracting unit shall contract with a qualified third party to verify the projected energy savings to be realized from the proposed program have been calculated as required by subsection e. of this section.

(4) Upon adoption, the plan shall be submitted to the Board of Public Utilities, which shall post it on the Internet on a public webpage maintained for such purpose. If the contracting unit maintains its own website, it shall also post the plan on that site. The board may require periodic reporting concerning the implementation of the plan.

(5) Verification by a qualified third party shall be required when energy conservation measures are placed in service or commissioned, to ensure the savings projected in the energy savings plan shall be achieved.

(6) Energy-related capital improvements that do not reduce energy usage may be included in an energy savings improvement program but the cost of such improvements shall not be financed as a lease-purchase or through energy savings obligations authorized by subsection c. of this section. Nothing herein is intended to prevent financing of such capital improvements through otherwise authorized means.

(7) A qualified third party when required by this subsection may include an employee of the contracting unit who is properly trained and qualified to perform such work.

e. (1) (a) The calculation of energy savings for the purposes of determining that the energy savings resulting from the program will be sufficient to cover the cost of the program's energy conservation measures, as provided in subsection a. of this section, shall involve determination of the dollar amount saved through implementation of an energy savings improvement program using the guidelines of the International Performance Measurement and Verification Protocol or other protocols approved by the Board of Public Utilities and standards adopted by the Board of Public Utilities pursuant to this section. The calculation shall include all applicable State and federal rebates and tax credits, but shall not include the cost of an energy audit and the cost of verifying energy savings. The calculation shall state which party has made application for rebates and credits and how these applications translate into energy savings.

(b) During the procurement phase of an energy savings improvement program, an energy services company's proposal submitted in response to a request for proposal shall not include a savings calculation that assumes, includes, or references capital cost avoidance savings, the current or projected value of a "solar renewable energy certificate," as defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), or other environmental or similar attributes or benefits of whatever nature that derive from the generation of renewable energy, and any costs or discounts associated with maintenance services, an energy savings guarantee, or third party verification of energy conservation measures and energy savings. The calculation of energy savings shall utilize and specifically reference as a benchmark the actual demand and energy components of the public utility tariff rate applicable to the contracting unit then in effect, and not a blended rate that aggregates, combines, or restates in any manner the distinct demand and energy components of the public utility tariff rate into a single combined or restated tariff rate. If an energy services company submits a proposal to a contracting unit that does not calculate projected energy savings in the manner required by this subsection, such proposal shall be rejected by the contracting unit.

(2) For the purposes of this section, the Board of Public Utilities shall adopt standards and uniform values for interest rates and escalation of labor, electricity, oil, and gas, as well as standards for presenting these costs in a life cycle and net present value format, standards for the presentation of obligations for carbon reductions, and other standards that the board may determine necessary.

f. (1) When an energy services company is awarded an energy savings services contract, it shall offer the contracting unit the option to purchase, for an additional amount, an energy savings guarantee. The guarantee, if

accepted by a separate vote of the governing body of the contracting unit, shall insure that the energy savings resulting from the energy savings improvement program, determined periodically over the duration of the guarantee, will be sufficient to defray all payments required to be made pursuant to the lease-purchase agreement or energy savings obligation, and if the savings are not sufficient, the energy services company will reimburse the contracting unit for any additional amounts. Annual costs of a guarantee shall not be financed or included as costs in an energy savings plan but shall be fully disclosed in an energy savings plan.

(2) When a guaranteed energy savings option is purchased, the contract shall require a qualified third party to verify the energy savings at intervals established by the parties.

(3) When an energy services company is awarded an energy savings services contract to provide or perform goods or services for the purpose of enabling a contracting unit to conserve energy through energy efficiency equipment, including a "combined heat and power facility" as that term is defined pursuant to section 3 of P.L.1999, c.23 (C48:3-51), on a self-funded basis, such contract shall extend for a term of up to 15 years for energy efficiency projects, and for up to 20 years for a combined heat and power facility after construction completion. If a contracting unit shall elect to contract with an energy services company for an energy savings guarantee in connection with a contract awarded pursuant to this section, such guarantee may extend for a term of up to 15 years for energy efficiency projects, or up to 20 years for a combined heat and power facility after construction completion.

g. As used in this section:

"direct digital control systems" means the devices and computerized control equipment that contain software and computer interfaces that perform the logic that control a building's heating, ventilating, and air conditioning system. Direct digital controls shall be open protocol format and shall meet the interoperability guidelines established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers;

"energy conservation measure" means an improvement that results in reduced energy use, including, but not limited to, installation of energy efficient equipment; demand response equipment; combined heat and power systems; facilities for the production of renewable energy; water conservation measures, fixtures or facilities; building envelope improvements that are part of an energy savings improvement program; and related control systems for each of the foregoing;

"energy related capital improvement" means a capital improvement that uses energy but does not result in a reduction of energy use;

"energy saving obligation" means a bond, note or other agreement evidencing the obligation to repay borrowed funds incurred in order to finance energy saving improvements;

"energy savings" means a measured reduction in fuel, energy, operating or maintenance costs resulting from the implementation of one or more energy conservation measures services when compared with an established baseline of previous fuel, energy, operating or maintenance costs, including, but not limited to, future capital replacement expenditures avoided as a result of equipment installed or services performed as part of an energy savings plan;

"energy savings improvement program" means an initiative of a contracting unit to implement energy conservation measures in existing facilities, provided that the value of the energy savings resulting from the program will be sufficient to cover the cost of the program's energy conservation measures;

"energy savings plan" means the document that describes the actions to be taken to implement the energy savings improvement program;

"energy savings services contract" means a contract with an energy savings company to develop an energy savings plan, prepare bid specifications, manage the performance, provision, construction, and installation of energy conservation measures by subcontractors, to offer a guarantee of energy savings derived from the implementation of an energy savings plan, and may include a provision to manage the bidding process;

"energy services company" means a commercial entity that is qualified to develop and implement an energy savings plan in accordance with the provisions of this section;

"public works activities" means any work subject to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.); and

"water conservation measure" means an alteration to a facility or equipment that reduces water consumption, maximizes the efficiency of water use, or reduces water loss.

h. (1) The Director of the Division of Local Government Services in the Department of Community Affairs, the State Treasurer, and the Board of Public Utilities may take such action as is deemed necessary and consistent with the intent of this section to implement its provisions.

(2) The Director of the Division of Local Government Services in the Department of Community Affairs, the State Treasurer, and the Board of Public Utilities may adopt implementation guidelines or directives, and adopt such administrative rules, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary for the imple-

mentation of those agencies' respective responsibilities under this section, except that notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Director of the Division of Local Government Services in the Department of Community Affairs, the State Treasurer, and the Board of Public Utilities may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as deemed necessary to implement the provisions of this act which shall be effective for a period not to exceed 12 months and shall thereafter be amended, adopted or re-adopted in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

4. Section 9 of P.L.2009, c.4 (C.52:34-25) is amended to read as follows:

C.52:34-25 Implementation of energy savings improvement program by State contracting agency; definitions.

9. a. (1) A State contracting agency, as defined in this section, may implement an energy savings improvement program in the manner provided by this section whenever it determines that the savings generated from reduced energy use from the program will be sufficient to cover the cost of the program's energy conservation measures as set forth in an energy savings plan. Under such a program, a contracting agency may enter into an energy savings services contract with an energy services company to implement the program or the contracting agency may authorize separate contracts to implement the program. The provisions of Title 52 of the Revised Statutes shall apply to any contracts awarded pursuant to this section to the extent that the provisions of such law are not inconsistent with any provision of this section.

(2) A State contracting agency facility alteration required to properly implement other energy efficiency or energy conservation measures, or both, may be included as part of an energy savings services contract, in which case, notwithstanding any other provision of law, rule, regulation, or order to the contrary, the facility alteration may be undertaken or supervised by the energy services company performing the energy savings services contract if:

(a) the total cost of the improvement does not exceed 15 percent of the total cost of the work to be performed under the energy savings services contract; and

(b) (i) the improvement is necessary to conform to a law, rule, or regulation, or order, or (ii) an analysis within an approved proposal, or the State contracting agency, at the time of the award of the proposal, demonstrates that there is an economic advantage to the State contracting agency imple-

menting the improvement as part of the energy savings services contract, and the savings rationale for the improvement is documented and supported by reasonable justification.

b. (1) To be eligible to enter into an energy savings services contract, an energy services company shall be a commercial entity that is qualified to provide energy savings services in accordance with the provisions of this section. A State contracting agency may determine to enter into an energy savings services contract through public advertising for bids and the receipt of bids therefor.

(2) (a) Public works activities performed under an energy savings improvement program shall be subject to all requirements regarding public bidding, bid security, performance guarantees, insurance and other public contracting requirements that are applicable to public works contracts, to the extent not inconsistent with this section. A general contractor, energy services company serving as general contractor, or any subcontractor hired for the furnishing of plumbing and gas fitting and all kindred work, and of steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, structural steel and ornamental iron work, shall be classified by the Division of Property Management and Construction in the Department of the Treasury in order to perform public works activities under an energy savings improvement program. A general contractor, energy services company serving as general contractor, or any subcontractor hired for the furnishing of electrical work shall use only electrical contractors licensed by the State, pursuant to P.L.1962, c.162 (C.45:5A-1 et seq.), to perform electrical work under an energy savings improvement program. Electrical work shall include, but not be limited to, the wiring of temperature and energy management controls, the installation of control systems, and the retrofitting of any lighting equipment.

(b) Individuals or organizations performing energy audits, acting as commissioning agents, or conducting verification of energy savings plans, implementation of energy conservation measures, or verifying guarantees shall be prequalified by the Division of Property Management and Construction in the Department of the Treasury to perform their work under an energy savings improvement program.

(3) (a) An energy services company may be designated as the general contractor for improvements to be made pursuant to an energy savings plan, provided that the hiring of subcontractors that are required to be classified pursuant to subparagraph (a) of paragraph (2) of this subsection shall be performed in accordance with the procedures and requirements set forth pursuant to subparagraph (b) of this paragraph. A contract with an energy

savings company shall include, but not be limited to: preparation of an energy savings plan, the responsibilities of the parties for project schedules, installations, performance and quality, payment of subcontractors, project completion, commissioning, savings implementation; a requirement that the savings to be achieved by energy conservation measures be verified upon commissioning of the improvements; allocation of State and federal rebates and tax credits; and any other provisions deemed necessary by the parties.

(b) Notwithstanding any other law or regulation to the contrary, an energy services company shall select, in accordance with the procedures and requirements set forth pursuant to the public bidding process of the State contracting agency, only those subcontractors that have been pre-qualified by the Division of Property Management and Construction as eligible to submit bids. In pre-qualifying subcontractors for eligibility, the division shall create one or more pools of subcontractors based on the value and complexity of the work to be undertaken under an energy savings improvement program. The pre-qualification pools shall include subcontractors having the following qualifications:

(i) the financial means and ability to complete the required work;

(ii) the experience, capability, and skills necessary to complete the work required of energy savings improvement program projects; and

(iii) a record of experience conducting similar work in a timely fashion.

Each subcontractor chosen by the energy services company shall certify that all employees have completed a registered apprenticeship program that provided each trainee with combined classroom and on-the-job training under the direct and close supervision of a highly skilled worker in an occupation recognized as an apprenticeable trade, registered by the Office of Apprenticeship of the United States Department of Labor and meeting the standards established by the office, or registered by a State apprenticeship agency recognized by the office. The energy services company shall then select from the eligible pools of prequalified subcontractors. All workers performing public works activities for subcontractors awarded contracts by an energy services company pursuant to this section shall be paid prevailing wages in accordance with the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.). All subcontractors shall comply with the provisions of "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.). Only firms appropriately classified as contractors by the Division of Property Management and Construction shall be eligible to be awarded a contract as a subcontractor of an energy services company under this section for performing public works activities pursuant to regulations adopted by the Division of Property Management and Construction.

(c) In order to expedite communications with an energy services company and facilitate the implementation of an energy savings improvement program, a State contracting agency may designate or appoint an employee of the State contracting agency with decision-making authority to coordinate with the energy services company and to address issues associated with the implementation of an energy savings improvement program as they arise, provided that any decision requiring a change order shall be made only upon the approval of the State contracting agency.

(4) A subsidiary or wholly-owned or partially-owned affiliate of the energy services company shall not be an eligible contractor or subcontractor under an energy savings services contract.

c. In addition to existing authorization of a State agency to enter into lease-purchase agreements or to issue obligations to finance the costs of an energy savings improvement program, a contracting agency is hereby authorized to finance the costs of an energy savings improvement program by entering into a lease purchase agreement. Any financing mechanism shall be administered in a manner consistent with this subsection insofar as it does not conflict with the provisions of other law that applies to the contracting agency.

(1) An energy savings improvement program may be financed through a lease-purchase agreement between a State contracting agency and an energy services company or other public or private entity. Under a lease-purchase agreement, ownership of the energy savings equipment or improved facilities shall pass to the contracting agency or the client agency responsible for the facility when all lease payments have been made. Notwithstanding the provisions of any other law to the contrary, the duration of such a lease-purchase agreement shall not exceed 15 years, except that the duration of a lease purchase agreement for a combined heat and power or cogeneration project shall not exceed 20 years. For the purposes of this paragraph, the duration of the repayment term of a lease-purchase agreement shall commence on the date upon which construction and installation of the energy savings equipment, "combined heat and power facility" or "cogeneration facility," as those terms are defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), or other energy conservation measures undertaken pursuant to the energy savings plan, have been completed.

(2) Lease-purchase agreements and energy savings obligations shall not be used to finance maintenance, guarantees, or verification of guarantees of energy conservation measures. Lease-purchase agreements may be used to finance the cost of an energy audit or the cost of verification of energy savings as part of adopting an energy savings plan. Maturity sched-

ules of lease-purchase agreements shall not exceed the estimated average useful life of the energy conservation measures.

d. (1) The energy audit component of an energy savings improvement program shall be conducted either by the contracting agency or by a qualified independent third party retained by the contracting agency for that purpose. It shall not be conducted by an energy services company subsequently hired to develop an energy savings improvement program. The energy audit shall identify the current energy use of any or all facilities and energy conservation measures that can be implemented in which the energy savings and energy efficiency could be realized and maximized.

(2) To implement an energy savings improvement program, a contracting agency shall develop an energy savings plan that consists of one or more energy conservation measures. The plan shall:

(a) contain the results of an energy audit;

(b) describe the energy conservation measures that will comprise the program;

(c) estimate greenhouse gas reductions resulting from those energy savings;

(d) identify all design and compliance issues that require the professional services of an architect or engineer and identify who will provide these services;

(e) include an assessment of risks involved in the successful implementation of the plan;

(f) identify the eligibility for, and costs and revenues associated with the PJM Independent System Operator for demand response and curtailable service activities;

(g) include schedules showing calculations of all costs of implementing the proposed energy conservation measures and the projected energy savings;

(h) identify maintenance requirements necessary to ensure continued energy savings, and describe how they will be fulfilled; and

(i) if developed by an energy services company, a description of, and cost estimates of an energy savings guarantee.

All professionals providing engineering services under the plan shall have errors and omissions insurance.

(3) Prior to the adoption of the plan, the contracting agency shall contract with a qualified third party to verify the projected energy savings to be realized from the proposed program have been calculated as required by subsection e. of this section.

(4) Upon adoption, the plan shall be submitted to the Board of Public Utilities, which shall post it on the Internet on a public webpage maintained for such purpose. If the contracting agency maintains its own website, it shall also post the plan on that site. The Board of Public Utilities may require periodic reporting concerning the implementation of the plan.

(5) Verification by a qualified third party shall be required when energy conservation measures are placed in service or commissioned, to ensure the savings projected in the energy savings plan shall be achieved.

(6) Energy-related capital improvements that do not reduce energy usage may be included in an energy savings improvement program but the cost of such improvements shall not be financed as a lease-purchase or through energy savings obligations authorized by subsection c. of this section. Nothing herein is intended to prevent financing of such capital improvements through otherwise authorized means.

(7) A qualified third party when required by this subsection may include an employee of the State contracting agency who is properly trained and qualified to perform such work.

e. (1) (a) The calculation of energy savings for the purposes of determining that the energy savings resulting from the program will be sufficient to cover the cost of the program's energy conservation measures, as provided in subsection a. of this section, shall involve determination of the dollar amount saved through implementation of an energy savings improvement program using the guidelines of the International Performance Measurement and Verification Protocol or other protocols approved by the Board of Public Utilities and standards adopted by the Board of Public Utilities pursuant to this section. The calculation shall include all applicable State and federal rebates and tax credits, but shall not include the cost of an energy audit and the cost of verifying energy savings. The calculation shall state which party has made application for rebates and credits and how these applications translate into energy savings.

(b) During the procurement phase of an energy savings improvement program, an energy services company's proposal submitted in response to a request for proposal shall not include a savings calculation that assumes, includes, or references capital cost avoidance savings, the current or projected value of a "solar renewable energy certificate," as defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), or other environmental or similar attributes or benefits of whatever nature that derive from the generation of renewable energy, and any costs or discounts associated with maintenance services, an energy savings guarantee, or third party verification of energy conservation measures and energy savings. The calculation of energy sav-

ings shall utilize and specifically reference as a benchmark the actual demand and energy components of the public utility tariff rate applicable to the State contracting agency then in effect, and not a blended rate that aggregates, combines, or restates in any manner the distinct demand and energy components of the public utility tariff rate into a single combined or restated tariff rate. If an energy services company submits a proposal to a State contracting agency that does not calculate projected energy savings in the manner required by this subsection, such proposal shall be rejected by the State contracting agency.

(2) For the purposes of this section, the Board of Public Utilities shall adopt standards and uniform values for interest rates and escalation of labor, electricity, oil, and gas, as well as standards for presenting these costs in a life cycle and net present value format, standards for the presentation of obligations for carbon reductions, and other standards that the board may determine necessary.

f. (1) When an energy services company is awarded an energy savings services contract, it shall offer the contracting agency the option to purchase, for an additional amount, an energy savings guarantee. The guarantee, if accepted by the contracting agency, shall insure that the energy savings resulting from the energy savings improvement program, determined periodically over the duration of the guarantee, will be sufficient to defray all payments required to be made pursuant to the lease-purchase agreement or energy savings obligation, and if the savings are not sufficient, the energy services company will reimburse the contracting agency for any additional amounts. Annual costs of a guarantee shall not be financed or included as costs in an energy savings plan but shall be fully disclosed in an energy savings plan.

(2) When a guaranteed energy savings option is purchased, the contract shall require a qualified third party to verify the energy savings at intervals established by the parties.

(3) When an energy services company is awarded an energy savings services contract to provide or perform goods or services for the purpose of enabling a State contracting agency to conserve energy through energy efficiency equipment, including a "combined heat and power facility" as that term is defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), on a self-funded basis, such contract shall extend for a term of up to 15 years for energy efficiency projects, and for up to 20 years for a combined heat and power facility after construction completion. If a State contracting agency shall elect to contract with an energy services company for an energy savings guarantee in connection with a contract awarded pursuant to this sec-

tion, such guarantee may extend for a term of up to 15 years for energy efficiency projects, or up to 20 years for a combined heat and power facility after construction completion.

g. As used in this section:

"energy conservation measure" means an improvement that results in reduced energy use, including, but not limited to, installation of energy efficient equipment; demand response equipment; combined heat and power systems; facilities for the production of renewable energy; water conservation measures, fixtures or facilities; building envelope improvements that are part of an energy savings improvement program; and related control systems for each of the foregoing;

"energy related capital improvement" means a capital improvement that uses energy but does not result in a reduction of energy use;

"energy savings" means a measured reduction in fuel, energy, operating or maintenance costs resulting from the implementation of one or more energy conservation measures services when compared with an established baseline of previous fuel, energy, operating or maintenance costs, including, but not limited to, future capital replacement expenditures avoided as a result of equipment installed or services performed as part of an energy savings plan;

"energy savings improvement program" means an initiative of a State contracting agency to implement energy conservation measures in existing facilities, provided that the value of the energy savings resulting from the program will be sufficient to cover the cost of the program's energy conservation measures;

"energy savings plan" means the document that describes the actions to be taken to implement the energy savings improvement program;

"energy savings services contract" means a contract with an energy savings company to develop an energy savings plan, prepare bid specifications, manage the performance, provision, construction, and installation of energy conservation measures by subcontractors, to offer a guarantee of energy savings derived from the implementation of an energy savings plan, and may include a provision to manage the bidding process;

"energy services company" means a commercial entity that is qualified to develop and implement an energy savings plan in accordance with the provisions of this section;

"public works activities" means any work subject to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.);

"State contracting agency" or "contracting agency" means any of the principal departments in the Executive Branch of State Government, and

any division, board, bureau, office, commission or other instrumentality created by a principal department; and

"water conservation measure" means an alteration to a facility or equipment that reduces water consumption, maximizes the efficiency of water use, or reduces water loss.

h. (1) The State Treasurer and the Board of Public Utilities may take such action as is deemed necessary and consistent with the intent of this section to implement its provisions.

(2) The State Treasurer and the Board of Public Utilities may adopt implementation guidelines or directives, and adopt such administrative rules, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary for the implementation of those agencies' respective responsibilities under this section, except that notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the State Treasurer, and the Board of Public Utilities may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as deemed necessary to implement the provisions of this act which shall be effective for a period not to exceed 12 months and shall thereafter be amended, adopted or re-adopted in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

5. Section 10 of P.L.2009, c.4 (C.52:35A-1) is amended to read as follows:

C.52:35A-1 Implementation of energy savings improvement by public agency; definitions.

10. a. (1) A public agency, as defined in this section, may implement an energy savings improvement program in the manner provided by this section whenever it determines that the savings generated from reduced energy use from the program will be sufficient to cover the cost of the program's energy conservation measures as set forth in an energy savings plan. Under such a program, a public agency may enter into an energy savings services contract with an energy services company to implement the program or the public agency may authorize separate contracts to implement the program. The provisions of any other law applicable to a public agency shall apply to any contracts awarded pursuant to this section to the extent that the provisions of such law are not inconsistent with any provision of this section.

(2) A public agency facility alteration required to properly implement other energy efficiency or energy conservation measures, or both, may be included as part of an energy savings services contract, in which case, not-

withstanding any other provision of law, rule, regulation, or order to the contrary, the facility alteration may be undertaken or supervised by the energy services company performing the energy savings services contract if:

(a) the total cost of the improvement does not exceed 15 percent of the total cost of the work to be performed under the energy savings services contract; and

(b) (i) the improvement is necessary to conform to a law, rule, or regulation, or order, or (ii) an analysis within an approved proposal, or the public agency, at the time of the award of the proposal, demonstrates that there is an economic advantage to the public agency implementing the improvement as part of the energy savings services contract, and the savings rationale for the improvement is documented and supported by reasonable justification.

b. (1) To be eligible to enter into an energy savings services contract, an energy services company shall be a commercial entity that is qualified to provide public agencies with energy savings services in accordance with the provisions of this section. A public agency may determine to enter into an energy savings services contract which shall be awarded through a procedure that results in the award of a contract to a vendor determined by the public agency to be the most advantageous, price and other factors considered.

(2) (a) Public works activities performed under an energy savings improvement program shall be subject to all requirements regarding public bidding, bid security, performance guarantees, insurance and other public contracting requirements that are applicable to public works contracts, to the extent not inconsistent with this section. A general contractor, energy services company serving as general contractor, or any subcontractor hired for the furnishing of plumbing and gas fitting and all kindred work, and of steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, structural steel and ornamental iron work shall be classified by the Division of Property Management and Construction in the Department of the Treasury in order to perform public works activities under an energy savings improvement program.

(b) Individuals or organizations performing energy audits, acting as commissioning agents, or conducting verification of energy savings plans, implementation of energy conservation measures, or verifying guarantees shall be prequalified by the Division of Property Management and Construction in the Department of the Treasury to perform their work under an energy savings improvement program.

(3) (a) An energy services company may be designated as the general contractor for improvements to be made pursuant to an energy savings plan, provided that the hiring of subcontractors that are required to be classified

pursuant to subparagraph (a) of paragraph (2) of this subsection shall be performed in accordance with the procedures and requirements set forth pursuant to the public bidding requirements of the public agency. A contract with an energy savings company shall include, but not be limited to: preparation of an energy savings plan; the responsibilities of the parties for project schedules, installations, performance and quality, payment of subcontractors, project completion, commissioning, savings implementation; a requirement that the savings to be achieved by energy conservation measures be verified upon commissioning of the improvements; allocation of State and federal rebates and tax credits; and any other provisions deemed necessary by the parties.

(b) All workers performing public works activities for subcontractors awarded contracts by an energy services company pursuant to this section shall be paid prevailing wages in accordance with the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.). All subcontractors shall comply with the provisions of "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.). Only firms appropriately classified as contractors by the Division of Property Management and Construction shall be eligible to be awarded a contract as a subcontractor of an energy services company under this section for performing public works activities pursuant to regulations adopted by the Division of Property Management and Construction.

(c) In order to expedite communications with an energy services company and facilitate the implementation of an energy savings improvement program, a public agency may designate or appoint an employee of the public agency with decision-making authority to coordinate with the energy services company and to address issues associated with the implementation of an energy savings improvement program as they arise, provided that any decision requiring a change order shall be made only upon the approval of the public agency.

(4) Except as provided in paragraph (5) of this subsection, a subsidiary or wholly-owned or partially-owned affiliate of the energy services company shall not be an eligible contractor or subcontractor under an energy savings services contract.

(5) When the energy services company is the manufacturer of direct digital control systems and contracts with the public agency to provide a guaranteed energy savings option pursuant to subsection f. of this section, the specification of such direct digital control systems may be treated as proprietary goods and if so treated, the bid specification shall set forth an allowance price for its supply by the energy services company which shall

be used by all bidders in the public bidding process. Direct digital controls shall be open protocol format and shall meet the interoperability guidelines established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers. Each contract to be entered into pursuant to this section between a public agency and an energy services company that is the manufacturer of direct digital control systems where such direct digital control systems are treated as proprietary goods as part of the contract, shall first be reviewed and approved by the Board of Public Utilities for the purpose of affirming the reasonableness of such allowance price. If the board does not disapprove of the contract within 14 days of receipt thereof, the contract shall be deemed approved.

c. In addition to existing authorization of a public agency to enter into lease-purchase agreements or to issue obligations to finance the costs of an energy savings improvement program, a public agency is hereby authorized to finance the costs of an energy savings improvement program by entering into a lease purchase agreement or by issuing energy savings obligations pursuant to this subsection. Any financing mechanism shall be administered in a manner consistent with this subsection insofar as it does not conflict with the provisions of other law that applies to the public agency.

(1) An energy savings improvement program may be financed through a lease-purchase agreement between a public agency and an energy services company or other public or private entity. Under a lease-purchase agreement, ownership of the energy savings equipment or improved facilities shall pass to the public agency when all lease payments have been made. Notwithstanding the provisions of any other law to the contrary, the duration of such a lease-purchase agreement shall not exceed 15 years, except that the duration of a lease purchase agreement for a combined heat and power or cogeneration project shall not exceed 20 years. For the purposes of this paragraph, the duration of the repayment term of a lease-purchase agreement shall commence on the date upon which construction and installation of the energy savings equipment, "combined heat and power facility" or "cogeneration facility," as those terms are defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), or other energy conservation measures undertaken pursuant to the energy savings plan, have been completed.

(2) A public agency may arrange for incurring energy savings obligations to finance an energy savings improvement program. Energy savings obligations may be funded through appropriations for utility services in the annual budget of the public agency and may be issued as refunding bonds, including the issuance of bond anticipation notes as may be necessary, provided that all such bonds and notes mature within the periods authorized for

such energy savings obligations. Energy savings obligations may be issued either through the public agency or another public agency authorized to undertake financing on behalf of the public agency.

(3) Lease-purchase agreements and energy savings obligations shall not be used to finance maintenance, guarantees, or verification of guarantees of energy conservation measures. Lease-purchase agreements and energy savings obligations may be used to finance the cost of an energy audit or the cost of verification of energy savings as part of adopting an energy savings plan. Notwithstanding any law to the contrary, lease-purchase agreements and energy savings certificates shall not be excepted from any budget or tax levy limitation otherwise provided by law. Maturity schedules of lease-purchase agreements or energy savings obligations shall not exceed the estimated average useful life of the energy conservation measures.

d. (1) The energy audit component of an energy savings improvement program shall be conducted either by the public agency or by a qualified independent third party retained by the board for that purpose. It shall not be conducted by an energy services company subsequently hired to develop an energy savings improvement program. The energy audit shall identify the current energy use of any or all facilities and energy conservation measures that can be implemented in which the energy savings and energy efficiency could be realized and maximized.

(2) To implement a program, a public agency shall develop an energy savings plan that consists of one or more energy conservation measures. The plan shall: (a) contain the results of an energy audit;

(b) describe the energy conservation measures that will comprise the program;

(c) estimate greenhouse gas reductions resulting from those energy savings;

(d) identify all design and compliance issues that require the professional services of an architect or engineer and identify who will provide these services;

(e) include an assessment of risks involved in the successful implementation of the plan;

(f) identify the eligibility for, and costs and revenues associated with the PJM Independent System Operator for demand response and curtailable service activities;

(g) include schedules showing calculations of all costs of implementing the proposed energy conservation measures and the projected energy savings;

(h) identify maintenance requirements necessary to ensure continued energy savings, and describe how they will be fulfilled; and

(i) if developed by an energy services company, a description of, and cost estimates of an energy savings guarantee.

All professionals providing engineering services under the plan shall have errors and omissions insurance.

(3) Prior to the adoption of the plan, the public agency shall contract with a qualified third party to verify the projected energy savings to be realized from the proposed program have been calculated as required by subsection e. of this section.

(4) Upon adoption, the plan shall be submitted to the Board of Public Utilities, which shall post it on the Internet on a public webpage maintained for such purpose. If the public agency maintains its own website, it shall also post the plan on that site. The board may require periodic reporting concerning the implementation of the plan.

(5) Verification by a qualified third party shall be required when energy conservation measures are placed in service or commissioned, to ensure the savings projected in the energy savings plan shall be achieved.

(6) Energy-related capital improvements that do not reduce energy usage may be included in an energy savings improvement program but the cost of such improvements shall not be financed as a lease-purchase or through energy savings obligations authorized by subsection c. of this section. Nothing herein is intended to prevent financing of such capital improvements through otherwise authorized means.

(7) A qualified third party when required by this subsection may include an employee of the public agency who is properly trained and qualified to perform such work.

e. (1) (a) The calculation of energy savings for the purposes of determining that the energy savings resulting from the program will be sufficient to cover the cost of the program's energy conservation measures, as provided in subsection a. of this section, shall involve determination of the dollar amount saved through implementation of an energy savings improvement program using the guidelines of the International Performance Measurement and Verification Protocol or other protocols approved by the Board of Public Utilities and standards adopted by the Board of Public Utilities pursuant to this section. The calculation shall include all applicable State and federal rebates and tax credits, but shall not include the cost of an energy audit and the cost of verifying energy savings. The calculation shall state which party has made application for rebates and credits and how these applications translate into energy savings.

(b) During the procurement phase of an energy savings improvement program, an energy services company's proposal submitted in response to a

request for proposal shall not include a savings calculation that assumes, includes, or references capital cost avoidance savings, the current or projected value of a "solar renewable energy certificate," as defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), or other environmental or similar attributes or benefits of whatever nature that derive from the generation of renewable energy, and any costs or discounts associated with maintenance services, an energy savings guarantee, or third party verification of energy conservation measures and energy savings. The calculation of energy savings shall utilize and specifically reference as a benchmark the actual demand and energy components of the public utility tariff rate applicable to the public agency then in effect, and not a blended rate that aggregates, combines, or restates in any manner the distinct demand and energy components of the public utility tariff rate into a single combined or restated tariff rate. If an energy services company submits a proposal to a public agency that does not calculate projected energy savings in the manner required by this subsection, such proposal shall be rejected by the public agency.

(2) For the purposes of this section, the Board of Public Utilities shall adopt standards and uniform values for interest rates and escalation of labor, electricity, oil, and gas, as well as standards for presenting these costs in a life cycle and net present value format, standards for the presentation of obligations for carbon reductions, and other standards that the board may determine necessary.

f. (1) When an energy services company is awarded an energy savings services contract, it shall offer the public agency the option to purchase, for an additional amount, an energy savings guarantee. The guarantee, if accepted by a separate vote of the governing body of the public agency, shall insure that the energy savings of the public agency resulting from the energy savings improvement program, determined periodically over the duration of the guarantee, will be sufficient to defray all payments required to be made pursuant to the lease-purchase agreement or energy savings obligation, and if the savings are not sufficient, the energy services company will reimburse the public agency for any additional amounts. Annual costs of a guarantee shall not be financed or included as costs in an energy savings plan but shall be fully disclosed in an energy savings plan.

(2) When a guaranteed energy savings option is purchased, the contract shall require a qualified third party to verify the energy savings at intervals established by the parties.

(3) When a guaranteed energy savings option is not purchased, the energy savings services contract shall not include maintenance services provided by the energy services company.

(4) When an energy services company is awarded an energy savings services contract to provide or perform goods or services for the purpose of enabling a public agency to conserve energy through energy efficiency equipment, including a "combined heat and power facility" as that term is defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), on a self-funded basis, such contract shall extend for a term of up to 15 years for energy efficiency projects, and for up to 20 years for a combined heat and power facility after construction completion. If a public agency shall elect to contract with an energy services company for an energy savings guarantee in connection with a contract awarded pursuant to this section, such guarantee may extend for a term of up to 15 years for energy efficiency projects, or up to 20 years for a combined heat and power facility after construction completion.

g. As used in this section:

"direct digital control systems" means the devices and computerized control equipment that contain software and computer interfaces that perform the logic that control a building's heating, ventilating, and air conditioning system. Direct digital controls shall be open protocol format and shall meet the interoperability guidelines established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers;

"energy conservation measure" means an improvement that results in reduced energy use, including, but not limited to, installation of energy efficient equipment; demand response equipment; combined heat and power systems; facilities for the production of renewable energy; water conservation measures, fixtures or facilities; building envelope improvements that are part of an energy savings improvement program; and related control systems for each of the foregoing;

"energy related capital improvement" means a capital improvement that uses energy but does not result in a reduction of energy use;

"energy saving obligation" means a bond, note or other agreement evidencing the obligation to repay borrowed funds incurred in order to finance energy saving improvements;

"energy savings" means a measured reduction in fuel, energy, operating or maintenance costs resulting from the implementation of one or more energy conservation measures services when compared with an established baseline of previous fuel, energy, operating or maintenance costs, including, but not limited to, future capital replacement expenditures avoided as a result of equipment installed or services performed as part of an energy savings plan;

"energy savings improvement program" means an initiative of a public agency to implement energy conservation measures in existing facilities,

provided that the value of the energy savings resulting from the program will be sufficient to cover the cost of the program's energy conservation measures;

"energy savings plan" means the document that describes the actions to be taken to implement the energy savings improvement program;

"energy savings services contract" means a contract with an energy savings company to develop an energy savings plan, prepare bid specifications, manage the performance, provision, construction, and installation of energy conservation measures by subcontractors, to offer a guarantee of energy savings derived from the implementation of an energy savings plan, and may include a provision to manage the bidding process;

"energy services company" means a commercial entity that is qualified to develop and implement an energy savings plan in accordance with the provisions of this section;

"public agency" means any government entity that is authorized to expend public funds and enter into contracts which is not otherwise authorized to implement an energy savings improvement program pursuant to section 1, 4, 6, or 9 of P.L.2009, c.4 (C.18A:18A-4.6, C.18A:65A-1, C.40A:11-4.6, or C.52:34-25).

"public works activities" means any work subject to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.); and

"water conservation measure" means an alteration to a facility or equipment that reduces water consumption, maximizes the efficiency of water use, or reduces water loss.

h. (1) The State Treasurer and the Board of Public Utilities may take such action as is deemed necessary and consistent with the intent of this section to implement its provisions.

(2) The State Treasurer and the Board of Public Utilities may adopt implementation guidelines or directives, and adopt such administrative rules, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary for the implementation of those agencies' respective responsibilities under this section, except that notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Director of the Division of Local Government Services in the Department of Community Affairs, the State Treasurer, and the Board of Public Utilities may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as deemed necessary to implement the provisions of this act which shall be effective for a period not to exceed 12 months and shall thereafter be amended, adopted or re-adopted in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

C.52:34-25.1 State contracting agency, competitive selection process.

6. a. Notwithstanding the provisions to the contrary of R.S.52:32-2 or any other law, or any rule or regulation adopted pursuant thereto, where a State contracting agency implements an energy savings improvement program pursuant to section 9 of P.L.2009, c.4 (C.52:34-25), the State contracting agency, prior to entering into an energy savings services contract, shall use a competitive selection process that ensures that the award is made to the responsible bidder whose proposal is determined to be the most advantageous to the State.

b. Nothing in this section shall preclude a State contracting agency from using procurement processes other than those prescribed herein and in section 9 of P.L.2009, c.4 (C.52:34-25), if those processes have been approved by the federal government under section 801 of the "National Energy Conservation Policy Act" (42 U.S.C. s.8287).

c. The Division of Property Management and Construction in the Department of the Treasury shall not charge any fee for the review or approval of an energy savings improvement program implemented by a State contracting agency pursuant to section 9 of P.L.2009, c.4 (C.52:34-25).

C.48:3-108 Standard request for proposal.

7. a. The Board of Public Utilities, in consultation with the State Treasurer and the Commissioner of the Department of Community Affairs, shall establish, in a form similar to that prescribed by the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), a standard request for proposal to be used for all energy savings improvement program projects to be undertaken by any State contracting agency or public agency authorized to implement an energy savings improvement program pursuant to the provisions of P.L.2009, c.4 (C.18A:18A-4.6 et al.), provided, however, that a State contracting agency or public agency may use its own request for proposal upon the submission of the request for proposal to the board. Unless the board disapproves the request for proposal within 14 days of its receipt from a State contracting agency or public agency, the request for proposal shall be deemed approved. No single category contained in the evaluation criteria of a request for proposal shall weigh more than 25 percent.

b. Within 90 days after the effective date of P.L.2012, c.55 (C.52:34-25.1 et al.), the Board of Public Utilities, in consultation with the State Treasurer and the Commissioner of the Department of Community Affairs, shall establish, in a form similar to that prescribed by the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), a standard request for proposal to be used for all energy savings improvement program projects to be undertaken by any board of education, board of trustees, or con-

tracting unit authorized to implement an energy savings improvement program pursuant to the provisions of P.L.2009, c.4 (C.18A:18A-4.6 et al.), provided, however, that a board of education, board of trustees, or contracting unit may use its own request for proposal upon the submission of the request for proposal to the Board of Public Utilities. Unless the board disapproves the request for proposal within 14 days of its receipt from a board of education, board of trustees, or contracting unit, the request for proposal shall be deemed approved. No single category contained in the evaluation criteria of a request for proposal shall weigh more than 25 percent.

C.48:3-109 BPU designated as responsible agency.

8. a. The Board of Public Utilities is designated as the agency of the State Government responsible for implementing and enforcing the provisions of P.L.2009, c.4 (C.18A:18A-4.6 et al.) and for responding to requests for assistance from public entities, including boards of education, boards of trustees of public institutions of higher education, contracting units, and public agencies, authorized to implement an energy savings improvement program pursuant to P.L.2009, c.4 (C.18A:18A-4.6 et al.).

b. The board is authorized to investigate, review and take appropriate action with respect to procurements for energy savings projects conducted by public agencies, other than State contracting agencies, pursuant to P.L.2009, c.4 (C.18A:18A-4.6 et al.).

c. The board shall take such actions as it deems necessary and appropriate, consistent with the purposes of this section, to implement and enforce the provisions of P.L.2009, c.4 (C.18A:18A-4.6 et al.). The authority granted to the board pursuant to this section to enforce compliance with P.L.2009, c.4 shall include, but not be limited to:

(1) modifying a non-conforming request for proposal and any attachment thereto, whereby the board shall provide written comments to the public entity when it chooses to modify a non-conforming request for proposal, outlining any issues and providing the opportunity for the issues to be remedied;

(2) (a) modifying or canceling a procurement by a public entity for an energy savings project, whereby the board, within 14 days of its receipt of a procurement by a public entity after the procurement award, may modify or cancel the procurement, otherwise the procurement shall be deemed approved, and (b) if modifying a procurement, the board shall provide written comments to the public entity when it chooses to do so, outlining any issues and providing the opportunity for the issues to be remedied; and

(3) withholding State and federal renewable energy and energy efficiency incentives from an energy savings project.

d. The board may grant limited exceptions to a local housing authority, established pursuant to the "Local Housing Authorities Law," P.L.1938, c.19 or the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.), to use an energy performance contracting process developed by the United States Department of Housing and Urban Development for selecting an energy services company subject to United States Department of Housing and Urban Development and board review and approval. The exception shall permit such process to be followed for the selection of an energy services company, the preparation of the energy savings improvement program, the selection of energy savings projects, and third party verification requirements. All other requirements for bidding and construction shall be consistent with the provisions of P.L.2009, c.4 (C.18A:18A-4.6 et al.). This limited exception shall permit the preparation of an investment grade energy savings improvement program audit to replace the requirement for the traditional energy audit component performed in advance.

e. The board shall undertake a study of the effectiveness of energy savings improvement programs implemented pursuant to P.L.2009, c.4 (C.18A:18A-4.6 et al.). Within three years after the effective date of P.L.2012, c.55 (C.52:34-25.1 et al.), the board shall prepare a report of its study and shall provide a copy thereof to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

9. This act shall take effect immediately.

Approved September 19, 2012.

CHAPTER 56

AN ACT concerning portable electronics insurance and supplementing Title 17 of the Revised Statutes.

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

C.17:22A-49 Definitions relative to portable electronics insurance.

1. As used in this act:

"Commissioner" means the Commissioner of Banking and Insurance.

"Consumer" means a person who purchases portable electronics or related services.

"Department" means the Department of Banking and Insurance.

"Enrolled consumer" means a consumer who elects coverage under a portable electronics insurance policy issued to a vendor of portable electronics.

"Location" means any physical location in the State of New Jersey or any website, call center site, or similar location directed to residents of the State of New Jersey.

"Portable electronics" means electronic devices that are portable in nature, and accessories and services related to the use of the devices.

"Portable electronics insurance" means insurance providing coverage for the repair or replacement of portable electronics which may provide coverage for portable electronics against any one or more of the following causes of loss: loss; theft; inoperability due to mechanical failure; malfunction; damage; or other similar causes of loss.

"Portable electronics insurance" shall not include:

(1) A service contract or extended warranty providing coverage limited to the repair, replacement or maintenance of property for the operational or structural failure of property due to a defect in materials, workmanship, accidental damage from handling, power surges or normal wear and tear;

(2) A policy of insurance covering a seller's or a manufacturer's obligations under a warranty; or

(3) A homeowner's, renter's, private passenger automobile, commercial multi-peril, or similar policy of insurance.

"Portable electronics transaction" means:

(1) the sale or lease of portable electronics by a vendor to a consumer; or

(2) the sale of a service related to the use of portable electronics by a vendor to a consumer.

"Supervising entity" means a business entity that is a licensed insurer or insurance producer that is appointed by an insurer to supervise the administration of a portable electronics insurance program.

"Vendor" means a person engaged, directly or indirectly, in the business of portable electronics transactions.

C.17:22A-50 License required to sell coverage.

2. a. A vendor shall not sell, or offer to sell, coverage under a policy of portable electronics insurance unless licensed as a limited lines insurance producer pursuant to the provisions of the "New Jersey Insurance Producer Licensing Act of 2001," P.L.2001, c.210 (C.17:22A-26 et seq.) and this act. To hold a limited lines insurance producer license pursuant to this section, a vendor shall meet all the requirements to be a business entity producer pursuant to P.L.2001, c.210 (C.17:22A-26 et seq.), unless a provision of this

act conflicts with a provision of P.L.2001, c.210 (C.17:22A-26 et seq.) in which case the provision of this act shall control.

b. Notwithstanding any other provision of law, a limited lines insurance producer license issued to a vendor shall authorize the licensee and its employees or authorized representatives to engage in those activities permitted pursuant to that license and the provisions of this act.

c. An employee or authorized representative of a vendor of portable electronics shall not advertise, represent or otherwise hold himself out as an insurance producer for any purposes other than as a licensed limited lines insurance producer.

C.17:22A-51 Vendor may offer insurance to consumers.

3. The employees and authorized representatives of a vendor holding a limited lines insurance producer license may sell or offer to sell portable electronics insurance to consumers as permitted by section 2 of this act and shall not be subject to individual licensure as an insurance producer under P.L.2001, c.210 (C.17:22A-26 et seq.) or this act as a result of those activities so long as:

a. The vendor obtains a limited lines license to authorize its employees or authorized representatives to sell or offer portable electronics insurance pursuant to this act; and

b. The insurer issuing the portable electronics insurance either directly supervises or appoints a supervising entity to supervise the administration of the program, including development of a training program for employees and authorized representatives of the vendors. The training required by this subsection:

(1) shall be delivered to employees and authorized representatives of a vendor who are directly engaged in the activity of selling or offering portable electronics insurance;

(2) may be provided in electronic form; however, if conducted in electronic form the supervising entity shall implement a supplemental education program regarding the portable electronics insurance that is conducted and overseen by licensed employees of the supervising entity; and

(3) shall include basic instruction about the portable electronics insurance offered to consumers and the disclosures required under section 6 of this act.

C.17:22A-52 Application for limited lines insurance producer; renewal, fee.

4. Notwithstanding the provisions of the "New Jersey Insurance Producer Licensing Act of 2001," P.L.2001, c.210 (C.17:22A-26 et seq.):

a. A sworn application for a limited lines insurance producer license under this act shall be made to and filed with the department on forms prescribed and furnished by the commissioner.

b. The application shall provide:

(1) the name, residence address, and other information required by the commissioner for an employee or officer of the vendor that is designated by the applicant as the person responsible for the vendor's compliance with the requirements of this act. However, if the vendor derives more than 50% of its revenue from the sale of portable electronics insurance, the information required shall be provided for all officers, directors, and shareholders of record having beneficial ownership of 10% or more of any class of securities registered under the federal securities law; and

(2) the location of the applicant's home office.

c. Any vendor engaging in portable electronics insurance transactions on or before the effective date of this act shall apply for a limited lines insurance producer license within 90 days of the application being made available by the commissioner. Any vendor wishing to commence operations after the effective date of this act shall obtain a limited lines insurance producer license prior to offering portable electronics insurance.

d. Limited lines insurance producer licenses issued pursuant to this act shall renew biennially in accordance with regulations promulgated by the commissioner.

e. Each vendor of portable electronics licensed under this act shall pay to the commissioner a fee as prescribed by the commissioner but in no event shall the fee exceed $1,000 for an initial portable electronics insurance limited lines producer license and $500 for each renewal thereof. However, for a vendor that is engaged in portable electronics transactions at 10 or fewer locations in the State, the fee shall not exceed $100 for an initial license and for each renewal thereof.

C.17:22A-53 Insurance offered on periodic basis; eligibility, underwriting standards.

5. a. Portable electronics insurance may be offered on a month to month or other periodic basis as a group or master commercial inland marine policy issued to a vendor of portable electronics for its enrolled consumers.

b. Eligibility and underwriting standards for consumers electing to enroll in coverage shall be established for each portable electronics insurance program.

C.17:22A-54 Availability of information to consumers.

6. At every location at which portable electronics insurance is offered to consumers, the limited lines insurance producer licensed to sell that insurance shall make available to prospective consumers brochures or other written materials which:

a. disclose that portable electronics insurance may provide a duplication of coverage already provided by a consumer's homeowner's insurance policy, renter's insurance policy or other source of coverage;

b. state that enrollment by the consumer in a portable electronics insurance program is not required in order to purchase or lease portable electronics or services;

c. summarize the material terms of the insurance coverage, including:

(1) the identity of the insurer;

(2) the identity of the supervising entity;

(3) the amount of any applicable deductible and how it is to be paid;

(4) benefits of the coverage; and

(5) key terms and conditions of coverage, such as whether portable electronics may be repaired or replaced with similar make and model reconditioned or non-original manufacturer parts or equipment;

d. summarize the process for filing a claim, including a description of how to return portable electronics and the maximum fee applicable in the event that the enrolled consumer fails to comply with any equipment return requirements; and

e. state that an enrolled consumer may cancel enrollment for coverage under a portable electronics insurance policy at any time and the person paying the premium shall receive a refund or credit of any applicable unearned premium.

C.17:22A-55 Billing, collection of charges.

7. a. The charges for portable electronics insurance coverage may be billed and collected by the vendor of portable electronics. Any charge to the enrolled consumer for coverage that is not included in the cost associated with the purchase or lease of portable electronics or related services shall be separately itemized on the enrolled consumer's bill. If the portable electronics insurance coverage is included with the purchase or lease of portable electronics or related services, the vendor shall clearly and conspicuously disclose to the enrolled consumer that the portable electronics insurance coverage is included with the purchase or lease of portable electronics or related services.

b. A vendor that bills and collects charges for portable electronics insurance coverage shall not be required to maintain funds received in a seg-

regated account, provided that the vendor is authorized by the insurer to hold those funds in an alternative manner and remits those amounts to the supervising entity within 60 days of receipt.

c. All funds received by a vendor from an enrolled consumer for the sale of portable electronics insurance shall be considered funds held in trust by the vendor in a fiduciary capacity for the benefit of the insurer. A vendor may receive compensation for billing and collection services.

C.17:22A-56 Rights, responsibilities of insurers.

8. Notwithstanding any other provision of law:

a. An insurer may terminate or otherwise change the terms and conditions of a policy of portable electronics insurance only upon providing the policyholder and enrolled consumers with at least 30 days' notice.

b. If the insurer changes the terms and conditions, then the insurer shall provide the vendor policyholder with a revised policy or endorsement and each enrolled consumer with a revised certificate, endorsement, updated brochure, or other evidence indicating a change in the terms and conditions has occurred and a summary of material changes.

c. Notwithstanding subsection a. of this section, an insurer may terminate an enrolled consumer's enrollment under a portable electronics insurance policy upon 15 days' notice if the insurer discovers fraud or material misrepresentation in obtaining coverage or in the presentation of a claim thereunder.

d. Notwithstanding subsection a. of this section, an insurer may immediately terminate an enrolled consumer's enrollment under a portable electronics insurance policy:

(1) For nonpayment of premium;

(2) If the enrolled consumer ceases to have an active service with the vendor for one or more portable electronics covered under the policy, if applicable; or

(3) If an enrolled consumer exhausts the aggregate limit of liability, if any, under the terms of the portable electronics insurance policy and the insurer sends notice of termination to the enrolled consumer within 30 calendar days after exhaustion of the limit. However, if notice is not timely sent, enrollment shall continue notwithstanding the aggregate limit of liability, until the insurer sends notice of termination to the enrolled consumer.

e. If a policyholder terminates a portable electronics insurance policy, the policyholder shall mail or deliver written notice to each enrolled consumer advising the enrolled consumer of the termination of the policy and

the effective date of termination. The written notice shall be mailed or delivered to the enrolled consumer at least 30 days prior to the termination.

f. Whenever notice or correspondence with respect to a policy of portable electronics insurance is required pursuant to this section or is otherwise required by law, it shall be in writing and sent within the notice period, if any, specified within the statute or regulation requiring the notice or correspondence. The notice or correspondence shall be sent to the vendor at the vendor's mailing address specified for that purpose and to its affected enrolled consumers' last known mailing addresses on file with the insurer. The insurer or vendor, as the case may be, shall maintain proof of mailing in a form authorized or accepted by the United States Postal Service or other commercial mail delivery service.

g. Notice or correspondence required pursuant to this section or otherwise required by law may be sent on behalf of an insurer or vendor, as the case may be, by the supervising entity appointed by the insurer.

C.17:22A-57 Violations, penalties.

9. If a vendor of portable electronics or its employee or authorized representative violates any provision of this act or any provision of P.L.2001, c.210 (C.17:22A-26 et seq.), the commissioner may do any of the following:

a. Impose fines in accordance with P.L.2001, c.210 (C.17:22A-26 et seq.). However, fines assessed against a vendor licensed under this act shall not exceed $50,000 in the aggregate for multiple violations that involve the same conduct, action, or practice.

b. Impose other penalties that the commissioner deems necessary and reasonable to carry out the purposes of this act, including:

(1) suspending the privilege of transacting portable electronics insurance pursuant to this section at specific business locations where violations have occurred; and

(2) suspending or revoking the ability of individual employees or authorized representatives to act under the license.

10. This act shall take effect immediately.

Approved September 19, 2012.

CHAPTER 57

AN ACT concerning employer notices and supplementing P.L.1952, c.9 (C.34:11-56.1 et seq.).

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

C.34:11-56.12 Notification to certain employees.

1. a. Every employer in this State, with 50 or more employees, shall conspicuously post notification, in a place or places accessible to all workers in each of the employer's workplaces, in a form issued by regulation promulgated by the Commissioner of Labor and Workforce Development, detailing the right to be free of gender inequity or bias in pay, compensation, benefits or other terms or conditions of employment under the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.), P.L.1952, c.9 (C.34:11-56.1 et seq.), Title VII of the Civil Rights Act of 1964, Pub.L. 88-352 (42 U.S.C. s.2000e et seq.), and the Equal Pay Act of 1963, Pub.L. 88-38 (29 U.S.C. s.206(d)), which prohibit wage or compensation discrimination based on gender.

b. The employer shall provide each worker of the employer with a written copy of the notification: not later than 30 days after the form of the notification is issued by the commissioner; at the time of the worker's hiring, if the worker is hired after the issuance; annually, on or before December 31 of each year; and at any time, upon the first request of the worker. The employer shall make the written copy of the notification available to each worker:

(1) By email delivery;

(2) Via printed material, including, but not limited to, a pay check insert, brochure or similar informational packet provided to new hires, an attachment to an employee manual or policy book, or flyer distributed at an employee meeting; or

(3) Through an Internet or Intranet website, if the site is for the exclusive use of all workers, can be accessed by all workers, and the employer provides notice to the workers of its posting.

The notification provided by the employer pursuant to this subsection shall contain an acknowledgement that the worker has received the notification and has read and understands its terms. The acknowledgement shall be signed by the worker, in writing or by means of electronic verification, and returned to the employer within 30 days of its receipt.

c. The commissioner shall make the notification required by this section available in English, Spanish, and any other language that the commissioner determines is the first language of a significant number of workers in the State. This determination shall be, at the discretion of the commissioner, based on the numerical percentages of all workers in the State for whom

English or Spanish is not a first language or in a manner consistent with any regulations promulgated by the commissioner for this purpose. The employer shall post and provide the notification in English, Spanish, and any other language for which the commissioner has made the notification available and which the employer reasonably believes is the first language of a significant number of the employer's workforce.

2. This act shall take effect on the 61st day after the date of enactment.

Approved September 19, 2012.

CHAPTER 58

AN ACT designating the State Highway Route 7 bridge between the Township of Belleville and Borough of North Arlington the "Lance Corporal Osbrany Montes De Oca Memorial Bridge."

WHEREAS, United States Marine Lance Corporal Osbrany Montes De Oca grew up in North Arlington, New Jersey and enlisted in the United States Marine Corps immediately following his graduation from North Arlington High School; and

WHEREAS, Lance Corporal Montes De Oca was based at Camp Lejeune, North Carolina, with the 2nd Battalion, 6th Marine Regiment, 2nd Marine Division, II Marine Expeditionary Force; and

WHEREAS, Lance Corporal Montes De Oca tragically lost his life on February 10, 2012 supporting combat operations in Helmand Province, Afghanistan; and

WHEREAS, Lance Corporal Montes De Oca was a dedicated Marine who bravely served his country to protect it from those who would do it harm; and

WHEREAS, Lance Corporal Montes De Oca was a loving son, brother, and friend, whose memory will be honored and cherished by his family and community; and

WHEREAS, The citizens of this State are indebted to those who bravely serve our country in the Armed Forces of the United States, especially those who gave their lives; and

WHEREAS, It is altogether fitting and proper that the State of New Jersey recognize and honor the life and service of United States Marine Lance

Corporal Osbrany Montes De Oca by designating the State Highway Route 7 bridge between the Township of Belleville and Borough of North Arlington the "Lance Corporal Osbrany Montes De Oca Memorial Bridge;" now, therefore,

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

1. The Commissioner of Transportation shall designate the State Highway Route 7 bridge crossing the Passaic River between the Township of Belleville, Essex County and Borough of North Arlington, Bergen County as the "Lance Corporal Osbrany Montes De Oca Memorial Bridge," and erect appropriate signs bearing this name.

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

3. This act shall take effect immediately.

Approved September 19, 2012.

CHAPTER 59

AN ACT concerning local public bid documents and amending various parts of the statutory law.

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

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

Preparation of separate plans, specifications for certain construction work, goods and services; bidding; awarding of contracts.

18A:18A-18. a. In the preparation of plans and specifications for the construction, alteration or repair of any building by a board of education, when the entire cost of the work will exceed the bid threshold, separate plans and specifications may be prepared for each of the following branches of work in the following categories, and all work kindred thereto to be performed or furnished in connection therewith:

(1) The plumbing and gas fitting work;

(2) The refrigeration, heating and ventilating systems and equipment;

(3) The electrical work, including any electrical power plant, tele-data, fire alarm, or security system;

(4) The structural steel and ornamental iron work;

(5) General construction, which shall include all other work required for the completion of the project.

b. With regard to the branch work categories in subsection a. of this section, the board of education or its purchasing agent shall advertise for and receive, in the manner provided by law, (1) separate bids for each of the branches of work specified in subsection a. of this section, or (2) single bids by general contractors for all the work, goods and services required to complete the public building to be included in a single overall contract, or (3) both. In the case of separate bids under paragraph (1) or (3) of this subsection, contractors for categories (1) through (4) of subsection a. of this section shall not be required to name subcontractors in their bid. In the case of a single bid under paragraph (2) or (3) of this subsection, there will be set forth in the bid the name or names of all subcontractors to whom the bidder will subcontract the furnishing of plumbing and gas fitting, and all kindred work, and of the heating and ventilating systems and equipment, and electrical work, structural steel and ornamental iron work, each of which subcontractors shall be qualified in accordance with N.J.S.18A:18A-1 et seq. for categories (1) through (4) of subsection a. of this section. Subcontractors who furnish general construction work pursuant to category (5) of subsection a. of this section or subcontractors who furnish work to named subcontractors pursuant to categories (1) through (4) of subsection a. of this section shall not be named in the bid. Notwithstanding the foregoing provisions of this subsection, a contracting unit may choose to require in its bid specification that a subcontractor shall be named in a bid when, in the case of paragraph (1) of subsection b., separate bids for each

category, the work of that subcontractor exceeds 35 percent of the contracting unit's estimated amount of value of the work, which shall be set forth in the bid specification. The school district shall require evidence of performance security to be submitted simultaneously with the list of the subcontractors. Evidence of performance security may be supplied by the bidder on behalf of himself and any or all subcontractors, or by each respective subcontractor, or by any combination thereof which results in evidence of performance security equaling, but in no event exceeding, the total amount bid.

c. Contracts shall be awarded to the lowest responsible bidder in each branch of work in the case of separate bids and to the single lowest responsible bidder in the case of single bids. In the event that a contract is advertised in accordance with paragraph (3) of subsection b. of this section, the contract shall be awarded in the following manner: If the sum total of the amounts bid by the lowest responsible bidder for each branch is less than the amount bid by the lowest responsible bidder for all the work, goods and services, the board of education shall award separate contracts for each of such branches to the lowest responsible bidder therefor, but if the sum total of the amount bid by the lowest responsible bidder for each branch is not less than the amount bid by the lowest responsible bidder for all the work, goods and services, the board of education shall award a single overall contract to the lowest responsible bidder for all of such work, goods and services. In every case in which a contract is awarded under paragraph (2) or (3) of subsection b. of this section, all payments required to be made under such contract for work, goods and services supplied by a subcontractor may, upon the certification of the contractor of the amount due to the subcontractor, be paid directly to the subcontractor. Payments to a subcontractor for work and materials supplied in connection with the contract shall be made within 10 calendar days of the receipt of payment for that work or the delivery of those materials by the subcontractor in accordance with the provisions of P.L.1991, c.133 (C.2A:30A-1 et seq.), and any regulations promulgated thereunder.

2. Section 2 of P.L.1992, c.61 (C.18A:64-76.1) is amended to read as follows:

C.18A:64-76.1 Advertisements by contracting agent for bids; award of contracts.

2. a. Whenever the entire cost for the construction, alteration or repair of any building by a State college will exceed the amount determined pursuant to subsection b. of section 3 of P.L.1986, c.43 (C.18A:64-54), the contracting agent shall advertise for and receive in the manner provided by law:

(1) separate bids for branches of work in the following categories:

(a) the plumbing and gas fitting work;

(b) the refrigeration, heating and ventilating systems and equipment;

(c) the electrical work, including any electrical power plants, tele-date, fire alarm, or security systems;

(d) the structural steel and ornamental iron work;

(e) general construction, which shall include all other work and materials required for the completion of the project, or

(2) bids for all work and materials required to complete the entire project if awarded as a single contract, or

(3) both (1) and (2) above.

In the case of separate bids under paragraph (1) or (3) of this subsection, prime contractors for categories (a) through (d) shall not be required to name subcontractors in their bid. In the case of a single bid under paragraph (2) or (3), all bids submitted shall set forth the names and license numbers of all subcontractors to whom the general contractor will subcontract the work described in the foregoing categories (a) through (d). Subcontractors who furnish non-specialty trade work pursuant to category (e) in paragraph (1) of this subsection or subcontractors who furnish work to named subcontractors pursuant to categories (a) through (d) in paragraph (1) of this subsection shall not be named in the bid. Notwithstanding the foregoing provisions of this subsection, a State college may choose to require in its bid specification that a subcontractor shall be named in a bid when, in the case of paragraph (1), separate bids for each category, the work of that subcontractor exceeds 35 percent of the State college's estimated amount of value of the work, which shall be set forth in the bid specification.

b. Contracts shall be awarded to the lowest responsible bidder whose bid, conforming to the invitation for bids, will be the most advantageous to the State college. Whenever two or more bids of equal amounts are the lowest bids submitted by responsible parties, the college may award the contract to any of the parties, as, in its discretion, it may determine.

3. Section 25 of P.L.1982, c.189 (C.18A:64A-25.25) is amended to read as follows:

C.18A:64A-25.25 Cost over threshold level; separate plans and specifications; bids; advertisement; award of contract; payment to subcontractor.

25. a. In the preparation of plans and specifications for the construction, alteration or repair of any building by a county college, when the entire cost of the work and materials will exceed $25,000 or, commencing

January 1, 2003, the amount determined pursuant to subsection b. of section 3 of P.L.1982, c.189 (C.18A:64A-25.3), separate plans and specifications may be prepared for each of the following branches of work in the following categories, to include all work and materials related thereto or to be performed or furnished in connection therewith:

(a) The plumbing and gas fitting work;

(b) The refrigeration, heating and ventilating systems and equipment;

(c) The electrical work, including any electrical power plants, teledata, fire alarm, or security systems;

(d) The structural steel and ornamental iron work;

(e) General construction, which shall include all other work and materials required for the completion of the project.

b. With regard to the branch work categories in subsection a. of this section, the contracting agent shall advertise for and receive in the manner provided by law (1) separate bids for each of the foregoing categories (a) through (e), or (2) single bids by general contractors for all work and materials required to complete the entire project, if awarded as a single contract, or (3) both. In the case of separate bids under paragraph (1) or (3) of this subsection for categories (a) through (d) of subsection a. of this section, prime contractors shall not be required to name subcontractors in their bid. In the case of a single bid under paragraph (2) or (3), all bids submitted shall set forth the name or names of, and evidence of performance security from, all subcontractors to whom the general contractor will subcontract the work described in the foregoing categories (a) through (d) of subsection a. of this section. Subcontractors who furnish non-specialty trade work pursuant to category (e) or subcontractors who furnish work to named subcontractors pursuant to categories (a) through (d) shall not be named in the bid. Notwithstanding the foregoing provisions of this subsection, a county college may choose to require in its bid specification that a subcontractor shall be named in a bid when, in the case of paragraph (1) of subsection b. of this section, separate bids for each category, the work of that subcontractor exceeds 35 percent of the county college's estimated amount of value of the work, which shall be set forth in the bid specification.

c. Contracts shall be awarded to the lowest responsible bidder. In the event that a contract is advertised in accordance with (3) above, the contract shall be awarded in the following manner: if the sum total of the amounts bid by the lowest responsible bidder for each category (a) through (e) is less than the amount bid by the lowest responsible bidder for all the work and materials, the county college shall award separate contracts for each of such categories to the lowest responsible bidder therefor, but if the sum total of

the amount bid by the lowest responsible bidder for each category is not less than the amount bid by the lowest responsible bidder for all the work and materials, the county college shall award a single contract to the lowest responsible bidder for all of such work and materials. In every case in which a contract is awarded under (2) above, all payments required to be made under the contract for work and materials supplied by a subcontractor shall, upon the certification of the contractor of the amount due to the subcontractor, be paid directly to the subcontractor.

4. N.J.S.18A:72A-5 is amended to read as follows:

Authority's powers.

18A:72A-5. The authority shall have power:

(a) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(b) To adopt and have an official common 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, and plead and be impleaded;

(e) To borrow money and to issue bonds and notes and other obligations of the authority and to provide for the rights of the holders thereof as provided in this chapter;

(f) To acquire, lease as lessee, hold and dispose of real and personal property or any interest therein, in the exercise of its powers and the performance of its duties under this chapter;

(g) To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the power of eminent domain, any land or interest therein and other property which it may determine is reasonably necessary for any project, including any lands held by any county, municipality or other governmental subdivision of the State; and to hold and use the same and to sell, convey, lease or otherwise dispose of property so acquired, no longer necessary for the authority's purposes;

(h) 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 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;

(i) To prepare or cause to be prepared plans, specifications, designs and estimates of costs for the construction and equipment of projects for participating colleges under the provisions of this chapter, and from time to time to modify such plans, specifications, designs or estimates;

(j) By contract or contracts or by its own employees to construct, acquire, reconstruct, rehabilitate and improve, and furnish and equip, projects for participating colleges; however, in any contract or contracts undertaken by the authority for the construction, reconstruction, rehabilitation or improvement of any public college project where the cost of such work will exceed $25,000, the contracting agent shall advertise for and receive in the manner provided by law:

(1) separate bids for branches of work in the following categories:

(a) the plumbing and gas fitting work;

(b) the refrigeration, heating and ventilating systems and equipment;

(c) the electrical work, including any electrical power plants, tele-data, fire alarm, or security system;

(d) the structural steel and ornamental iron work;

(e) general construction, which shall include all other work and materials required for the completion of the project, or

(2) bids for all work and materials required to complete the entire project if awarded as a single contract; or

(3) both (1) and (2) above.

In the case of separate bids pursuant to paragraph (1) or (3) of this subsection, prime contractors shall not be required to name subcontractors for categories (a) through (d) in their bid. In the case of a single bid under paragraph (2) or (3), all bids submitted shall set forth the names and license numbers of, and evidence of performance security from, all subcontractors to whom the general contractor will subcontract the work described in the foregoing categories (a) through (d) in paragraph (1). Subcontractors who furnish non-specialty trade work pursuant to category (e), or subcontractors who furnish work to named subcontractors pursuant to categories (a) through (d), shall not be named in the bid. Notwithstanding the foregoing provisions of this subsection, an authority may choose to require in its bid specification that a subcontractor shall be named in a bid when, in the case of paragraph (1), separate bids for each category, the work of that subcontractor exceeds 35 percent of the authority's estimated amount of value of the work, which shall be set forth in the bid specification.

Contracts shall be awarded to the lowest responsible bidder whose bid, conforming to the invitation for bids, will be the most advantageous to the authority;

(k) To determine the location and character of any project to be undertaken pursuant to the provisions of this chapter, and to construct, reconstruct, maintain, repair, operate, lease, as lessee or lessor, and regulate the same; to enter into contracts for any or all such purposes; to enter into contracts for the management and operation of a project, and to designate a participating college as its agent to determine the location and character of a project undertaken by such participating college under the provisions of this chapter and, as the agent of the authority, to construct, reconstruct, maintain, repair, operate, lease, as lessee or lessor, and regulate the same, and, as agent of the authority, to enter into contracts for any and all such purposes including contracts for the management and operation of such project;

(l) To establish rules and regulations for the use of a project or any portion thereof and to designate a participating college as its agent to establish rules and regulations for the use of a project undertaken by such participating college;

(m) 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 a project or any portion thereof 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;

(n) To enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the authority or to carry out any power expressly given in this chapter;

(o) 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 law for the investment of trust funds in the custody of the State Treasurer;

(p) To enter into any lease relating to higher education equipment with a public or private institution of higher education pursuant to the provisions of P.L.1993, c.136 (C.18A:72A-40 et al.);

(q) To enter into loan agreements with any county, to hold bonds or notes of the county evidencing those loans, and to issue bonds or notes of the authority to finance county college capital projects pursuant to the provisions of the "County College Capital Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.);

(r) To issue bonds and notes and other obligations of the authority under the direction of law for the purpose of providing financial assistance for the installation of fire prevention and safety systems in dormitories.

5. Section 16 of P.L.1971, c.198 (C.40A:11-16) is amended to read as follows:

C.40A:11-16 Separate plans, specifications for work on public building; contracts.

16. a. (1) In the preparation of plans and specifications for the construction, alteration or repair of any public building by any contracting unit, when the entire cost of the work will exceed the bid threshold, the architect, engineer or other person preparing the plans and specifications may prepare separate plans and specifications for branches of work in the following categories:

(1) The plumbing and gas fitting and all kindred work;

(2) Steam power plants, steam and hot water heating and ventilating and refrigeration apparatus and all kindred work;

(3) Electrical work, including any electrical power plants, tele-data, fire alarm, or security system;

(4) Structural steel and ornamental iron work; and

(5) General construction, which shall include all other work required for the completion of the project.

(2) With regard to the branch work categories in paragraph (1) of this subsection, the contracting agent shall advertise for and receive, in the manner provided by law, either (a) separate bids for each of said categories, or (b) single bids by general contractors for all the work, goods and services required to complete the public building to be included in a single overall contract, or (c) both. In the case of separate bids under (a) or (c) of this paragraph, contractors for categories (1) through (4) shall not be required to name subcontractors in their bid. In the case of a single bid under (b) or (c), there shall be set forth in the bid the name or names of all subcontractors to whom the general contractor will subcontract for categories (1) through (4). Subcontractors who furnish general construction work pursuant to category (5), or subcontractors who furnish work to named subcontractors pursuant to categories (1) through (4) shall not be named in the bid. Notwithstanding the foregoing provisions of this paragraph, a contracting unit may choose to require in its bid specification that a subcontractor shall be named in a bid when, in the case of (a) of this paragraph, separate bids for each category, the work of that subcontractor exceeds 35 percent of the contracting unit's estimated amount of value of the work, which shall be set forth in the bid specification.

(3) The contracting unit shall require evidence of performance security to be submitted simultaneously with the bid. Evidence of performance security may be supplied by the bidder on behalf of himself and any or all

subcontractors, or by each respective subcontractor, or by any combination thereof which results in evidence of performance security equaling, but in no event exceeding, the total amount bid.

b. Whenever a bid sets forth more than one subcontractor for any of the categories (1) through (4) in paragraph (1) of subsection a. of this section, the bidder shall submit to the contracting unit a certificate signed by the bidder listing each subcontractor named in the bid for that category. The certificate shall set forth the scope of work, goods and services for which the subcontractor has submitted a price quote and which the bidder has agreed to award to each subcontractor should the bidder be awarded the contract. The certificate shall be submitted to the contracting unit simultaneously with the list of the subcontractors. The certificate may take the form of a single certificate listing all subcontractors or, alternatively, a separate certificate may be submitted for each subcontractor. If a bidder does not submit a certificate or certificates to the contracting unit, the contracting unit shall award the contract to the next lowest responsible bidder.

c. Contracts shall be awarded to the lowest responsible bidder. In the event that a contract is advertised for both separate bids for each branch of work and for bids for all work, goods, and services, said contract shall be awarded in the following manner: If the sum total of the amounts bid by the lowest responsible bidder for each branch is less than the amount bid by the lowest responsible bidder for all the work, goods and services, the contracting unit shall award separate contracts for each of such branches to the lowest responsible bidder therefor, but if the sum total of the amounts bid by the lowest responsible bidder for each branch is not less than the amount bid by the lowest responsible bidder for all the work, goods and services, the contracting unit shall award a single overall contract to the lowest responsible bidder for all of such work, goods and services. In every case in which a contract is awarded for a single overall contract, all payments required to be made under such contract for work, goods and services supplied by a subcontractor shall, upon the certification of the contractor of the amount due to the subcontractor, be paid directly to the subcontractor.

d. Any bid specification prepared pursuant to this section that includes the use of 1,000 or more tons of hot mix asphalt, shall include a pay item for any asphalt price adjustment reflecting changes in the cost of asphalt cement. Any bid specification prepared pursuant to this section that includes the use of less than 1,000 tons of hot mix asphalt, shall include a pay item for an asphalt price adjustment for any quantity of hot mix asphalt exceeding 1,000 tons that may be used in the work in the event that per-

formance of the work, including change orders, requires more than 1,000 tons of hot mix asphalt.

The asphalt price adjustment shall be calculated in accordance with the formula and relevant instructions published in the most recent edition of the New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction as revised by the "Standard Inputs" periodically issued by the department. All invoices for payment shall be accompanied by the calculation of any asphalt price adjustment and a showing of the current month's Asphalt Price Index, the Basic Asphalt Price Index.

e. (1) Every bid specification prepared pursuant to this section may be eligible for a fuel price adjustment. Fuel that is eligible for a fuel price adjustment shall be the sum of the quantities of the eligible pay items in the contract times the fuel usage factors as determined by the Department of Transportation. The types of fuel furnished shall be at the option of the contractor.

(2) The fuel requirement for items not determined by the Department of Transportation to be eligible, and for pay items in the bid specifications calling for less than 500 gallons of fuel, shall not be eligible for a fuel price adjustment. If more than one pay item has the same nomenclature but with different thicknesses, depths, or types, each individual pay item must require 500 gallons or more of fuel to be eligible for a fuel price adjustment. If more than one pay item has the exact same nomenclature, similar pay items shall be combined and this combination must require 500 gallons or more of fuel to be eligible for the fuel price adjustment.

(3) Fuel price adjustments shall not be made in those months for which the monthly fuel price index has changed by less than five percent from the basic fuel price.

f. As used in subsections d. and e. of this section:

"Asphalt Price Index" means the Asphalt Price Index as determined and published by the New Jersey Department of Transportation.

"Basic Asphalt Price Index" means the Basic Asphalt Price Index as published by the New Jersey Department of Transportation in its "Standard Specifications for Road and Bridge Construction," as revised by the "Standard Inputs" periodically issued by the New Jersey Department of Transportation.

"Fuel Price Index" means the Fuel Price Index as determined and published by the New Jersey Department of Transportation.

"Pay Item" means a specifically described item of work for which the bidder provides a per unit or lump sum price in a bid specification as determined and published by the New Jersey Department of Transportation.

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

Approved September 19, 2012.

CHAPTER 60

AN ACT permitting certain military funeral buglers to receive a New Jersey Honor Guard Ribbon, and supplementing chapter 15 of Title 38A of the New Jersey Statutes.

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

C.38A:15-8 New Jersey Honor Guard Ribbon presented to certain military funeral buglers.

1. a. The Governor may present in the name of the State of New Jersey a New Jersey Honor Guard Ribbon of appropriate design to any person who has served as a bugle performer at military funeral services in this State and who has performed a minimum of 30 funeral services for deceased veterans.

b. A star shall be awarded for 130 subsequent services within a two-year period. The award shall be displayed on the left of the Honor Guard Ribbon.

c. A second star shall be awarded for 200 subsequent services within a three-year period. The award shall be displayed on the right of the Honor Guard Ribbon.

d. No more than one ribbon shall be awarded to any person, except that a ribbon that is lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was issued may be replaced.

e. Determination of eligibility for an Honor Guard Ribbon shall be the responsibility of the Adjutant General of the Department of Military and Veterans' Affairs or a designee. At a minimum, to be eligible to receive the ribbon, a bugler shall be certified by the department and shall supply official documentation of each performance to the department.

2. This act shall take effect on the 60th day following the date of enactment, but the Adjutant General of the Department of Military and Veter-

ans' Affairs may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved October 1, 2012.

CHAPTER 61

AN ACT designating State Highway Route No. 31 as the "Tri-County Purple Heart Memorial Highway."

WHEREAS, The Purple Heart is America's oldest military decoration, established by General George Washington in 1782 to recognize outstanding examples of bravery and sacrifice by the common soldier; and

WHEREAS, The victory by General Washington and his courageous troops at the Battle of Trenton was pivotal in ensuring freedom to a new nation and to generations of its citizens to come; and

WHEREAS, State Highway Route No. 31 begins in Trenton at the Monument to the Battle of Trenton and proceeds north through the three counties of Mercer, Hunterdon, and Warren; and

WHEREAS, The Purple Heart continues to be awarded to extraordinarily brave men and women wounded in military service or given posthumously to the next of kin of those killed in action; and

WHEREAS, It is fitting and proper for the Legislature of the State of New Jersey to honor all recipients of the Purple Heart - past, present, and future - for their bravery, heroic service, and sacrifice to the United States and to the State of New Jersey by designating State Highway Route No. 31 as the "Tri-County Purple Heart Memorial Highway"; now, therefore,

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

1. The Commissioner of Transportation shall designate State Highway Route No. 31 as the "Tri-County Purple Heart Memorial Highway" and erect appropriate signs bearing this designation and dedication.

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

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

3. This act shall take effect immediately.

Approved October 25, 2012.

CHAPTER 62

AN ACT concerning health care facilities and the disposal of prescription medications, and supplementing P.L.1971, c.136 (C.26:2H-1 et seq.).

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

C.26:2H-12.68 Definitions relative to disposal of prescription medications by health care facilities.

1. As used in this act:

"Public wastewater collection system" means any collection system regulated by the Department of Environmental Protection pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), and which system consists of structures which, operating alone or with other structures, result in the collection and conveyance or transmission of wastewater from private, commercial, institutional, or industrial sources, to public wastewater treatment systems for subsequent treatment.

"Septic system" means a system for the disposal of sanitary sewage into the ground, which is designed and constructed to treat sanitary sewage in a manner that will retain most of the settled solids in a septic tank and discharge the liquid effluent to a disposal field.

C.26:2H-12.69 Health care facilities prohibited from discharging prescription medication into public wastewater collection or septic system; exceptions.

2. a. Except as otherwise provided by subsections b. and c. of this section, every health care facility shall establish and implement a policy, pro-

cedure, plan, or practice that prohibits the health care facility and any employee, staff person, contractor, or other person under the direction or supervision of the health care facility from discharging, disposing of, flushing, pouring, or emptying any unused prescription medication into a public wastewater collection system or a septic system.

b. Nothing in this act shall be construed to limit or prohibit a health care facility from lawfully discharging, disposing of, flushing, pouring, or emptying into a public wastewater collection system or a septic system any non-prescription medication or an intravenous solution containing only dextrose, saline, sterile water, or electrolytes, or a combination thereof.

c. Notwithstanding the provisions of subsection a. of this section to the contrary, a health care facility, or any employee, staff person, contractor, or other person under the direction or supervision of the health care facility, may discharge, dispose of, flush, pour, or empty any unused prescription medication into a public wastewater collection system or a septic system if, pursuant to the product insert, product label, product packaging, or prescription:

(1) the dose of prescription medication is to be partially wasted prior to administration of the medication per physician order;

(2) the prescription medication is a controlled substance as defined by federal law, rule or regulation; or

(3) the prescription medication is not deemed hazardous by the United States Environmental Protection Agency or the National Institute of Occupational Safety and Health, in the Centers for Disease Control and Prevention within the United States Department of Health and Human Services.

C.26:2H-12.70 Department to ensure compliance.

3. The Department of Health and Senior Services shall, in conjunction with its periodic inspection of a health care facility, ensure that the health care facility has established and is implementing a policy, procedure, plan, or practice for the proper disposal of unused prescription medications in accordance with section 2 of this act.

C.26:2H-12.71 Violations, penalties.

4. a. Notwithstanding the provisions of any other law or rule or regulation to the contrary, only the penalties set forth in this section shall be imposed for any violation of this act.

b. Any health care facility that fails to establish and implement a policy, procedure, plan, or practice for the disposal of unused prescription medications as required pursuant to subsection a. of section 2 of this act shall be liable to a

civil administrative penalty of not more than $1,000 for a first violation and not more than $2,500 for each subsequent violation. Any penalty issued pursuant to this section shall be administered in accordance with the provisions of sections 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and C.26:2H-14).

c. The Department of Health and Senior Services is authorized and empowered to compromise and settle any claim for a monetary penalty under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances.[3]

C.26:2H-12.72 Rules, regulations.

5. The Department of Health and Senior Services, in consultation with the Department of Environmental Protection, may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as are necessary to effectuate the provisions of this act.

6. This act shall take effect on the 210th day after the date of enactment, but the Department of Health and Senior Services and the Department of Environmental Protection may take such anticipatory action in advance thereof as shall be necessary for the implementation of this act.

Approved November 19, 2012.

CHAPTER 63

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

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

1. Section 1 of P.L.1973, c.324 (C.5:8-25.1) is amended to read as follows:

C.5:8-25.1 Recreational bingo games, licensing requirement; removed; exceptions.

1. Any person, group, or organization desiring to hold, operate and conduct games of chance solely for amusement and recreation may do so, without licensure and without complying with the provisions of the "Bingo Licensing Law," P.L.1954, c.6 (C.5:8-24 et seq.), provided that no player or other person furnishes anything of value for the opportunity to participate;

the prizes awarded or to be awarded are nominal; and no person is paid for conducting or assisting in the conduct of the game or games. The holding, operating and conducting of games of chance solely for amusement and recreation pursuant to this section shall not involve the use of any device into which currency, coins or tokens may be inserted or from which currency, coins or tokens, or any receipt for monetary value, can be dispensed or which, once provided to a person participating in bingo, is capable of communicating with other such devices.

Repealer.

2. Section 2 of P.L.1973, c.324 (C.5:8-25.2) is repealed.

3. This act shall take effect immediately.

Approved November 19, 2012.

CHAPTER 64

AN ACT concerning decisions of the Board of Public Utilities on public utility petitions to sell real property, amending P.L.1988, c.163 and supplementing Title 48 of the Revised Statutes.

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

C.48:2-23.2 Sale of real property owned by public utility; deadline for decision by BPU provided.

1. Except as provided in section 4 of P.L.1988, c.163 (C.48:2-23.1), when a public utility petitions the Board of Public Utilities to approve the sale of any real property owned by the public utility, the board shall issue an order, in writing, of its decision within 180 days after receiving a petition deemed by the board to be complete for review; provided, however, that if the board determines that its decision on any such petition cannot be resolved within 180 days due to circumstances beyond the control of the board, the board shall issue an order, in writing, of its decision within 270 days after receiving such petition deemed by the board to be complete for review. The board, not later than the 75th day after receipt of a petition pursuant to this section, may require the public utility to submit any additional information which the board deems necessary in order to declare the petition complete for review. The time periods established by this section

may be extended upon the mutual consent of the public utility and the board.

2. Section 4 of P.L.1988, c.163 (C.48:2-23.1) is amended to read as follows:

C.48:2-23.1 Assessment, review of conveyances.

4. a. The Board of Public Utilities, in reviewing a request by a public utility to convey land utilized for the purpose of the protection of a public water supply to a corporation or other entity which is not subject to the jurisdiction of the board, shall request the Department of Environmental Protection to review and make recommendations on an assessment, prepared and submitted by the utility, of the impact that the conveyance, and the prospective use or uses of the land conveyed, would have on the water quality of the affected public water supply, and shall require the department to assess the impact of the conveyance on the State's open space, conservation, and recreation requirements. The department, upon receipt of a request by the board for an assessment and a review pursuant to this subsection, shall prepare and submit to the board the assessment and review within 12 months of the request therefor.

b. Any public utility requesting the board to approve a conveyance of land utilized for the purpose of the protection of a public water supply to a corporation or other entity which is not subject to the jurisdiction of the board shall submit to the board a document setting forth a detailed explanation of the prospective use or uses of the land to be conveyed. The board, not later than the 75th day following receipt of this document, may require the public utility to submit any additional information which the board deems appropriate.

c. The board, upon receiving the review and recommendations from the Department of Environmental Protection pursuant to the provisions of subsection a. of this section, shall issue an order, in writing, of its decision within 180 days after receiving such review and recommendations; provided, however, that if the board determines that its decision on any such petition cannot be resolved within 180 days due to circumstances beyond the control of the board, the board shall issue an order, in writing, of its decision within 270 days after receiving such petition deemed by the board to be complete for review.

3. This act shall take effect immediately, but sections 1 and 2 shall be inoperative until the 60th day after the date of enactment, provided that the

Board of Public Utilities may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved November 19, 2012.

CHAPTER 65

AN ACT concerning medical waste disposal, amending and supplementing P.L.1989, c.34, supplementing P.L.1977, c.74 (C.58:10A-1 et seq.), and amending P.L.1988, c.61.

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

1. Section 2 of P.L.1989, c.34 (C.13:1E-48.2) is amended to read as follows:

C.13:1E-48.2 Findings, declarations.

2. The Legislature finds and declares that:

a. Various human and animal health care centers and clinics, hospitals, laboratories, and other facilities generate substantial volumes of medical waste that must be transported and disposed in a sanitary and environmentally sound manner; that this waste poses both a potential threat to the health of those persons who handle, transport, dispose, or otherwise come into contact with it and to the public health; that, in addition to the actual and perceived risks associated with the management of medical waste, there are important aesthetic concerns that must be addressed; that the present regulatory scheme for medical waste is confusing and inadequate, and the enforcement thereof has been lacking and the penalties assessed for violations insufficient; and that the citizens of the State generally lack confidence that medical waste in the State is being managed in a proper and safe manner;

b. The beaches, coastline, and waters of New Jersey are a natural treasure cherished by the people of the State, provide a superior national recreational destination protected by State and federal law, host a myriad of commercial industries intrinsically linked to the economic prosperity of the State, are a reflection of the State and its reputation, and are host to a tourist industry that provides hundreds of thousands of jobs for New Jersey's workers and generates more than $36 billion for the State's economy;

c. Medical waste illegally dumped in State waters or washing onto the shores is a health, safety, and environmental hazard, contaminating and pol-

luting highly visited and beloved beaches that are open to the public and supported by both the State and coastal municipalities, and that any disturbance on the beach, in the waters of the State, or otherwise threatening the visitors to such places harms the State's reputation, deters future tourism, diminishes the revenue realized from those places and severely impacts the local economy; and

d. It is therefore appropriate, necessary, and in the best interest of the State to establish a comprehensive management system that provides for the proper and safe tracking, identification, packaging, storage, control, monitoring, handling, collection, and disposal of regulated medical waste; that monitoring of the regulated medical waste stream is best accomplished through the creation of a manifest tracking system for regulated medical waste; and strict enforcement of the law concerning regulated medical waste and the establishment of substantial civil and criminal penalties for violations thereof will deter unlawful behavior and further protect the State's beaches, coastline, waters, and land from illegally dumped medical waste that so greatly affects the health and welfare of citizens and visitors, the quality and safety of State waters, the valuable tourism industry, and the State and local economies.

2. Section 3 of P.L.1989, c.34 (C.13:1E-48.3) is amended to read as follows:

C.13:1E-48.3 Definitions.

3. As used in P.L.1989, c.34 (C.13:1E-48.1 et al.):

"Board" means the Board of Public Utilities.

"Collection" means the activity related to pick-up and transportation of regulated medical waste from a generator, or from an intermediate location, to a facility, or to a site outside the State, for disposal.

"Commissioners" means the Commissioner of Environmental Protection and the Commissioner of Health and Senior Services.

"Departments" means the Department of Environmental Protection and the Department of Health and Senior Services.

"Dispose" or "disposal" means the storage, treatment, utilization, processing, resource recovery of, or the discharge, deposit, injection, dumping, spilling, leaking, or placing of any regulated medical waste into or on any land or water so that the regulated medical waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

"Facility" means a solid waste facility as defined in section 3 of P.L.1970, c.39 (C.13:1E-3); or any other incinerator or commercial or non-commercial regulated medical waste disposal facility in this State that accepts regulated medical waste for disposal.

"Federal Act" means the "Medical Waste Tracking Act of 1988" (42 U.S.C. s.6903 et seq.), or any rule or regulation adopted pursuant thereto.

"Generator" means an ambulatory surgical or care facility, community health center, medical doctor's office, dentist's office, podiatrist's office, home health care agency, health care facility, hospital, medical clinic, morgue, nursing home, urgent care center, sterile syringe access program operating pursuant to sections 3 and 4 of P.L.2006, c.99 (C.26:5C-27 and C.26:5C-28), veterinary office or clinic, animal, biological, clinical, medical, microbiological, or pathological diagnostic or research laboratory, any of which generates regulated medical waste, or any other facility identified by the departments that generates regulated medical waste. "Generator" shall not include individual households utilizing home self-care.

"Health care professional" means a person licensed or otherwise authorized pursuant to Title 45 of the Revised Statutes to practice a health care profession that is regulated by one of the following boards: the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Dentistry, the New Jersey State Board of Pharmacy, the Acupuncture Examining Board, or the State Board of Veterinary Medical Examiners.

"Regulated medical waste" means blood vials; cultures and stocks of infectious agents and associated biologicals, including cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures; pathological wastes, including tissues, organs, and body parts that are removed during surgery or autopsy; waste human blood and products of blood, including serum, plasma, and other blood components; sharps that have been used in patient care or in medical, research, or industrial laboratories engaged in medical research, testing, or analysis of diseases affecting the human body, including hypodermic needles, syringes, Pasteur pipettes, broken glass, and scalpel blades; contaminated animal carcasses, body parts, and bedding of animals that were exposed to infectious agents during research, production of biologicals, or testing of pharmaceuticals; any other substance or material related to the transmission of disease as may be deemed appropriate by the departments; and any other substance or material as may be required to be

regulated by, or permitted to be exempted from, the Federal Act. The departments may adopt, by rule or regulation and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a more specific definition of regulated medical waste upon the expiration of the demonstration program established under the Federal Act.

"Noncommercial facility" means a facility or on-site generator, as the case may be, which accepts regulated medical waste from other generators for on-site disposal for a cost-based fee not in excess of the costs actually incurred by the facility or on-site generator for the treatment or disposal of the regulated medical waste.

"Transporter" means a person engaged in the collection or transportation of regulated medical waste.

3. Section 23 of P.L.1989, c.34 (C.13:1E-48.23) is amended to read as follows:

C.13:1E-48.23 Revocation; suspension of registration; reissuance, reinstatement.

23. a. The departments, after hearing, may revoke or suspend the registration issued to any transporter or facility upon a finding that the transporter or facility has:

(1) violated this act, or any rule, regulation, or administrative order adopted or issued pursuant thereto;

(2) violated any law, or any rule, regulation, or administrative order adopted or issued pursuant thereto, related to pollution of the environment or endangerment of the public health; or

(3) refused or failed to comply with any lawful order of either of the departments.

b. If the transporter or facility continues to operate while suspended the departments shall revoke the registration and authorization of the transporter or facility to operate in the State. After completion of the term of suspension, a transporter or facility may, after a hearing, reapply to the departments to have their registration, or other authorization to operate, reissued or reinstated.

(1) If a violation involving the illegal or improper disposal of regulated medical waste in New Jersey is committed by a transporter or facility that is registered and authorized in another state, the Attorney General of New Jersey shall notify the Attorney General or other equivalent authority of that state within 30 days.

(2) If information concerning a transporter or facility registered and authorized in this State and found in violation of another state's medical

waste disposal laws is received by the Attorney General or another State governmental entity, the Attorney General or other State governmental entity shall forward the information to the departments. Within 60 days, the departments shall determine if the information is sufficient to hold a hearing and consider the suspension or revocation of any registration or other authorization to operate, pursuant to this section.

C.13:1E-48.23a Violations, revocation of generator's registration; application for reissuance.

4. If, after a hearing, the Commissioner of Environmental Protection and Commissioner of Health and Senior Services determine that a generator is in violation of P.L.1989, c.34 (C.13:1E-48.1 et al.), or any rule or regulation adopted pursuant thereto, and the violation relates to the willful illegal or improper disposal of regulated medical waste, the Department of Environmental Protection and Department of Health and Senior Services, in addition to any other applicable penalties, may suspend or revoke the generator's registration issued by the departments for the generator to operate in the State. After completion of the term of suspension, a generator may, after a hearing, reapply to the department to have their registration reissued.

a. If a violation involving the illegal or improper disposal of regulated medical waste in New Jersey is committed by a generator that is registered and authorized in another state, the Attorney General of New Jersey shall notify the Attorney General or other equivalent authority of that state within 30 days.

b. If information concerning a generator who is registered in this State and found in violation of another state's medical waste disposal laws is received by the Attorney General or another State governmental entity, the Attorney General or other State governmental entity shall forward the information to the departments. Within 60 days, the departments shall determine if the information is sufficient to hold a hearing and consider the suspension or revocation of any registration or other authorization to operate, pursuant to this section.

C.13:1E-48.23b Violations, revocation of health care professionals' license; application for reissuance.

5. In addition to any other applicable penalties, if, after a hearing, the Commissioner of Environmental Protection or Commissioner of Health and Senior Services determines that a violation of P.L.1989, c.34 (C.13:1E-48.1 et al.), or any rule or regulation adopted pursuant thereto, has been committed by a health care professional, then the appropriate professional licensing

board of the health care professional, or the Division of Consumer Affairs in the Department of Law and Public Safety, as the case may be, after a hearing, may suspend or revoke the health care professional's license or other authorization to practice in the State. After completion of the term of suspension, a health care professional may, after a hearing, reapply to the appropriate professional licensing board of the health care professional, or the Division of Consumer Affairs, to have their license reinstated.

a. If a violation is committed by a health care professional who is licensed or residing in another state, the Attorney General of New Jersey shall notify the Attorney General or other equivalent authority of that state within 30 days.

b. If information concerning a health care professional licensed in this State and found in violation of another state's medical waste disposal laws is received by the Attorney General or another State governmental entity, the Attorney General or the other State governmental entity shall forward the information to the appropriate professional licensing board, or the Division of Consumer Affairs as the case may be. Within 60 days, the appropriate professional licensing board or the division shall determine if the information is sufficient to hold a hearing and consider the licensure suspension under this section.

C.58:10A-10.12 Additional penalties for illegal, improper disposal of regulated medical waste.

6. If a violation of P.L.1977, c.74 (C.58:10A-1 et seq.) involves the willful, illegal or improper disposal of regulated medical waste, as defined pursuant to section 3 of P.L.1989, c.34 (C.13:1E-48.3), and the person found guilty or liable for the violation is a health care professional, facility, generator, or transporter, as also defined under P.L.1989, c.34, the violator shall also be subject to any applicable penalties under P.L.1989, c.34 (C.13:1E-48.1 et al.), including but not limited to the suspension and revocation provisions of section 23 of P.L.1989, c.34 (C.13:1E-48.23) and sections 4 and 5 of P.L.2012, c.65 (C.13:1E-48.23a and C.13:1E-48.23b).

7. Section 3 of P.L.1988, c.61 (C.58:10A-49) is amended to read as follows:

C.58:10A-49 Crime of third degree; penalty; reward.

3. a. (1) A person who intentionally dumps any material into the ocean waters within the jurisdiction of this State, or into the waters outside the jurisdiction of this State, which material enters the ocean waters within the jurisdiction of this State, is guilty of a crime of the third degree.

(2) If the violation involves the willful illegal or improper disposal of regulated medical waste, as defined pursuant to section 3 of P.L.1989, c.34 (C.13:1E-48.3), and the person found guilty or liable for the violation is a health care professional, facility, generator, or transporter, as also defined under P.L.1989, c.34, the violator shall also be subject to any applicable penalties under P.L.1977, c.74 (C.58:10A-1 et seq.) and P.L.1989, c.34 (C.13:1E-48.1 et al.), including but not limited to the suspension and revocation provisions of section 23 of P.L.1989, c.34 (C.13:1E-48.23) and sections 4 and 5 of P.L.2012, c.65 (C.13:1E-48.23a and C.13:1E-48.23b).

b. Of the monetary penalty imposed pursuant to this section, 10% shall be paid to the Department of Environmental Protection from the General Fund if the Attorney General determines that a person or persons are entitled to a reward pursuant to subsection c. of this section.

c. Any person who provides information to an enforcing authority concerning a violation of this act that proximately results in the imposition and collection of a criminal penalty as the result of a criminal action brought pursuant to this act shall be entitled to a reward of 10% of the penalty collected. The reward shall be paid by the department from moneys received pursuant to subsection b. of this section. If more than one person is entitled to a reward, the Attorney General shall determine the percentage of the reward that each person shall receive. The Attorney General shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement this section, including procedures to assure the anonymity of the person or persons providing the information to the enforcing authority when appropriate.

8. This act shall take effect immediately.

Approved November 19, 2012.

CHAPTER 66

AN ACT designating the "Honor and Remember Flag" as the State's official flag for recognizing those of the United States Armed Forces who have given their lives in the line of duty, and supplementing chapter 3 of Title 52 of the Revised Statutes.

WHEREAS, Through the more than 200 years of our nation's history, many millions have served in the armed forces and many hundreds of thousands have died in the line of duty for the United States; and

WHEREAS, Nonetheless, there has never been an official symbol to remind us of these brave members of our military who have lost their lives in our defense; and

WHEREAS, The "Honor and Remember Flag" will serve as that symbol, affording us a means to express our gratitude to the armed service members who have made the ultimate sacrifice, along with their families, who have also endured immense loss; and

WHEREAS, The flag recognizes all armed service members who have died as a result of serving the United States in any war or conflict the nation has been involved in since its inception; and

WHEREAS, The "Honor and Remember Flag" contains several elements, consisting of a red field to represent the blood of the brave men and women who sacrificed their lives for our freedom, a blue star, which has been a symbol of active service in military conflict ever since World War I, a white border to recognize the purity of sacrifice, a gold star to symbolize those who have made the ultimate sacrifice in service to our country, a folded flag element to highlight our nation's final tribute to a fallen service member, and a flame to symbolize the eternal spirit of the departed; and

WHEREAS, The flag was conceived by George Lutz, the father of George Anthony Lutz II, "Tony," who was killed by a sniper's bullet while he was on patrol in Fallujah, Iraq on December 29, 2005; and

WHEREAS, During the emotional months that followed Tony's death, Mr. Lutz visited other families who had lost loved ones in the Iraq war, and was overcome with a sense that he had joined the ranks of a unique fellowship, and found consistently that these other families shared a desire to know that their loved one's sacrifice was not in vain and that the nation would never forget; and

WHEREAS, After Mr. Lutz learned that the nation did not have an officially recognized symbol to acknowledge the sacrifice of the estimated 1.6 million American service members who have given their lives, the "Honor and Remember Flag" was created; and

WHEREAS, To ensure that we never forget the immense sacrifices of fallen soldiers and their families, it is fitting for this State to properly symbolize its gratitude; now, therefore,

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

C.52:3-13 Designation of "Honor and Remember Flag."

1. The "Honor and Remember Flag" is designated as the State's official flag for recognizing all armed service members who have died as a result of serving the United States in any war or conflict the nation has been involved in since its inception.

2. This act shall take effect immediately.

Approved November 19, 2012.

CHAPTER 67

AN ACT concerning medical claims in connection with work-related injuries and illnesses and amending R.S.34:15-15.

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

1. R.S.34:15-15 is amended to read as follows:

Medical and hospital service.

34:15-15. The employer shall furnish to the injured worker such medical, surgical and other treatment, and hospital service as shall be necessary to cure and relieve the worker of the effects of the injury and to restore the functions of the injured member or organ where such restoration is possible; provided, however, that the employer shall not be liable to furnish or pay for physicians' or surgeons' services in excess of $50.00 and in addition to furnish hospital service in excess of $50.00, unless the injured worker or the worker's physician who provides treatment, or any other person on the worker's behalf, shall file a petition with the Division of Workers' Compensation stating the need for physicians' or surgeons' services in excess of $50.00, as aforesaid, and such hospital service or appliances in excess of $50.00, as aforesaid, and the Division of Workers' Compensation after investigating the need of the same and giving the employer an opportunity to be heard, shall determine that such physicians' and surgeons' treatment and hospital services are or were necessary, and that the fees for the same are reasonable and shall make an order requiring the employer to pay for or furnish the same. The mere furnishing of medical treatment or the payment thereof by the employer shall not be construed to be an admission of liability.

If the employer shall refuse or neglect to comply with the foregoing provisions of this section, the employee may secure such treatment and services as may be necessary and as may come within the terms of this section, and the employer shall be liable to pay therefor; provided, however, that the employer shall not be liable for any amount expended by the employee or by any third person on the employee's behalf for any such physicians' treatment and hospital services, unless such employee or any person on the employee's behalf shall have requested the employer to furnish the same and the employer shall have refused or neglected so to do, or unless the nature of the injury required such services, and the employer or the superintendent or foreman of the employer, having knowledge of such injury shall have neglected to provide the same, or unless the injury occurred under such conditions as make impossible the notification of the employer, or unless the circumstances are so peculiar as shall justify, in the opinion of the Division of Workers' Compensation, the expenditures assumed by the employee for such physicians' treatment and hospital services, apparatus and appliances.

All fees and other charges for such physicians' and surgeons' treatment and hospital treatment shall be reasonable and based upon the usual fees and charges which prevail in the same community for similar physicians', surgeons' and hospital services.

When an injured employee may be partially or wholly relieved of the effects of a permanent injury, by use of an artificial limb or other appliance, which phrase shall also include artificial teeth or glass eye, the Division of Workers' Compensation, acting under competent medical advice, is empowered to determine the character and nature of such limb or appliance, and to require the employer or the employer's insurance carrier to furnish the same.

Fees for treatments or medical services that have been authorized by the employer or its carrier or its third party administrator or determined by the Division of Workers' Compensation to be the responsibility of the employer, its carrier or third party administrator, or have been paid by the employer, its carrier or third party administrator pursuant to the workers' compensation law, R.S.34:15-1 et seq., shall not be charged against or collectible from the injured worker. Exclusive jurisdiction for any disputed medical charge arising from any claim for compensation for a work-related injury or illness shall be vested in the division. The treatment of an injured worker or the payment of workers' compensation to an injured worker or dependent of an injured or deceased worker shall not be delayed because of a claim by a medical provider.

2. This act shall take effect immediately.

Approved November 19, 2012.

CHAPTER 68

AN ACT concerning food donations and amending P.L.1982, c.178.

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

1. Section 2 of P.L.1982, c.178 (C.24:4A-2) is amended to read as follows:

C.24:4A-2 Definitions.

2. As used in this act:

a. "Donor" includes, but is not limited to, any farmer, processor, distributor, wholesaler or retailer of perishable or prepared food, or an institution of higher education in this State;

b. "Food" means articles used for food or drink for humans and articles used for components of any such article;

c. "Gleaner" means a person who harvests for distribution an agricultural food that has been donated by the owner;

d. "Nonprofit organization" means an organization incorporated under the provisions of Title 15 or Title 16 of the Revised Statutes of New Jersey, an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code or an entity to which a charitable contribution as defined under subsection (c) of section 170 of the Internal Revenue Code is deductible under section 170;

e. "Perishable food" means any food that may spoil or otherwise become unfit for human consumption because of its nature, type or physical condition. Perishable food includes, but is not limited to, fresh or processed meats, poultry, seafood, dairy products, bakery products, eggs in the shell, fresh fruits or vegetables and foods that have been canned or otherwise processed and packaged and which may or may not require refrigeration or freezing;

f. "Prepared food" means food commercially processed and prepared for human consumption;

g. "Food bank" means a nonprofit food clearinghouse that solicits, stores, and distributes donations of edible but unmarketable surplus food. The food is distributed to nonprofit organizations that feed the needy.

2. This act shall take effect immediately.

Approved December 3, 2012.

CHAPTER 69

AN ACT concerning individuals with developmental disabilities, designated as "Tara's Law," supplementing chapter 6D of Title 30 of the Revised Statutes, and amending various parts of the statutory law.

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

C.30:6D-5.7 Findings, declarations relative to individuals with developmental disabilities.

1. The Legislature finds and declares that:

a. There are hundreds of community care residences in the State in which an adult or family secures a license from the Department of Human Services to provide care or training, or both, to up to four individuals with developmental disabilities;

b. For protection of the individuals with developmental disabilities residing in these community care residences, there needs to be an increase in the oversight of the persons licensed to operate community care residences, the case managers who are required to conduct monthly visits of these residences, and the day programs that individuals with developmental disabilities are scheduled to, but may not actually, attend;

c. It is also important to improve communications with guardians and authorized family members of individuals with developmental disabilities residing in community care residences so that guardians and authorized family members know whether the individual is receiving good care, attending scheduled day programs, and following the individualized habilitation plan developed for the individual;

d. Currently an individual with a developmental disability residing in a community care residence is required to have annual medical examinations; for the protection of an individual who may be suffering injury in-

flicted by the licensee of the community care residence, the examining physician should be required to take protective custody of the individual and report such action to the Department of Human Services;

e. Ensuring that investigators have access to communications concerning allegations of abuse, neglect, or exploitation of an individual with a disability, and that investigative reports examine the role of those overseeing the persons providing care to individuals with developmental disabilities, would provide needed information for any civil or criminal proceeding that may follow an allegation of abuse, neglect, or exploitation; and

f. It is the policy of this State to: ensure that there is sufficient oversight of community care residences and day programs attended by individuals with developmental disabilities residing in community care residences; protect these individuals from injury that may be inflicted by the very persons charged with providing them with care; and safeguard and report information that may be important for a civil or criminal proceeding that may follow an allegation of abuse, neglect, or exploitation of an individual with a developmental disability residing in a community setting.

C.30:6D-5.8 Definitions relative to individuals with developmental disabilities.

2. As used in this act:

"Alternate" means a person 18 years of age or older who assumes the responsibility of a licensee when the licensee is absent from a community care residence.

"Authorized family member" means a relative of the individual with a developmental disability authorized by the individual's guardian, or by the individual if the individual is his own guardian, to receive information pursuant to this act.

"Community care residence" or "residence" means a private home or apartment in which an adult or family is licensed by and contracts with the department to provide an individual with a developmental disability with care or training, or both.

"Commissioner" means the Commissioner of Human Services.

"Department" means the Department of Human Services.

"Division" means the Division of Developmental Disabilities in the Department of Human Services.

"Licensee" means one or more persons 18 years of age or older who are named on the license issued by the Department of Human Services to operate a community care residence and have overall responsibility for an individual with a developmental disability.

"Negative licensing action" means an action taken that imposes a restriction on a licensee and may include suspension of admissions, issuance of a provisional license of a residence, reduction in the licensed capacity, non-renewal of license, suspension of a license, or revocation of a license.

"Office of Licensing" or "office" means the licensing unit of the Department of Human Services for programs in the Division of Developmental Disabilities.

"Special Response Unit" means the unit in the department that is charged with investigation of serious unusual incidents, as defined by applicable rules and regulations of the department, and is responsible for the investigation of a report of abuse, neglect, or exploitation in a community care residence.

"Substantiated" means the available information obtained during the investigation of an allegation of abuse, neglect, or exploitation indicates a finding by a preponderance of the evidence that an individual with a developmental disability has been harmed or placed at substantial risk of harm by a caretaker or licensee.

"Unfounded" means the available information obtained during the investigation of an allegation of abuse, neglect, or exploitation indicates a finding that there is no risk to the safety or welfare of the individual with a developmental disability.

"Unsubstantiated" means the available information obtained during the investigation of an allegation of abuse, neglect, or exploitation provides some indication of a finding that an individual with a developmental disability has been harmed or placed at substantial risk of harm by a caretaker or licensee.

C.30:6D-5.9 Rules concerning licensed community care residence.

3. A community care residence licensed by the Department of Human Services pursuant to N.J.A.C. 10:44B-1.1 et seq. shall be subject to the following provisions:

a. If, as a result of an annual inspection of a community care residence by the Office of Licensing that allows for inquiry into the facilities, records, equipment, sanitary conditions, accommodations, and management of an individual with a developmental disability as required by N.J.A.C.10:44B-1.1 et seq., a licensee is required to provide a plan of correction and that plan has not been successfully implemented, as determined by the supervisor of the case manager of the individual or the office, within 30 days of the date that the licensee submitted the plan to the office, an individual with a developmental disability residing in that residence shall be

removed from the residence if the supervisor, in consultation with the office, determines that the licensee's failure to implement the plan of correction threatens the health and well-being of the individual with the developmental disability.

b. If the health, safety, or well-being of an individual with a developmental disability residing in a community care residence is threatened because of a licensee's noncompliance with the standards adopted by regulation of the department, the individual with a developmental disability shall be removed from the residence, and the licensee shall be subject to negative licensing action by the Office of Licensing.

c. (1) The department shall have the authority to impose a penalty in an amount of $350 per day on the licensee for a repeated failure to implement a required plan of correction. The penalty shall be payable to the Treasurer of the State of New Jersey and shall be used to provide food and care to individuals with developmental disabilities residing in community care residences.

(2) If the department determines that a repeated failure to implement a required plan of correction endangers the health and well-being of an individual with a developmental disability, the department may, upon notice and after hearing, revoke the license issued to operate a community care residence.

C.30:6D-5.10 Compliance by licensee required.

4. a. The Department of Human Services shall require a licensee, as a condition of maintaining a license to operate a community care residence, to comply with the following provisions:

(1) A licensee shall, annually, undergo an examination by a physician to ascertain whether the licensee is physically and mentally capable of fulfilling the job duties of a licensee, as specified on the form listing a licensee's job duties prepared by the department pursuant to section 5 of this act and completed by the physician pursuant to this subsection. Upon conclusion of the examination, the physician shall provide the licensee with a statement as to whether the licensee is capable of fulfilling the duties of a licensee, and complete and attach the form on which the physician shall indicate, for each duty, whether the licensee is capable of fulfilling the duty. The department may, at its discretion, require further physical or mental health examinations of the licensee.

(2) Upon receipt of the physician statement and completed form, a licensee shall provide the statement and form to the department. If a licensee fails to provide the statement and form, the commissioner shall have the

authority to: stop any payments to the licensee; seek recovery of any payments to the licensee from the date that the statement and form were due; and not resume payment until such time as the licensee submits the statement and form.

(3) If, after undergoing the examination, a licensee is unable to provide the physician's statement and the completed form, the licensing agency shall take negative licensing action against the licensee.

b. (1) In the event that an individual with a developmental disability is not capable of managing the individual's own funds, a licensee who is responsible for making purchases and disbursements on the individual's behalf shall not make such a purchase or disbursement unless that purchase or disbursement reflects the specific needs of the individual with a developmental disability.

(2) Over a four-year period, the Office of Auditing in the department shall review a random sample of one month's worth of receipts or records for purchases and disbursements made on behalf of each individual with a developmental disability. The case manager and the case manager's supervisor shall also review a random sample of receipts and records of such purchases and disbursements. If it is determined that a purchase or disbursement does not reflect the specific needs of the individual with a developmental disability, that fact shall be documented and the commissioner or the commissioner's designee shall be so advised. The commissioner or the commissioner's designee may instruct the licensing agency to take negative licensing action.

(3) (a) If there is evidence that an inappropriate purchase or disbursement entailed an egregious amount of money, the commissioner or the commissioner's designee shall report the purchase or disbursement to the Attorney General.

(b) If there is evidence that a case manager was aware of an egregious inappropriate purchase or disbursement and failed to document that fact or notify the case manager's supervisor, the commissioner or the commissioner's designee shall notify the Attorney General.

c. A licensee shall annually attend a continuing education program conducted or approved by the department, as provided for in section 5 of this act.

d. A licensee shall annually take a two-week leave from providing services to an individual with a developmental disability residing in a community care residence, during which time an alternate shall provide care or training, or both, to the individual with a developmental disability.

e. A licensee shall demonstrate to the case manager the licensee's ability to provide any physical assistance that individuals in the licensed home may require.

f. A licensee shall immediately notify the responsible placing agency in the event of a lapse in the individual's participation or attendance in the individual's day program that exceeds a duration of five consecutive days, with the exception of a planned vacation or a documented medical reason.

C.30:6D-5.11 Provisional license.

5. a. The department may issue a provisional license to operate a community care residence, not to exceed a three-month period, during which time the licensee shall demonstrate the ability to comply with the provisions of this act and the licensing standards adopted by regulation of the department for the operation of a community care residence.

b. The department shall conduct, or approve another entity to conduct, a continuing education program for a licensee.

c. The department shall prepare a form listing the job duties of a licensee and biennially distribute the form to a licensee for completion by the licensee's physician in accordance with the provisions of section 4 of this act. The form shall contain a check list on which the physician shall indicate a licensee's ability to perform each duty.

C.30:6D-5.12 Provision of written report by case manager.

6. a. A case manager conducting a visit to an individual with a developmental disability residing in a community care residence, in accordance with section 8 of P.L.1983, c.524 (C.30:6D-20), shall, upon completion of the visit, provide a written report to the case manager's supervisor and, if requested, to the guardian or authorized family member, as appropriate, of the individual with a developmental disability. The report, which shall be sent electronically to the case manager's supervisor and, if practicable, electronically to the guardian or authorized family member, shall include information pertaining to the care and safety of the individual with a developmental disability, including, but not limited to, personal hygiene and grooming, nutritional and clothing needs, overall sanitary and living conditions of the community care residence, and the general well-being of the individual with a developmental disability.

The reports made pursuant to this subsection may be shared with persons other than the guardian or authorized family member, if the individual with the developmental disability so authorizes in writing.

b. The case manager shall also review the records required to be maintained in a community care residence pursuant to N.J.A.C.10:44B-1.1 et seq., on a monthly basis. The case manager's supervisor shall review the records when the supervisor performs the visit required by section 7 of this act. The case manager or supervisor, or both, as applicable, shall provide written documentation that the records were reviewed and include that documentation with the records maintained pursuant to N.J.A.C.10:44B-1.1 et seq.

C.30:6D-5.13 Visit by supervisor of case manager.

7. The supervisor of a case manager shall, over a three-year period, visit 100 percent of the individuals with developmental disabilities who are assigned to the case manager and residing in a community care residence, except that individuals who are their own guardians may decline such visits by providing a written statement to that effect to the department. One third of the visits shall be conducted in each of the first three years. If, after three years, the supervisor determines that, based on certain factors, including, but not limited to, the number and age of the individuals residing in the community care residence, whether each individual attends a day program on a regular basis, and lack of complaints after three years, the individuals in the community care residence are not at risk for abuse, neglect, or exploitation, the visits may be reduced to one visit every four years.

a. The visit shall be conducted by the supervisor in coordination with a case manager who is unaffiliated with and unfamiliar to the assigned case manager. The supervisor and unaffiliated case manager shall prepare and provide to the guardian or authorized family member of the individual with a developmental disability a written report pertaining to the care and safety of that individual.

b. The supervisor shall conduct a review of:

(1) a member of the household of a community care residence who is 18 years of age or older to determine whether the presence of the person 18 years of age or older in the household changes the character of the community care residence so that it is no longer a positive environment for care or training, or both, of an individual with a developmental disability;

(2) a licensee who is 65 years of age or older to determine whether the licensee is capable of continuing to provide care or training, or both, to an individual with a developmental disability; and

(3) a licensee who experiences a life-changing event that causes a changed physical or mental condition of the licensee, to determine whether the licensee is able to provide care or training, or both, to an individual with a developmental disability.

c. The supervisor shall prepare a written report of a review conducted pursuant to subsection b. of this section and the report shall be made part of the records maintained in a community care residence pursuant to N.J.A.C. 10:44B-1.1 et seq.

d. If, based on the supervisor's and unaffiliated case manager's review and input from family members or the guardian of the individual with a developmental disability residing in the community care residence, the supervisor determines that the individual would benefit from a change in the individual's case manager, the supervisor shall assign a different case manager to the individual.

e. If, as a result of a visit or review conducted pursuant to this section, a supervisor determines that a licensee is not capable of providing care or training, or both, to an individual with a developmental disability, the supervisor shall so advise the commissioner or the commissioner's designee who shall instruct the licensing agency to take negative licensing action. In such a case, the supervisor shall provide a copy of the written report prepared pursuant to section 6 of this act and any written report prepared pursuant to subsection c. of this section to the commissioner or the commissioner's designee.

f. The Office of Licensing shall annually conduct routine unannounced visits of 10 percent of community care residences Statewide. These visits shall include a review of financial records, including receipts for purchases and disbursement.

C.30:6D-5.14 Notice to licensee.

8. Before taking negative licensing action pursuant to this act, the department shall give notice to a licensee personally or by mail to the last known address of the licensee with return receipt requested. The notice shall afford the licensee the opportunity to be heard and to contest the department's action. The hearing shall be conducted in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

9. Section 3 of P.L.2010, c.5 (C.30:6D-75) is amended to read as follows:

C.30:6D-75 Report of abuse required.

3. a. A case manager or case manager's supervisor in the department, a person employed or volunteering in a program, facility, community care residence, or living arrangement licensed or funded by the department, or a person providing community-based services with indirect State funding to a

person with a developmental disability, as applicable, having reasonable cause to believe that an individual with a developmental disability has been subjected to abuse, neglect, or exploitation by a caregiver shall report the same immediately to the department by telephone or otherwise. Such report, where possible, shall contain the name and address of the individual with a developmental disability and the caregiver responsible for the care, custody, or control of the individual with a developmental disability, and the guardian, or other person having custody and control of the individual and, if known, the condition of the individual with a developmental disability, the nature and possible extent of the individual's injuries, maltreatment, abuse, neglect or exploitation, including any evidence of previous injuries, maltreatment, abuse, neglect, or exploitation, and any other information that the person believes may be helpful with respect to the injuries, maltreatment, abuse, neglect, or exploitation of the individual with a developmental disability and the identity of the alleged offender.

b. Within the department, the commissioner shall maintain a unit to receive and prioritize such reports, initiate appropriate responses through timely and appropriate investigative activities, alert appropriate staff, and ensure that findings are reported in a uniform and timely manner.

c. (1) A person employed or volunteering in a program, facility, community care residence, or living arrangement licensed or funded by the department, or a person providing community-based services with indirect State funding to a person with a developmental disability, as applicable, who fails to report an act of abuse, neglect, or exploitation against an individual with a developmental disability while having reasonable cause to believe that such an act has been committed, is a disorderly person.

(2) A case manager or case manager's supervisor in the department who fails to report an act of abuse, neglect, or exploitation of an individual with a developmental disability while having reasonable cause to believe that such an act has been committed, shall be guilty of a disorderly person's offense, unless the abuse, neglect, or exploitation results in the death of an individual with a developmental disability, in which case the case manager or case manager's supervisor shall be guilty of a crime of the fourth degree.

d. In addition to any penalty imposed pursuant to this section, a person convicted under this section shall be subject to a penalty in the amount of $350 for each day that the abuse, neglect, or exploitation was not reported, payable to the Treasurer of the State of New Jersey, which shall be used by the department to fund the provision of food and care to individuals with developmental disabilities residing in community care residences.

e. A case manager or case manager's supervisor who is charged with failure to report an act of abuse, neglect, or exploitation of an individual with a developmental disability while having reasonable cause to believe that such an act has been committed, shall be temporarily reassigned to duties that do not involve contact with individuals with developmental disabilities or other vulnerable populations and shall be terminated from employment if convicted.

In the case of a case manager or case manager's supervisor who is employed by the department, the case manager or supervisor shall retain any available right of review by the Civil Service Commission.

10. Section 4 of P.L.2010, c.5 (C.30:6D-76) is amended to read as follows:

C.30:6D-76 Actions by department after receiving reports.

4. a. Upon receipt of a report pursuant to section 3 of this act, the department shall designate an entity, as established by the commissioner, that shall immediately take such action as shall be necessary to ensure the safety of the individual with a developmental disability and to that end may request appropriate assistance from local and State law enforcement officials or contact Adult Protective Services to provide assistance in accordance with the provisions of P.L.1993, c.249 (C.52:27D-406 et seq.).

b. The commissioner shall adopt rules and regulations necessary to provide for an investigation of a reported incident and subsequent substantiation or non-substantiation of an allegation of abuse, neglect, or exploitation of an individual with a developmental disability by a caregiver, by maintaining a Special Response Unit to investigate serious unusual incidents, as defined by applicable rules and regulations, in facilities or community programs licensed, contracted, or regulated by the department. During its investigation of an allegation of abuse, neglect, or exploitation of an individual with a developmental disability by a caregiver, the Special Response Unit shall make a good faith effort to notify the caregiver of the possibility of the caregiver's inclusion on the registry, and give the caregiver an opportunity to respond to the department concerning the allegation.

c. The Special Response Unit, the department, or other investigating entity shall forward to the commissioner, or the commissioner's designee, a substantiated incident of abuse, neglect, or exploitation of an individual with a developmental disability for inclusion of an offending caregiver on the central registry. The Special Response Unit, the department, or other investigating entity shall also forward to the commissioner, or the commissioner's designee, all unsubstantiated incidents of abuse, neglect, or exploi-

tation of an individual with a developmental disability. As soon as possible, and no later than 14 days after receipt of the incident of abuse, neglect, or exploitation, the commissioner or the commissioner's designee shall review the incident. The offending caregiver of a substantiated incident shall be included on the central registry as expeditiously as possible. The Special Response Unit shall retain a record of all unsubstantiated incidents.

d. Upon the initiation of an investigation, the department shall: (1) ensure that any communication concerning the alleged abuse, neglect, or exploitation of an individual with a developmental disability between a caregiver, case manager of the caregiver, the case manager's supervisor, or a person at the appropriate Regional Office of the Division of Developmental Disabilities is identified, safeguarded from loss or destruction, and maintained in a secure location; and (2) contact the Office of the Attorney General, which shall determine whether to participate in the investigation.

e. The Special Response Unit shall issue a written report of the investigation that includes the conclusions of the unit, the rationale for the conclusion, and a detailed summary of any communication secured pursuant to subsection d. of this section. The report shall also include an assessment of the role of any case manager of a caregiver or the case manager's supervisor, if applicable, in the allegation of abuse, neglect, or exploitation, and a recommendation about whether any civil or criminal action should be brought against the case manager or supervisor. The report shall be made part of the record for review in any civil or criminal proceeding that may ensue.

A written summary of the conclusions of the investigation shall be provided to the guardian or authorized family member of the individual with a developmental disability who is the subject of the alleged abuse, neglect, or exploitation.

f. A licensed provider in another state shall be permitted access to the central registry.

C.30:6D-5.15 Compilation of data by Special Response Unit.

11. The Special Response Unit shall compile data about any investigation conducted as a result of a report made pursuant to section 3 of P.L.2010, c.5 (C.30:6D-75), concerning abuse, neglect, or exploitation of an individual with a developmental disability residing in a community care residence, and shall issue an annual report as provided in this section. The report, which shall be made available on the website of the department and contain non-identifying information, shall, at a minimum, include:

a. the number of individuals with developmental disabilities residing in community care residences who were the subject of an allegation of

abuse, neglect, or exploitation, and the number of substantiated, unsubstantiated, and unfounded allegations;

b. the number of deaths, if any, of individuals with developmental disabilities who were residing in community care residences and were the subject of a report of abuse, neglect, or exploitation, and the cause of death;

c. the number of case managers or case managers' supervisors who have been reassigned or terminated, or both, as a result of an investigation of abuse, neglect, or exploitation of an individual with a developmental disability residing in a community care residence; and

d. the number of case managers or case managers' supervisors against whom a civil or criminal action has been brought as a result of an allegation of abuse, neglect, or exploitation of an individual with a developmental disability residing in a community care residence.

C.30:6D-5.16 Submission of report by provider of day program.

12. a. A provider of a day program for individuals with developmental disabilities shall submit to the division a copy of its monthly report of individuals with developmental disabilities who reside in community care residences and attend a day program sponsored by the provider. The report shall be submitted no later than 14 days after the end of each month.

b. A provider of a day program for individuals with developmental disabilities shall not seek reimbursement from the department for an individual with a developmental disability who resides in a community care residence and is scheduled to attend a day program sponsored by the provider, but has not attended the program for 30 consecutive days. A provider who seeks reimbursement in violation of this subsection shall refund a payment received from the department on behalf of that individual, and shall be subject to a penalty of $1,000 per day, per individual listed on the monthly attendance report as being in attendance, but who was not in attendance. The penalty shall be sued for and collected in a summary proceeding by the commissioner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

c. If an individual with a developmental disability who resides in a community care residence and is scheduled to attend a day program is absent from the program for 30 consecutive days, the provider of the day program shall, no later than 14 days after the end of the 30 days, notify the appropriate regional office administrator.

d. The division shall, no later than 28 days after the end of each month, provide a copy of the monthly report submitted by a provider pursuant to this section to:

(1) the appropriate regional office administrator; and

(2) the supervisor of a case manager assigned to an individual with a developmental disability who resides in a community care residence and is scheduled to attend the day program.

e. The division shall provide:

(1) a guardian or authorized family member of an individual with a disability, who resides in a community care residence and is scheduled to attend a day program, with information pertaining to the individual's monthly attendance at the day program, if requested. The information shall be provided no later than 28 days after the end of the month in which the information was requested; and

(2) a random sampling of the monthly reports to the Special Response Unit, which shall audit attendance of individuals with developmental disabilities who reside in community care residences and are scheduled to attend a day program.

f. A regional office administrator shall bi-annually conduct an on-site audit of attendance of individuals with developmental disabilities who reside in community care residences and are scheduled to attend a day program in the office's region.

C.30:6D-5.17 Power to take individual into protective custody.

13. a. A physician examining or treating an individual with a developmental disability residing in a community care residence or the chief executive officer, or his designee, of a hospital or similar institution to which the individual has been brought for care or treatment, or both, is empowered to take the individual into protective custody when the individual has suffered serious physical injury or injuries, or the individual's condition constitutes a life-threatening emergency, as defined in section 2 of P.L.2003, c.191 (C.30:6D-5.2), and the most probable inference from the medical and factual information supplied is that the injury or condition was inflicted upon the individual by another person by other than accidental means, and the person suspected of inflicting, or permitting to be inflicted, the injury upon the individual is a licensee or alternate of a community care residence where the individual resides and to whom the individual would normally be returned.

b. The physician or the chief executive officer, or his designee, of a hospital or similar institution taking an individual with a disability into protective custody shall immediately report the action and the condition of the individual with a developmental disability to the department by calling its emergency telephone service.

c. A physician or chief executive officer, or his designee, who fails to comply with the provisions of this section shall be subject to a penalty of $500. The penalty shall be sued for and collected in a summary proceeding by the commissioner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

C.30:6D-5.18 Certain information omitted from habilitation plan.

14. a. An agency or organization that causes a written, individualized habilitation plan to be developed pursuant to section 10 of P.L.1977, c.82 (C.30:6D-10), on or after the effective date of this act, for an individual with a developmental disability residing in a community care residence shall not include the Social Security number of the individual with a developmental disability on the plan. In the case of an individualized habilitation plan developed prior to the effective date of this act, the Social Security number of the individual with a developmental disability residing in a community care residence shall be removed from the plan within 60 days of the effective date of this act.

b. An agency or organization that violates the provisions of subsection a. of this section shall be subject to a penalty of $250 for the first offense and $500 for each subsequent offense. The penalty shall be sued for and collected in a summary proceeding by the commissioner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

c. In addition to the requirements for the development, revision, and review of an individual habilitation plan pursuant to sections 10 and 12 of P.L.1977, c.82 (C.30:6D-10 and C.30:6D-12), a plan developed, revised, or reviewed for an individual with a developmental disability residing in a community care residence shall be provided to the licensee of the community care residence, the case manager of the individual with a developmental disability residing in the community care residence, and the case manager's supervisor. If a guardian or authorized family member of the individual is unable to attend the development, revision, or review of the plan, a copy of the plan shall be provided to the guardian or authorized family member of the individual, and the guardian or authorized family member, as appropriate, shall sign and return a copy of the plan to the agency or organization responsible for the development, revision, or review of the plan.

C.30:6D-5.19 Rules, regulations.

15. The Commissioner of Human Services shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out the provisions of this act.

16. This act shall take effect on the 180th day after 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.

Approved December 3, 2012.

CHAPTER 70

AN ACT establishing a summary action to foreclose mortgages on vacant and abandoned residential property and supplementing chapter 50 of Title 2A of the New Jersey Statutes.

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

C.2A:50-73 Summary action to foreclose mortgages on certain properties.

1. a. For the purposes of this section, "vacant and abandoned" residential property means residential real estate with respect to which the mortgagee proves, by clear and convincing evidence, that the mortgaged real estate is vacant and has been abandoned. Real property shall be deemed "vacant and abandoned" if the court finds that the mortgaged property is not occupied by a mortgagor or tenant as evidenced by a lease agreement entered into prior to the service of a notice of intention to commence foreclosure according to section 4 of the "Fair Foreclosure Act," P.L.1995, c.244 (C.2A:50-56), and at least two of the following conditions exist:

(1) overgrown or neglected vegetation;

(2) the accumulation of newspapers, circulars, flyers or mail on the property;

(3) disconnected gas, electric, or water utility services to the property;

(4) the accumulation of hazardous, noxious, or unhealthy substances or materials on the property;

(5) the accumulation of junk, litter, trash or debris on the property;

(6) the absence of window treatments such as blinds, curtains or shutters;

(7) the absence of furnishings and personal items;

(8) statements of neighbors, delivery persons, or government employees indicating that the residence is vacant and abandoned;

(9) windows or entrances to the property that are boarded up or closed off or multiple window panes that are damaged, broken and unrepaired;

(10) doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;

(11) a risk to the health, safety or welfare of the public, or any adjoining or adjacent property owners, exists due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;

(12) an uncorrected violation of a municipal building, housing, or similar code during the preceding year, or an order by municipal authorities declaring the property to be unfit for occupancy and to remain vacant and unoccupied;

(13) the mortgagee or other authorized party has secured or winterized the property due to the property being deemed vacant and unprotected or in danger of freezing;

(14) a written statement issued by any mortgagor expressing the clear intent of all mortgagors to abandon the property;

(15) any other reasonable indicia of abandonment.

b. For the purposes of this section, a residential property shall not be considered "vacant and abandoned" if, on the property:

(1) there is an unoccupied building which is undergoing construction, renovation, or rehabilitation that is proceeding diligently to completion, and the building is in compliance with all applicable ordinances, codes, regulations, and statutes;

(2) there is a building occupied on a seasonal basis, but otherwise secure; or

(3) there is a building that is secure, but is the subject of a probate action, action to quiet title, or other ownership dispute.

c. In addition to the residential mortgage foreclosure procedures set out in the "Fair Foreclosure Act," P.L.1995, c.244 (C.2A:50-53 et seq.), a summary action to foreclose a mortgage debt secured by residential property that is vacant and abandoned may be brought by a lender in the Superior Court. In addition, a lender may, at any time after filing a foreclosure action, file with the court, in accordance with the Rules Governing the Courts of the State of New Jersey, an application to proceed in a summary manner because the residential property that is the subject of the foreclosure action is believed to be "vacant and abandoned"; provided, however, that this section shall not apply to a foreclosure of a timeshare interest secured by a mortgage.

d. (1) In addition to the service of process required by the Rules of Court, a lender shall establish, for the entry of a residential foreclosure judgment under this section, that a process server has made two unsuccessful attempts

to serve the mortgagor or occupant at the residential property, which attempts must be at least 72 hours apart, and during different times of the day, either before noon, between noon and 6 P.M., or between 6 P.M. and 10 P.M.

(2) In addition to any notices required to be served by law or the Rules of Court, a lender shall, with any order to show cause served as original service of process or a motion to proceed summarily, serve a notice that the lender is seeking, on the return date of the order to show cause, or on the date fixed by the court, to proceed summarily for entry of a residential foreclosure judgment because the property is vacant and abandoned.

(3) When a property is deemed vacant and abandoned as herein defined, a lender shall not be required to serve the debtor with the notice to cure required by section 6 of the "Fair Foreclosure Act," P.L.1995, c.244 (C.2A:50-58).

e. (1) The court may enter a final residential mortgage foreclosure judgment under this section upon a finding, (a) by clear and convincing evidence, that the residential property is vacant and abandoned as defined under subsection a. of this section, and (b) that a review of the pleadings and documents filed with the court, as required by the Rules of Court, supports the entry of a final residential mortgage foreclosure judgment.

(2) A final residential mortgage foreclosure judgment under this section shall not be entered if the court finds that:

(a) the property is not vacant or abandoned; or

(b) the mortgagor or any other defendant has filed an answer, appearance, or other written objection that is not withdrawn and the defenses or objection asserted provide cause to preclude the entry of a final residential mortgage foreclosure judgment.

f. If a final residential mortgage foreclosure judgment under this section is not entered on the original or adjourned return date of an order to show cause or the date fixed by the court to proceed summarily, the court may direct that the foreclosure action continue on the normal track for residential mortgage foreclosure actions for properties that are not vacant and abandoned and the notice to cure served with the order to show cause or the order fixing that date for the matter to proceed summarily shall be of no effect.

g. All actions brought to foreclose on real property pursuant to this section shall proceed in accordance with the Rules of Court.

h. Nothing in this section is intended to supersede or limit other procedures adopted by the Court to resolve residential mortgage foreclosure actions, including, but not limited to, foreclosure mediation.

i. Nothing in this section shall be construed to affect the rights of a tenant to possession of a leasehold interest under the Anti-Eviction Act,

P.L.1974, c.49 (C.2A:18-61.1 et seq.), the "New Jersey Foreclosure Fairness Act," P.L.2009, c.296 (C.2A:50-69 et seq.), or any other applicable law.

j. Notwithstanding paragraph (3) of subsection a. of section 12 of P.L.1995, c.244 (C.2A:50-64) to the contrary, if the court makes a finding in the foreclosure judgment that the property is vacant and abandoned, the sheriff shall sell the property within 60 days of the sheriff's receipt of any writ of execution issued by the court. If it becomes apparent that the sheriff cannot comply with the provisions of this subsection, the foreclosing plaintiff may apply to the court for an order appointing a Special Master or judicial agent to hold the foreclosure sale.

2. This act shall take effect immediately but shall remain inoperative until the first day of the fourth month next following the date of enactment.

Approved December 3, 2012.

CHAPTER 71

AN ACT concerning the licensing of persons responsible for the installation, repair, or maintenance of elevators, escalators, and moving walkways, supplementing chapter 14 of Title 45 of the Revised Statutes and amending various parts of the statutory law.

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

C.45:14H-1 Findings, declarations relative to standards for persons installing, repairing, maintaining elevators, escalators, and moving walkways.

1. The Legislature finds and declares that the citizens and residents of the State of New Jersey are entitled to the maximum protection practicable when using elevator, escalator, and moving walkway devices, and that the protection can be increased by requiring appropriate training and experience for persons installing, repairing, and maintaining those devices. It is therefore necessary for the public good to establish standards of education, training, and experience for these installers and mechanics and to provide for their appropriate examination and certification.

C.45:14H-2 Elevator, Escalator, and Moving Walkway Mechanics Licensing Board.

2. There is created within the Division of Consumer Affairs in the Department of Law and Public Safety the Elevator, Escalator, and Moving

Walkway Mechanics Licensing Board. Members of the board shall be appointed by the Governor. The board shall consist of seven members who are residents of the State of New Jersey. In addition to the two public members appointed to represent the interests of the public pursuant to the provisions of subsection b. of section 2 of P.L.1971, c.60 (C.45:1-2.2) and who shall be representatives of municipal government, one member shall be from a department in the Executive Branch of State Government, who shall serve without compensation at the pleasure of the Governor, and the remaining four members shall consist of the following:

One individual who represents the interests of a major elevator, escalator, or moving walkway manufacturing company;

One individual who is primarily engaged in the business of elevator, escalator, or moving walkway installation, alteration, repair, or maintenance of those devices;

One individual who represents the interests of the elevator architectural design community; and

One representative from a major labor organization that represents elevator service mechanics.

The Governor shall appoint each member, other than the State executive department member, for a term of four years, except that of the members first appointed, other than the State executive department member, three shall serve for a term of four years, two shall serve for a term of three years, and one shall serve for a term of two years, as determined by the Governor. Any vacancy in the membership shall be filled for the unexpired term in the manner provided for the original appointment. No member of the board may serve more than two successive terms in addition to any unexpired term to which he has been appointed. The Governor may remove any member of the board, other than the State executive department member, for cause.

The board shall meet at such times as the board deems necessary, and may form such committees as is deemed necessary for the purpose of conducting disciplinary proceedings, or otherwise.

C.45:14H-3 Additional powers of board.

3. The Elevator, Escalator, and Moving Walkway Mechanics Licensing Board shall, in addition to other powers and duties that it may possess by law:

a. Examine and pass on the qualifications of all applicants for license subject to its jurisdiction, and issue a license to each qualified successful applicant;

b. Examine, evaluate and supervise all examinations and procedures;

c. Adopt a seal which shall be affixed to all licenses issued by it;

d. Adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as it may deem necessary to enable it to perform its duties under, and to enforce, the provisions of this act;

e. Annually publish a list of the names and addresses of all persons who are licensed under this act;

f. Establish standards for continuing education, which at a minimum shall include eight hours of instruction to be completed within one year immediately preceding any license renewal; and

g. Prescribe or change the charges for examinations, licensures, renewals, and other services performed pursuant to P.L.1974, c.46 (C.45:1-3.1 et seq.).

C.45:14H-4 Application for licensure.

4. Any person desiring to obtain an elevator, escalator, and moving walkway mechanic's license, which shall authorize such licensee to install, construct, alter, maintain, service, repair, or test elevators, escalators, and moving walkways, shall make application for licensure to the Elevator, Escalator, and Moving Walkway Mechanics Licensing Board, pay all the fees required in connection with the application, and be examined as required by section 6 of this act.

No such license shall be required for any person who installs, constructs, alters, services, repairs, tests, or maintains a chair lift device or stair lift device in a dwelling unit.

C.45:14H-5 Prohibited actions without license; application, requirements, fee.

5. a. On or after the date sections 5, 10, and 12 of this act become operative, a person shall not:

(1) install;

(2) construct;

(3) alter;

(4) service;

(5) repair;

(6) test; or

(7) maintain

elevator, escalator, or moving walkway devices, or use the title or designation of "licensed" in any manner concerning these activities, unless licensed as an elevator, escalator, and moving walkway mechanic pursuant to the provisions of this act, or working under the supervision of a person so licensed, such as an apprentice. No such license shall be required for any

person who installs, constructs, alters, services, repairs, tests, or maintains a chair lift device or stair lift device in a dwelling unit.

b. No person shall engage in the business of contracting or advertise in any manner as an elevator, escalator, and moving walkway mechanic or use the title or designation of "licensed elevator mechanic," "licensed escalator mechanic," or "licensed moving walkway mechanic," unless duly licensed to act as such. The provisions of this subsection shall not apply to any person who installs, constructs, alters, services, repairs, tests, or maintains a chair lift device or stair lift device in a dwelling unit.

c. A license issued pursuant to this act shall not be transferable.

d. Not less than 30 days and not more than 60 days prior to the date set for the examination for a license as an elevator, escalator, and moving walkway mechanic, every person desiring to apply for a license, who meets the qualifications as set forth in this act, shall deliver to the board, personally or by certified mail, return receipt requested, postage prepaid, a certified check or money order payable to the Treasurer of the State of New Jersey in the required amount, together with a written application required by the board, completed as described in the application, and together with proof that the applicant qualifies in accordance with this act.

The qualifications for a mechanic's license under this act shall be as follows: The person shall be 21 or more years of age and shall have been employed within the State in the capacity of at least one of the elevator, escalator, and moving walkway trade businesses set forth in subsection a. of this section for a period of three years next preceding the application date for the license.

The applicant, if registered as a builder with the Department of Community Affairs, shall not be in any negative standing on the registration list. An applicant shall be afforded an opportunity to correct a negative standing, either by remedial action or by reporting any inaccuracies for correction.

Proof of compliance with the qualifications, or those in lieu thereof, shall be submitted to the board in writing, sworn to by the applicant, and accompanied by two recent passport size color photographs of the applicant.

C.45:14H-6 Licensing examination.

6. a. Every elevator, escalator, and moving walkway mechanic's license examination shall be substantially uniform and shall be designed so as to establish the competence and qualifications of the applicant to perform the type of work for which licensure is sought. The examination may be theoretical or practical in nature, or both, and may be based on an examination promulgated by a professional organization. Proof of passage of the National Elevator Industry Educational Program (NEIEP), or its successor

organization's, examination shall be sufficient to satisfy the examination requirement of this section. The examination may be waived if the applicant provides adequate proof to the board of employment as an elevator, escalator, and moving walkway mechanic within the State for at least three years immediately prior to the date of application without the direct and immediate supervision of an elevator, escalator, and moving walkway mechanic licensed to do business within the State.

b. The examination shall be held at least four times a year, at Trenton or other place the board deems necessary. Public notice of the time and place of the examination shall be given by the board in accordance with the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

c. No person who has failed the examination shall be eligible to be reexamined for a period of six months from the date of the examination failed by that person.

d. All applicants for elevator, escalator, and moving walkway mechanic's licenses, renewals or reexaminations shall pay a fee, established pursuant to regulation, for each license issuance or renewal, or reexamination as determined by the board.

C.45:14H-7 Biennial renewal.

7. Elevator mechanics' licenses shall be renewed biennially by the board upon written application of the holder and payment of the prescribed fee and renewal of the bond required by section 12 of this act. A license may be renewed without reexamination, if the application for renewal is made within 30 days next preceding or following the scheduled expiration date. Any applicant for renewal making application at any time subsequent to the 30th day next following the scheduled expiration date may be required by the board to be reexamined, and that person shall not continue to act as a licensed mechanic in the elevator trade, as described in this act, and no firm, corporation or other legal entity for which the person is the bona fide representative shall operate under a license in the elevator trade, as described in this act, until a valid license has been secured or is held by a bona fide representative.

Any license expiring while the holder is outside the continental limits of the United States in connection with any project undertaken by the government of the United States, or while in the services of the Armed Forces of the United States, shall be renewed without the holder being required to be reexamined, upon payment of the prescribed fee at any time within four months after the person's return to the United States or discharge from the armed forces, whichever is later.

C.45:14H-8 Granting of license without examination under certain circumstances.

8. The board may in its discretion grant licenses without examination to applicants so licensed by other states; provided that equal reciprocity is provided for New Jersey licensed mechanics by the law of the applicant's domiciliary state and provided further that the domiciliary state's standards are equal to or comparable to those of this State.

C.45:14H-9 Issuance of license; requirements.

9. Notwithstanding any other provision of this act to the contrary, the board shall, upon application to it and submission of satisfactory proof and the payment of the prescribed fee within 12 months following the date sections 5, 10, and 12 of this act become operative, issue an elevator, escalator, and moving walkway mechanic license without examination to any person, provided proof of one of the following subsections is provided:

a. Proof of acceptable work experience in the elevator, escalator, and moving walkway industry in the installation, construction, alteration, repair, maintenance, service, or testing, or any combination thereof, as verified through previous and current employers and copies of filed income tax returns or W-2 or 1099 forms, and proof of successful passage of an examination for elevator mechanics offered by a nationally recognized training program for the elevator, escalator, and moving walkway industry, such as the National Elevator Industry Educational Program or an equivalent program; or

b. Proof of acceptable work experience by the applicant in the elevator, escalator, and moving walkway industry in the installation, construction, alteration, repair, maintenance, service, or testing, or any combination thereof, without direct and immediate supervision, within the State for at least three years, as verified by previous and current employers or through building permits reflecting the applicant's name, or a company for which the applicant was an agent, or through proof of insurance or bonds issued covering the applicant, or letters of reference from construction code officials who have examined the applicant's work.

C.45:14H-10 Subcontractors, license required.

10. A contractor shall subcontract all elevator, escalator, and moving walkway installation work, unless the contractor holds an elevator, escalator, and moving walkway mechanic's license to install those devices.

C.45:14H-11 Grounds for suspension, revocation of license.

11. a. The license of an elevator mechanic may be suspended for a fixed period, or may be revoked, or the licensee may be censured, reprimanded or otherwise disciplined, in accordance with the provisions and

procedures defined in this act, if after due hearing it is determined that the licensee:

(1) Is guilty of any fraud or deceit in the licensee's activities as an elevator mechanic, including making false statements as to a material matter in the application for the license, or has been guilty of any fraud, deceit, or bribery in procuring his license;

(2) Has failed to notify the board or the owner or lessee of an elevator of a condition not in compliance with the elevator subcode of the State Uniform Construction Code;

(3) Has aided and abetted a person who is not a licensed elevator mechanic to engage in the activities of a licensed elevator mechanic, other than an approved apprenticeship program;

(4) Has been guilty of unethical conduct as defined by rules promulgated by the board; or

(5) Has continued to practice without obtaining a license renewal as required by this act.

b. (1) The charges may be referred by any person, corporation, association or public officer, or by the board in the first instance. A copy thereof, together with a report of the investigation, shall be referred to the board for a recommendation. The board shall review the information, and determine whether action may be necessary. If action may be considered against a licensee, the board shall provide a hearing, and provide written notice thereof, either by registered mail or personal service, at least 10 days prior to the date set for such hearing, to the address of record of the licensee. The notice shall set forth the time, date and location of the hearing, and shall set forth a statement of the allegations constituting the grounds for the charges against the licensee. The board shall make a determination within 48 hours of the hearing whether the licensee will be sanctioned.

(2) Any person whose license is revoked, suspended, or subject to a civil penalty, may appeal the matter to the Office of Administrative Law for a hearing before an administrative law judge, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). For the purpose of this section, the administrative law judge shall have power to issue subpoenas for the appearance of witnesses, and to take testimony under oath. Upon review of the record of the hearing, the reviewing entity may affirm, modify or reject the written report and recommendation of the board.

c. When the license of any person has been revoked or annulled, as herein provided, the board may, after the expiration of three years, accept an application for restoration of the license.

C.45:14H-12 Bond requirements.

12. In addition to any other bonds that may be required pursuant to contract, no elevator mechanic licensed under this act shall undertake to do any construction work in the State unless and until the mechanic shall have first entered into a bond in favor of the State of New Jersey in a sum established by the board executed by a surety company authorized to transact business in this State and approved by the Department of Banking and Insurance, and to be conditioned on the faithful performance of the provisions of this act. No municipality shall require any similar bond from any elevator mechanic licensed under this act. The board shall by rule and regulation provide who shall be eligible to receive the financial protection afforded by the bond required to be filed by this section. The bond shall be for the term of 12 months and shall be renewed at each expiration for a similar period.

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

C.45:1-2.1 Applicability of act.

1. The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Court Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Examiners of Heating, Ventilation, Air Conditioning and Refrigeration Contractors, the Elevator, Escalator, and Moving Walkway Mechanics Licensing Board, the State Board of Physical Therapy Examiners, the Orthotics and Prosthetics Board of Examiners, the New Jersey Cemetery Board, the State Board of Polysomnography, the New Jersey Board of Massage

and Bodywork Therapy, the Genetic Counseling Advisory Committee and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

14. Section 2 of P.L.1971, c.60 (C.45:1-2.2) is amended to read as follows:

C.45:1-2.2 membership of certain boards and commissions; appointment, removal, quorum.

2. a. All members of the several professional boards and commissions shall be appointed by the Governor in the manner prescribed by law; except in appointing members other than those appointed pursuant to subsection b. or subsection c., the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the appropriate professional organizations of this State.

b. In addition to the membership otherwise prescribed by law, the Governor shall appoint in the same manner as presently prescribed by law for the appointment of members, two additional members to represent the interests of the public, to be known as public members, to each of the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the New Jersey Real Estate Commission, the State Board of Court Reporting, the State Board of Social Work Examiners, the Elevator, Escalator, and Moving Walkway Mechanics Licensing Board, and the State Board of Veterinary Medical Examiners, and one additional public member to each of the following boards: the Board of Examiners of Electrical Contractors, the State Board of Marriage and Family Therapy Examiners, the State Board of Examiners of Master Plumbers, and the State Real Estate Appraiser Board. Each public member shall be appointed for the term prescribed for the other members of the board or commission and until the appointment of his successor. Vacancies shall be filled for the unexpired term only. The Governor may remove any such public member after hearing, for misconduct, incompetency, neglect of duty or for any other sufficient cause.

No public member appointed pursuant to this section shall have any association or relationship with the profession or a member thereof regulated by the board of which he is a member, where such association or relationship would prevent such public member from representing the interest of the public. Such a relationship includes a relationship with members of one's immediate family; and such association includes membership in the profession regulated by the board. To receive services rendered in a customary client relationship will not preclude a prospective public member from appointment. This paragraph shall not apply to individuals who are public members of boards on the effective date of this act.

It shall be the responsibility of the Attorney General to insure that no person with the aforementioned association or relationship or any other questionable or potential conflict of interest shall be appointed to serve as a public member of any board regulated by this section.

Where a board is required to examine the academic and professional credentials of an applicant for licensure or to test such applicant orally, no public member appointed pursuant to this section shall participate in such examination process; provided, however, that public members shall be given notice of and may be present at all such examination processes and deliberations concerning the results thereof, and, provided further, that public members may participate in the development and establishment of the procedures and criteria for such examination processes.

c. The Governor shall designate a department in the Executive Branch of the State Government which is closely related to the profession or occupation regulated by each of the boards or commissions designated in section 1 of P.L.1971, c.60 (C.45:1-2.1) and shall appoint the head of such department, or the holder of a designated office or position in such department, to serve without compensation at the pleasure of the Governor as a member of such board or commission.

d. A majority of the voting members of such boards or commissions shall constitute a quorum thereof and no action of any such board or commission shall be taken except upon the affirmative vote of a majority of the members of the entire board or commission.

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

C.45:1-3.1 Applicability of act.

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

State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Court Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the New Jersey Cemetery Board, the State Board of Social Work Examiners, the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors, the Elevator, Escalator, and Moving Walkway Mechanics Licensing Board, the State Board of Physical Therapy Examiners, the State Board of Polysomnography, the Orthotics and Prosthetics Board of Examiners, the New Jersey Board of Massage and Bodywork Therapy, the Genetic Counseling Advisory Committee and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

16. Section 2 of P.L.1973, c.254 (C.45:1-9) is amended to read as follows:

C.45:1-9 Indication of license, certificate number.

2. Any contractor licensed by the State shall indicate his license or certificate number on all contracts, subcontracts, bids, construction permits, and all forms of advertising as a contractor.

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

C.45:1-15 Application of act.

2. The provisions of this act shall apply to the following boards and all professions or occupations regulated by, through or with the advice of those boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jer-

sey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Court Reporting, the State Board of Veterinary Medical Examiners, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors, the Elevator, Escalator, and Moving Walkway Mechanics Licensing Board, the State Board of Physical Therapy Examiners, the State Board of Polysomnography, the Professional Counselor Examiners Committee, the New Jersey Cemetery Board, the Orthotics and Prosthetics Board of Examiners, the Occupational Therapy Advisory Council, the Electrologists Advisory Committee, the Acupuncture Advisory Committee, the Alcohol and Drug Counselor Committee, the Athletic Training Advisory Committee, the Certified Psychoanalysts Advisory Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee, the Home Inspection Advisory Committee, the Interior Design Examination and Evaluation Committee, the Hearing Aid Dispensers Examining Committee, the Landscape Architect Examination and Evaluation Committee, the Perfusionists Advisory Committee, the Physician Assistant Advisory Committee, the Audiology and Speech-Language Pathology Advisory Committee, the New Jersey Board of Massage and Bodywork Therapy, the Genetic Counseling Advisory Committee and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

18. This act shall take effect immediately; provided however, that sections 5, 10, and 12 shall remain inoperative until the first day of the seventh month next following the date of enactment.

Approved December 3, 2012.

CHAPTER 72

AN ACT concerning the inspection of carriers of hazardous materials, and amending P.L.1983, c.401 and P.L.1985, c.415.

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

1. Section 5 of P.L.1983, c.401 (C.39:5B-29) is amended to read as follows:

C.39:5B-29 Violations, penalties.

5. a. Any person who violates the provisions of this act or any rule or regulation adopted pursuant thereto shall be subject to a penalty of not less than $100 nor more than $5,000.00 for the first offense, nor less than $200 nor more than $10,000.00 for the second offense, nor less than $500 nor more than $25,000.00 for the third or any subsequent offense. Notwithstanding any other provision of law, 50 percent of the penalty moneys collected pursuant to this paragraph shall be deposited into the "Highway Safety Fund" created pursuant to section 5 of P.L.2003, c.131 (C.39:3-20.4).

The complaint and summons shall state whether the charges pertain to a first offense, or to a second or subsequent offense, but if the complaint or summons fails to allege a second or subsequent offense, the penalty imposed shall be for a first offense. The penalty may be reduced to $25 for a first offense, $50 for a second offense, and $125 for a third and subsequent offense for a non-out- of- service equipment violation if the defendant provides proof of repair to the vehicle that is satisfactory to the court. Proof that the violation has been corrected shall be by a document certifying that the non-out-of-service equipment violation has been corrected. The Division of State Police, a diesel emissions inspection center licensed by the New Jersey Motor Vehicle Commission, a certified fleet mechanic approved by the New Jersey Motor Vehicle Commission, or any other entity approved by the New Jersey Motor Vehicle Commission shall be authorized to issue the requisite certifying documentation. The Division of State Police may, in its discretion, designate times and locations where a defendant may bring a vehicle for an inspection pursuant to which a requisite certifying document may be issued. Nothing in this act shall be construed as requiring the Division of State Police to conduct a vehicle inspection pursuant to which a requisite certifying document may be issued other than at the time and locations as the Division of State Police may provide.

Repairs to effect a reduction of penalty under the provisions of this section shall be made before the hearing date. A defendant may be permitted to submit the certification of repairs by mail; provided that if the court deems the certification to be inadequate, it shall afford the defendant the option to withdraw the defendant's guilty plea.

The Department of Transportation is authorized to adopt a schedule of penalties for any specific violation of P.L.1983, c.401 (C.39:5B-25 et seq.) or any rule or regulation adopted pursuant thereto. A penalty imposed pursuant to this act may be collected in a civil action by a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), or in a summary proceeding before a court of competent jurisdiction wherein injunctive relief has been sought. The State Police, police officers of the Port Authority of New York and New Jersey and police officers of the Delaware River Port Authority may issue a summons and complaint returnable in a municipal court or other court of competent jurisdiction for violations of P.L.1983, c.401 (C.39:5B-25 et seq.) and this amendatory and supplementary act or any rule or regulation adopted pursuant thereto. In addition to the jurisdiction conferred by the "Penalty Enforcement Law of 1999," the Law and Chancery Divisions of the Superior Court shall have jurisdiction of proceedings for the enforcement of the penalties provided in this act. The various municipal courts shall have jurisdiction of proceedings for the enforcement of penalties under $5,000.00 provided in P.L.1983, c.401 (C.39:5B-25 et seq.).

b. Penalties imposed pursuant to this act shall in no way reduce or otherwise limit the liability of any person, pursuant to the laws of this State, for cleanup costs or other damages arising from a discharge of hazardous materials.

c. The Superintendent of the State Police, police officers of the Port Authority of New York and New Jersey, police officers of the Delaware River Port Authority and personnel of the Department of Transportation and of the Department of Environmental Protection duly authorized by the superintendent may, in addition to seeking a civil penalty, seek injunctive relief in the Chancery Division, General Equity Part of the Superior Court as to any person found to have violated any provision of P.L.1983, c. 401 (C. 39:5B-25 et seq.) or this amendatory and supplementary act or any rule or regulation adopted pursuant to either.

d. (Deleted by amendment, P.L.2003, c.131).

2. Section 2 of P.L.1985, c.415 (C.39:5B-31) is amended to read as follows:

C.39:5B-31 Inspection of vehicles.

2. a. Any State Police officer may inspect such vehicles, railroad cars, and places of origin or destination in the State with respect to compliance with motor carrier safety regulations or hazardous materials transportation

regulations. Any State Police officer may also break such cargo seals on vehicles and railroad cars as may be necessary to inspect vehicles and railroad cars transporting hazardous materials to ascertain that packages as defined in 49 C.F.R.s.171.8 have been properly classified, described, packaged, marked, labeled, blocked and braced and are in proper condition for shipment.

Any State Police officer may stop and enter upon a commercial motor vehicle, as defined in the rules and regulations adopted pursuant to section 3 of P.L.1985, c.415 (C.39:5B-32), traveling the roads of the State for the purpose of performing safety inspections consistent with State law and as provided for under the rules and regulations adopted pursuant to section 3 of P.L.1985, c.415 (C.39:5B-32).

Any State Police officer may enter, during regular business hours, the commercial premises owned or leased by a commercial motor vehicle carrier, wherein the records, required to be maintained under State law and the rules and regulations adopted pursuant to section 3 of P.L.1985, c.415 (C.39:5B-32), are stored and maintained, and may inspect and copy the records for the purpose of enforcing State law and the rules and regulations adopted pursuant to section 3 of P.L.1985, c.415 (C.39:5B-32). If the records contain evidence of violations of State law or the rules and regulations adopted pursuant to section 3 of P.L.1985, c.415 (C.39:5B-32), a State Police officer shall produce and take possession of copies of the records. The Superintendent of State Police shall coordinate activities under this section with the Federal Motor Carrier Safety Administration to ensure compliance with all federal and State laws and regulations.

b. The powers exercised by the State Police pursuant to this section may also be exercised by police officers of the Port Authority of New York and New Jersey, police officers of the Delaware River Port Authority, and by personnel of the Department of Transportation duly authorized by the Superintendent of State Police. Appropriate personnel of the Department of Environmental Protection duly authorized by the superintendent may, consistent with federal regulations, inspect the contents of packages referred to in subsection a. of this section at places of origin prior to acceptance by the transporter or at places of destination after acceptance by the consignee. In addition, personnel of the Department of Environmental Protection so authorized may conduct, in conjunction with and under the direction of State Police personnel, inspections and break cargo seals as described in subsection a. of this section when at off-highway facilities, including, but not limited to, public truck stops, public rest areas, State weigh stations, and commercial motor vehicle inspection stations.

c. The Commissioner of Transportation is authorized to adopt, in consultation with the Superintendent of the State Police and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations governing inspection and breaking of cargo seals by those authorized to do so under this section. No person not given specific authority in this section to do so shall break cargo seals under this section or otherwise implement the provisions of this section.

3. This act shall take effect on the first day of the second month following enactment.

Approved December 3, 2012.

CHAPTER 73

AN ACT concerning certain local public contracts for projects involving the removal of soil, and amending and supplementing P.L.1999, c.39.

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

1. Section 1 of P.L.1999, c.39 (C.40A:11-23.1) is amended to read as follows:

C.40A:11-23.1 Plans, specifications, bid proposal documents; required contents.

1. All plans, specifications and bid proposal documents for the erection, alteration, or repair of a building, structure, facility or other improvement to real property, the total price of which exceeds the amount set forth in, or the amount calculated by the Governor pursuant to, section 3 of P.L.1971, c.198 (C.40A:11-3), shall include:

a. a document for the bidder to acknowledge the bidder's receipt of any notice or revisions or addenda to the advertisement or bid documents; and

b. a form listing those documentary and informational forms, certifications, and other documents that the contracting agent requires each bidder to submit with the bid. The form shall list each of the items to be submitted with the bid proposal and a place for the bidder to indicate, by initialing each entry, that the bidder has included those required items with the completed bid proposal. Each bidder shall complete this form and submit it with the bid proposal in addition to those documentary and informational forms, certifications, and other documents that are listed on the form; and

c. a statement indicating whether uniformed law enforcement officers will be required for the project. The statement shall include a line item allowance, which shall be a good faith effort on the part of the contracting unit, to reasonably estimate the total cost of traffic control personnel, vehicles, equipment, administrative, or any other costs associated with additional traffic control requirements required by the contracting unit, or any other public entity affected by the project, above and beyond the bidder's traffic control personnel, vehicles, equipment, and administrative costs. The individuals responsible for the assignment of uniformed law enforcement officers for any municipalities affected by a project shall be required to determine where traffic safety control is needed for a project, and calculate the number and placement of all necessary personnel, equipment, and the costs associated with these, including hourly rates, and submit this information to the contracting unit.

The contracting unit shall not be responsible for additional traffic control costs beyond the number of working days specified in the construction contract in accordance with section 17 of P.L.1971, c.198 (C.40A:11-17), when such a delay is caused by the contractor and liquidated damages have been assessed.

The statement prescribed under this subsection shall not be required if the contracting unit will provide for the direct payment of uniformed law enforcement officers and any additional costs directly associated with the provision of those officers; and

d. at the option of the contracting unit, specified alternate proposals in addition to a base specification. When the contracting unit specifies alternate proposals, the determination of which bidder's response to a request for bids offers the lowest price shall be made on the basis of the price of: (i) the base specification plus the price of any selected specified alternate proposals; or (ii) a choice of specified alternative proposals within the limit of funds that may be made available for a project. If a contracting unit provides for more than one specified alternate proposal, the contracting unit shall specify in the bid specification the criteria or ranked order by which specified alternate proposals shall be selected and included in the award of the contract by the governing body, provided that this requirement shall only apply to a project with a total estimated cost, including specified alternate proposals, of greater than $500,000. The aggregate dollar value of accepted specified alternative proposals shall not exceed 50 percent of the base bid. If a contracting unit is found in a court of law to have chosen specific alternative proposals in a manner intended to award a contract to a specific vendor, the bids shall be voided, the contracting unit shall rebid the

project, and a plaintiff who prevails in any proceeding shall be entitled to a reasonable attorney's fee.

For the purposes of this subsection:

"Specified alternate proposal" means a requirement of the bid specification for bidders to submit prices for reduced, modified or supplemental work in addition to the base proposal which may include, but not be limited to, a change in project scope or the use of alternative materials or methods of construction;

"Base specification" means the plans and specifications for the erection, alteration or repair of the building, structure, facility or other improvement to real property that are required to be met by all bidders without exception; and

e. in the case of a project that includes the removal of soil from the site, disclosure of any documentation relative to the known soil conditions at the site including, but not limited to, any test results specifying the level of contamination, if any, of the soil that has been found at the site of the project, or if a project is located on a site with historical or suspected contamination, a line item allowance or minimum unit price line item for soil testing and contaminated soil disposal, which shall be a good faith effort on the part of the contracting unit to reasonably estimate the total cost of testing the soil and disposing of it.

C.40A:11-23.1a Approval of change order under certain circumstances.

2. In the case of a project for the erection, alteration, or repair of a building, structure, facility or other improvement to real property, the total price of which exceeds the amount set forth in, or the amount calculated by the Governor pursuant to, section 3 of P.L.1971, c.198 (C.40A:11-3), that does not have historical or suspected soil contamination, or for which the plans, specifications and bid proposal documents for the project do not include a line item allowance or minimum unit price line item for soil testing and contaminated soil disposal pursuant to subsection e. of section 1 of P.L.1999, c.39 (C.40A:11-23.1), and contaminated soil from the site cannot be disposed of pursuant to the plans, specifications and bid proposal documents due to the contaminated soil being found to be different from the type or quality originally disclosed, the contracting unit shall approve, consistent with and subject to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), and any rules or regulations adopted pursuant thereto, a change order to reimburse the contractor for the additional reasonable costs, as determined by the contracting unit, required to test and dispose of the contaminated soil.

3. This act shall take effect immediately.

Approved December 3, 2012.

CHAPTER 74

AN ACT concerning communication between parents and school administrators on pupil absences and supplementing chapter 36 of Title 18A of the New Jersey Statutes.

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

C.18A:36-25.4 Short title.

1. This act shall be known and may be cited as "Tabitha's Law."

C.18A:36-25.5 Findings, declarations relative to child abduction.

2. The Legislature finds and declares that when a child is abducted, the first few hours are absolutely critical in the recovery process; that the unexplained absence of a pupil from school can be a significant early warning sign of abduction; that although stranger abductions are rare, an efficient system of communication between school administrators and parents regarding a student's unexplained absence must be incorporated by our public school districts into their attendance systems; and that the benefits of this requirement will be realized even if only one child is saved as a result.

C.18A:36-25.6 Report of absence.

3. a. Whenever a pupil enrolled in a public school district will be absent from school, the pupil's parent or guardian shall notify the principal or the principal's designee.

b. If a pupil is determined to be absent without valid excuse from a public school, and if the reason for the student's absence is unknown to school personnel, the principal or the principal's designee shall immediately attempt to contact the pupil's parent or guardian to notify the parent or guardian of the absence and to determine the reason for the absence.

4. This act shall take effect immediately.

Approved December 3, 2012.

CHAPTER 75

AN ACT prohibiting the requirement to disclose personal information for certain electronic communications devices by institutions of higher education.

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

C.18A:3-29 Definitions relative to disclosure of personal information for certain electronic communications devices to institutions of higher education.

1. For purposes of this act:

"Applicant" means an applicant for admission into a public or private institution of higher education.

"Electronic communications device" means any device that uses electronic signals to create, transmit, and receive information, including a computer, telephone, personal digital assistant, or other similar device.

"Public or private institution of higher education" means any public or private institution of higher education or any employee, agent, representative, or designee of the institution.

"Social networking website" means an Internet-based service that allows individuals to construct a public or semi-public profile within a bounded system created by the service, create a list of other users with whom they share a connection within the system, and view and navigate their list of connections and those made by others within the system.

C.18A:3-30 Actions prohibited by institution of higher education.

2. No public or private institution of higher education in this State shall:

a. Require a student or applicant to provide or disclose any user name or password, or in any way provide access to, a personal account or service through an electronic communications device.

b. In any way inquire as to whether a student or applicant has an account or profile on a social networking website.

c. Prohibit a student or applicant from participating in activities sanctioned by the institution of higher education, or in any other way discriminate or retaliate against a student or applicant, as a result of the student or applicant refusing to provide or disclose any user name, password, or other means for accessing a personal account or service through an electronic communications device as provided in subsection a. of this section.

C.18A:3-31 Waiver, limitation of protection by student, requirement prohibited.

3. No public or private institution of higher education in this State shall require a student or applicant to waive or limit any protection granted under this act. An agreement to waive any right or protection under this act is against the public policy of this State and is void and unenforceable.

C.18A:3-32 Violations, remedies.

4. Upon violation of any provision of this act, an aggrieved person may, in addition to any other available remedy, institute a civil action in a court of competent jurisdiction, within one year from the date of the alleged violation. In response to the action, the court may, as it deems appropriate, order or award any one or more of the following:

a. With respect to an applicant:

(1) injunctive relief;

(2) compensatory and consequential damages incurred by the applicant as a result of the violation, taking into consideration any failure to admit the applicant in connection with the violation; and

(3) reasonable attorneys' fees and court costs.

b. With respect to a current or former student:

(1) injunctive relief as it deems appropriate;

(2) compensatory and consequential damages incurred by the student or former student as a result of the violation; and

(3) reasonable attorneys' fees and court costs.

5. This act shall take effect immediately.

Approved December 3, 2012.

CHAPTER 76

AN ACT concerning the licensure of certain nurses and supplementing Title 45 of the Revised Statutes.

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

C.45:11-26.2 Temporary nursing licenses for qualified nonresident military spouses; qualifications.

1. a. As used in this section:

"Another jurisdiction" means a state or territory of the United States other than New Jersey, or the District of Columbia.

"Board" means the New Jersey Board of Nursing.

"Nonresident military spouse" means a nonresident of this State who is the spouse of an active duty member of the Armed Forces of the United States who has been transferred to this State in the course of the member's service, is legally domiciled in this State, or has moved to this State on a permanent change-of-station basis.

b. Notwithstanding the provisions of any other law or regulation to the contrary, the board shall establish criteria for the issuance of a temporary courtesy license to practice nursing to a nonresident military spouse so that the nonresident military spouse may lawfully practice nursing in this State on a temporary basis, subject to the requirements of subsection c. of this section.

c. A nonresident military spouse who applies for a temporary courtesy license pursuant to subsection b. of this section shall be entitled to receive such a license if that person:

(1) holds a current license to practice nursing in another jurisdiction that the board determines has licensure requirements to practice nursing that are equivalent to those adopted by the board;

(2) was engaged in the active practice of nursing in another jurisdiction for at least two of the five years immediately preceding the date of application for the temporary courtesy license, for which purpose relevant full-time experience in the discharge of official duties in the Armed Forces of the United States or an agency of the federal government shall be credited in the counting of years of service;

(3) has not committed an act in another jurisdiction that would have constituted grounds for the denial, suspension, or revocation of a license to practice nursing in this State;

(4) has not been disciplined, and is not the subject of an investigation of an unresolved complaint, or a review procedure or disciplinary proceeding, which was conducted by, or is pending before, a professional or occupational licensing or credentialing entity in another jurisdiction;

(5) pays for, and authorizes the board to conduct, a criminal history record background check of that person pursuant to P.L.2002, c.104 (C.45:1-28 et seq.);

(6) pays such fee as the board reasonably requires for the issuance of the temporary courtesy license; and

(7) complies with such other requirements as the board may reasonably determine necessary to effectuate the purposes of this section.

d. A temporary courtesy license issued pursuant to this section shall be valid for a period of one year and may be extended at the discretion of the board for an additional year upon application of the holder of the temporary courtesy license.

e. The board shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out the purposes of this section, except that, notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the board deems necessary to implement the provisions of this section, which shall be effective for a period not to exceed six months and may thereafter be amended, adopted, or re-adopted by the board in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

2. This act shall take effect immediately.

Approved December 3, 2012.

CHAPTER 77

AN ACT authorizing the State Treasurer to sell certain surplus real property owned by the State in the City of Plainfield in Union County.

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

1. a. The Department of the Treasury, on behalf of the Department of Military and Veterans' Affairs, is authorized to sell and convey to HOPES Community Action Partnership, Inc., as surplus property, all of the State's right, title, and interest in the parcel of land of 1.92 + acres, and all improvements thereon, situated on Block 625, Part of Lot 84 of the tax map of the City of Plainfield, Union County, also known as the Plainfield Armory. The property to be sold and conveyed has been declared surplus to the needs of the State.

b. The sale and conveyance authorized by subsection a. of this section shall be executed in accordance with the terms and conditions approved by the State House Commission at its meetings on June 20, 2005 and December 15, 2011.

2. This act shall take effect immediately.

Approved December 3, 2012.

CHAPTER 78

AN ACT concerning the operation of school districts, amending various parts of the statutory law, and supplementing chapter 60 of Title 19 of the Revised Statutes.

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

C.19:60-1.2 Moving date of certain school district annual school election.

1. a. Notwithstanding any other law or regulation to the contrary, a Type II district with a board of school estimate may move the date of the school district's annual school election pursuant to the provisions of section 1 of P.L.2011, c.202 (C.19:60-1.1).

b. Notwithstanding any other law or regulation to the contrary, in the event that the date of the annual school election is moved to the day of the general election in a Type II district with a board of school estimate, the election shall be held for the purpose of electing members of the board of education and for any other purpose authorized by law. The board of school estimate shall not determine the district's general fund tax levy for the budget year, other than the general fund tax levy required to support a proposal for additional funds pursuant to paragraph (9) of subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5).

c. Notwithstanding any other law or regulation to the contrary, in a Type II district with a board of school estimate that has moved the date of its annual school election to November and subsequently moves the annual school election to the third Tuesday in April, a vote shall be held for the purpose of electing members of the board of education and for any other purpose authorized by law. The board of school estimate shall determine the district's general fund tax levy for the budget year, including any proposal for additional funds pursuant to paragraph (9) of subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5).

2. Section 5 of P.L.1996, c.138 (C.18A:7F-5) is amended to read as follows:

C.18A:7F-5 Notification of districts of aid payable; budget submissions.

5. As used in this section, "cost of living" means the CPI as defined in section 3 of P.L.2007, c.260 (C.18A:7F-45).

a. Within 30 days following the approval of the Educational Adequacy Report, the commissioner shall notify each district of the base per pupil amount, the per pupil amounts for full-day preschool, the weights for grade level, county vocational school districts, at-risk pupils, bilingual pupils, and combination pupils, the cost coefficients for security aid and for transportation aid, the State average classification rate and the excess cost for general special education services pupils, the State average classification rate and the excess cost for speech-only pupils, and the geographic cost adjustment for each of the school years to which the report is applicable.

Annually, within two days following the transmittal of the State budget message to the Legislature by the Governor pursuant to section 11 of P.L.1944, c.112 (C.52:27B-20), the commissioner shall notify each district of the maximum amount of aid payable to the district in the succeeding school year pursuant to the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.), and shall notify each district of the district's adequacy budget for the succeeding school year.

For the 2008-2009 school year and thereafter, unless otherwise specified within P.L.2007, c.260 (C.18A:7F-43 et al.), aid amounts payable for the budget year shall be based on budget year pupil counts, which shall be projected by the commissioner using data from prior years. Adjustments for the actual pupil counts of the budget year shall be made to State aid amounts payable during the school year succeeding the budget year. Additional amounts payable shall be reflected as revenue and an account receivable for the budget year.

Notwithstanding any other provision of this act to the contrary, each district's State aid payable for the 2008-2009 school year, with the exception of aid for school facilities projects, shall be based on simulations employing the various formulas and State aid amounts contained in P.L.2007, c.260 (C.18A:7F-43 et al.). The commissioner shall prepare a report dated December 12, 2007 reflecting the State aid amounts payable by category for each district and shall submit the report to the Legislature prior to the adoption of P.L.2007, c.260 (C.18A:7F-43 et al.). Except as otherwise provided pursuant to this subsection and paragraph (3) of subsection d. of section 5 of P.L.2007, c.260 (C.18A:7F-47), the amounts contained in the commissioner's report shall be the final amounts payable and shall not be subsequently adjusted other than to reflect the phase-in of the required general fund local levy pursuant to paragraph (4) of subsection b. of section 16

of P.L.2007, c.260 (C.18A:7F-58) and to reflect school choice aid to which a district may be entitled pursuant to section 20 of that act. The projected pupil counts and equalized valuations used for the calculation of State aid shall also be used for the calculation of adequacy budget, local share, and required local share. For 2008-2009, extraordinary special education State aid shall be included as a projected amount in the commissioner's report dated December 12, 2007 pending the final approval of applications for the aid. If the actual award of extraordinary special education State aid is greater than the projected amount, the district shall receive the increase in the aid payable in the subsequent school year pursuant to the provisions of subsection c. of section 13 of P.L.2007, c.260 (C.18A:7F-55). If the actual award of extraordinary special education State aid is less than the projected amount, other State aid categories shall be adjusted accordingly so that the district shall not receive less State aid than as provided in accordance with the provisions of sections 5 and 16 of P.L.2007, c.260 (C.18A:7F-47 and C.18A:7F-58).

In the event that the commissioner determines, following the enactment of P.L.2007, c.260 (C.18A:7F-43 et al.) but prior to the issuance of State aid notices for the 2008-2009 school year, that a significant district-specific change in data warrants an increase in State aid for that district, the commissioner may adjust the State aid amount provided for the district in the December 12, 2007 report to reflect the increase.

b. Each district shall have a required local share. For districts that receive educational adequacy aid pursuant to subsection b. of section 16 of P.L.2007, c.260 (C.18A:7F-58), the required local share shall be calculated in accordance with the provisions of that subsection.

For all other districts, the required local share shall equal the lesser of the local share calculated at the district's adequacy budget pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-51), or the district's budgeted local share for the prebudget year.

In order to meet this requirement, each district shall raise a general fund tax levy which equals its required local share.

No municipal governing body or bodies or board of school estimate, as appropriate, shall certify a general fund tax levy which does not meet the required local share provisions of this section.

c. Annually, on or before March 4, each district board of education shall adopt, and submit to the commissioner for approval, together with such supporting documentation as the commissioner may prescribe, a budget that provides for a thorough and efficient education. Notwithstanding the provisions of this subsection to the contrary, the commissioner may

adjust the date for the submission of district budgets if the commissioner determines that the availability of preliminary aid numbers for the subsequent school year warrants such adjustment.

Notwithstanding any provision of this section to the contrary, for the 2005-2006 school year each district board of education shall submit a proposed budget in which the advertised per pupil administrative costs do not exceed the lower of the following:

(1) the district's advertised per pupil administrative costs for the 2004-2005 school year inflated by the cost of living or 2.5 percent, whichever is greater; or

(2) the per pupil administrative cost limits for the district's region as determined by the commissioner based on audited expenditures for the 2003-2004 school year.

The executive county superintendent of schools may disapprove the school district's 2005-2006 proposed budget if he determines that the district has not implemented all potential efficiencies in the administrative operations of the district. The executive county superintendent shall work with each school district in the county during the 2004-2005 school year to identify administrative inefficiencies in the operations of the district that might cause the superintendent to reject the district's proposed 2005-2006 school year budget.

For the 2006-2007 school year and each school year thereafter, each district board of education shall submit a proposed budget in which the advertised per pupil administrative costs do not exceed the lower of the following:

(1) the district's prior year per pupil administrative costs; except that the district may submit a request to the commissioner for approval to exceed the district's prior year per pupil administrative costs due to increases in enrollment, administrative positions necessary as a result of mandated programs, administrative vacancies, nondiscretionary fixed costs, and such other items as defined in accordance with regulations adopted pursuant to section 7 of P.L.2004, c.73. In the event that the commissioner approves a district's request to exceed its prior year per pupil administrative costs, the increase authorized by the commissioner shall not exceed the cost of living or 2.5 percent, whichever is greater; or

(2) the prior year per pupil administrative cost limits for the district's region inflated by the cost of living or 2.5 percent, whichever is greater.

d. (1) A district's general fund tax levy shall not exceed the district's adjusted tax levy as calculated pursuant to sections 3 and 4 of P.L.2007, c.62 (C.18A:7F-38 and 18A:7F-39).

(2) (Deleted by amendment, P.L.2007, c.260).

(3) (Deleted by amendment, P.L.2007, c.260).

(4) Any debt service payment made by a school district during the budget year shall not be included in the calculation of the district's adjusted tax levy.

(5) (Deleted by amendment, P.L.2007, c.260).

(6) (Deleted by amendment, P.L.2007, c.260).

(7) (Deleted by amendment, P.L.2004, c.73).

(8) (Deleted by amendment, P.L.2010, c.44)

(9) Any district may submit at the annual school budget election, in accordance with subsection c. of section 4 of P.L.2007, c.62 (C.18A:7F-39), a separate proposal or proposals for additional funds, including interpretive statements, specifically identifying the program purposes for which the proposed funds shall be used, to the voters, who may, by voter approval, authorize the raising of an additional general fund tax levy for such purposes. In the case of a district with a board of school estimate, one proposal for the additional spending shall be submitted to the board of school estimate. Any proposal or proposals submitted to the voters or the board of school estimate shall not: include any programs and services that were included in the district's prebudget year net budget unless the proposal is approved by the commissioner upon submission by the district of sufficient reason for an exemption to this requirement; or include any new programs and services necessary for students to achieve the thoroughness standards established pursuant to subsection a. of section 4 of P.L.2007, c.260 (C.18A:7F-46).

The executive county superintendent of schools may prohibit the submission of a separate proposal or proposals to the voters or board of school estimate if he determines that the district has not implemented all potential efficiencies in the administrative operations of the district, which efficiencies would eliminate the need for the raising of an additional general fund tax levy.

(10) Notwithstanding any provision of law to the contrary, if a district proposes a budget with a general fund tax levy and equalization aid which exceed the adequacy budget, the following statement shall be published in the legal notice of public hearing on the budget pursuant to N.J.S.18A:22-28, posted at the public hearing held on the budget pursuant to N.J.S.18A:22-29, and printed on the sample ballot required pursuant to section 10 of P.L.1995, c.278 (C.19:60-10):

"Your school district has proposed programs and services in addition to the core curriculum content standards adopted by the State Board of Education. Information on this budget and the programs and services it provides is available from your local school district."

(11) Any reduction that may be required to be made to programs and services included in a district's prebudget year net budget in order for the district to limit the growth in its budget between the prebudget and budget years by its tax levy growth limitation as calculated pursuant to sections 3 and 4 of P.L.2007, c.62 (C.18A:7F-38 and 18A:7F-39), shall only include reductions to excessive administration or programs and services that are inefficient or ineffective.

e. (1) Any general fund tax levy rejected by the voters for a proposed budget that includes a general fund tax levy and equalization aid in excess of the adequacy budget shall be submitted to the governing body of each of the municipalities included within the district for determination of the amount that should be expended notwithstanding voter rejection. In the case of a district having a board of school estimate, other than a Type II district with a board of school estimate in which the annual election is in November, the general fund tax levy shall be submitted to the board for determination of the amount that should be expended. If the governing body or bodies or board of school estimate, as appropriate, reduce the district's proposed budget, the district may appeal any of the reductions to the commissioner on the grounds that the reductions will negatively impact on the stability of the district given the need for long term planning and budgeting. In considering the appeal, the commissioner shall consider enrollment increases or decreases within the district; the history of voter approval or rejection of district budgets; the impact on the local levy; and whether the reductions will impact on the ability of the district to fulfill its contractual obligations. A district may not appeal any reductions on the grounds that the amount is necessary for a thorough and efficient education.

(2) Any general fund tax levy rejected by the voters for a proposed budget that includes a general fund tax levy and equalization aid at or below the adequacy budget shall be submitted to the governing body of each of the municipalities included within the district for determination of the amount that should be expended notwithstanding voter rejection. In the case of a district having a board of school estimate, other than a Type II district with a board of school estimate in which the annual election is in November, the general fund tax levy shall be submitted to the board for determination. Any reductions may be appealed to the commissioner on the grounds that the amount is necessary for a thorough and efficient education or that the reductions will negatively impact on the stability of the district given the need for long term planning and budgeting. In considering the appeal, the commissioner shall also consider the factors outlined in paragraph (1) of this subsection.

In addition, the municipal governing body or board of school estimate shall be required to demonstrate clearly to the commissioner that the proposed budget reductions shall not adversely affect the ability of the school district to provide a thorough and efficient education or the stability of the district given the need for long term planning and budgeting.

(3) In lieu of any budget reduction appeal provided for pursuant to paragraphs (1) and (2) of this subsection, the State board may establish pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an expedited budget review process based on a district's application to the commissioner for an order to restore a budget reduction.

(4) When the voters, municipal governing body or bodies, board of education in the case of a school district in which the annual school election has been moved to November pursuant to subsection a. of section 1 of P.L.2011, c.202 (C.19:60-1.1), or the board of school estimate authorize the general fund tax levy, the district shall submit the resulting budget to the commissioner within 15 days of the authorization.

f. (Deleted by amendment, P.L.2007, c.260).

g. (Deleted by amendment, P.L.2007, c.260).

3. N.J.S.18A:22-12 is amended to read as follows:

Contents of notice.

18A:22-12. The notice shall also set forth that said budget will be on file and open to the examination of the public between reasonable hours to be fixed therein and at a place to be named therein, from the date of said publication until the date of the holding of the public hearing, that in any district having a board of school estimate, except as otherwise provided in this section, the public hearing will be held before the board of school estimate and in other districts that the public hearing will be held before the board of education and that at said public hearing said budget will be on file and open to the examination of the public accordingly and will be produced for the information of those attending the same. In a Type II district having a board of school estimate in which the annual school election is in November, the public hearing shall be held before the board of education.

4. N.J.S.18A:22-26 is amended to read as follows:

Board of school estimate, board of education of type II district to determine appropriation amount.

18A:22-26. a. Except as otherwise provided in subsection b. of this section, at or after the public hearing but not later than April 8, the board of

school estimate of a type II district having a board of school estimate shall fix and determine by a recorded roll call majority vote of its full membership the amount of money necessary to be appropriated for the use of the public schools in the district for the ensuing school year, exclusive of the amount which shall be apportioned to it by the commissioner for the year pursuant to the provisions of section 5 of P.L.1996, c.138 (C.18A:7F-5) and shall make a certificate of the amount signed by at least a majority of all members of the board, which shall be delivered to the board of education and a copy thereof, certified under oath to be correct and true by the secretary of the board of school estimate, shall be delivered to the county board of taxation on or before April 15 in each year and a duplicate of the certificate shall be delivered to the board or governing body of each of the municipalities within the territorial limits of the district having the power to make appropriations of money raised by taxation in the municipalities or political subdivisions and to the executive county superintendent of schools and the amount shall be assessed, levied and raised under the procedure and in the manner provided by law for the levying and raising of special school taxes in other type II districts and shall be paid to the board secretary or treasurer of school moneys, as appropriate, of the district for such purposes.

Within 15 days after receiving the certificate the board of education shall notify the board of school estimate, the governing body of each municipality within the territorial limits of the school district, and the commissioner if it intends to appeal to the commissioner the board of school estimate's determination as to the amount of money requested pursuant to the provisions of section 5 of P.L.1996, c.138 (C.18A:7F-5), necessary to be appropriated for the use of the public schools of the district for the ensuing school year.

b. At or after the public hearing on the budget but not later than April 8, the board of education of each type II district having a board of school estimate in which the annual school election is in November, shall fix and determine by a recorded roll call majority vote of its full membership the amount of money necessary to be raised for the use of the public schools in the district, exclusive of the amount which shall be apportioned to it by the commissioner for the year pursuant to the provisions of section 5 of P.L.1996, c.138 (C.18A:7F-5). By that same date the board of school estimate shall fix and determine by a recorded roll call majority vote of its full membership the amount of any additional funds pursuant to paragraph (9) of subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5) and shall make a certificate of that amount signed by at least a majority of all members of the board, which shall be delivered to the board of education. The

secretary of the board of education shall certify the amount so fixed and determined by the board of education and the board of school estimate and shall deliver a copy of the certificate to the county board of taxation of the county on or before April 15 in each year and a duplicate of the certificate shall be delivered to the board or governing body of each of the municipalities within the territorial limits of the districts having the power to make appropriations of money raised by taxation in the municipalities or political subdivisions and to the executive county superintendent of schools and the amount shall be assessed, levied and raised under the procedure and in the manner provided by law for the levying and raising of special school taxes in other type II districts and shall be paid to the board secretary or treasurer of school moneys, as appropriate, of the district for such purposes.

5. Section 1 of P.L.1995, c.278 (C.19:60-1) is amended to read as follows:

C.19:60-1 School elections, adjustments, ballots.

1. a. Except as otherwise provided in this section, an annual school election shall be held in a type II district on the third Tuesday in April. However, in any school year, the Commissioner of Education shall make any adjustments to the school budget and election calendar which may be necessary to change the annual school election date or any other school budget and election calendar date if that date coincides with a period of religious observance that limits significantly the usual activities of the followers of a particular religion or that would result in significant religious consequences for such followers. The commissioner shall inform local school boards, county clerks and boards of elections of these adjustments no later than the first working day in January of the year in which the adjustments are to occur.

As used in this subsection "a period of religious observance" means any day or portion thereof on which a religious observance imposes a substantial burden on an individual's ability to vote.

An annual school election shall be held simultaneously with the general election on the first Tuesday after the first Monday in November in school districts in which the annual school election has been moved to that date pursuant to subsection a. of section 1 of P.L.2011, c.202 (C.19:60-1.1) or pursuant to section 1 of P.L.2012, c.78 (C.19:60-1.2). The annual school election in November shall be for the purpose of submitting a proposal to the voters for the approval of additional funds in a type II district without a board of school estimate pursuant to paragraph (9) of subsection d. of sec-

tion 5 of P.L.1996, c.138 (C.18A:7F-5), for the purpose of electing members of the board of education, and for any other purpose authorized by law.

b. All school elections shall be by ballot and, except as otherwise provided by P.L.1995, c.278 (C.19:60-1 et al.), shall be conducted in the manner provided for general elections pursuant to Title 19 of the Revised Statutes. No grouping of candidates or party designation shall appear on any ballot to be used in a school election.

6. Section 45 of P.L.2011, c. 202 (C.18A:12-15.1) is amended to read as follows:

C.18A:12-15.1 Terms of board members in certain districts.

45. In the case of a school district in which the annual school election has been moved to November pursuant to subsection a. of section 1 of P.L.2011, c.202 (C.19:60-1.1) or section 1 of P.L.2012, c.78 (C.19:60-1.2), the term of office of a member of a board of education that is set to expire in April of a given year shall be extended until the day in January next following the year in which the term was originally set to expire when the member's successor takes office.

7. Section 8 of P.L.1995, c.278 (C.19:60-8) is amended to read as follows:

C.19:60-8 Positions on ballot determined by drawing.

8. The county clerk shall conduct the ballot draw for candidates for school board member in those school districts that hold November elections, in accordance with the procedures set forth in R.S.19:14-12. In those school districts that elect school board members at the annual April school election, the ballot draw shall be conducted as follows:

a. The drawing shall be done by the secretary of the board of education seven working days following the last day for filing a petition for the nomination of such a candidate. The person making the drawing shall make public announcement at the drawing of each name, the order in which the name is drawn and the term of office for which the drawing is made.

b. A separate drawing shall be made for each full term and for each unexpired term, respectively. The names of the several candidates for whom petitions have been filed for each of the terms shall be written upon paper slips which shall be placed in capsules of the same size, shape, color and substance and then placed in a covered box with an aperture in the top large enough to admit a person's hand and to allow the capsules to be drawn

therefrom. The box shall be turned and shaken thoroughly to mix the capsules and the capsules shall be withdrawn one at a time.

c. Where there is more than one person to be elected for a given term of office, the position of the names on the ballots for each term of office shall be determined as above described. The name of the candidate for each term of office first drawn from the box shall be printed directly below the proper term for which the person was nominated and the name of the candidate next drawn shall be printed next in order, and so on, until the last name shall be drawn from the box.

The secretary of the board of education shall, within two days following the drawing, certify to the county clerk the results of the drawing.

8. Section 1 of P.L.2011, c.202 (C.19:60-1.1) is amended to read as follows:

C.19:60-1.1 Procedure for moving the date of school elections.

1. a. (1) The question of moving the date of a school district's annual school election to the first Tuesday after the first Monday in November, to be held simultaneously with the general election, shall be submitted to the legal voters of a local or regional school district, other than a Type II district with a board of school estimate, whenever a petition signed by not less than 15% of the number of legally qualified voters who voted in the district at the last preceding general election held for the election of electors for President and Vice-President of the United States is filed with the board of education. The question shall be submitted to the voters of the district at the next general election, provided that at least 60 days have lapsed since the date of the filing of the petition. In the event that the question is not approved by the voters, no petition may be filed to submit the question to the voters within one year after an election shall have been held pursuant to any petition filed pursuant to this subsection.

The date of the annual school election may be moved to the first Tuesday after the first Monday in November without voter approval, upon the adoption of a resolution by the board of education of a local or regional school district, other than a Type II district with a board of school estimate, or the governing body or bodies of the municipality or municipalities constituting the district.

(2) In the event that the date of a school district's annual school election is moved to the day of the general election, the annual school election in November shall be held for the purpose of submitting a proposal to the voters for approval of additional funds pursuant to paragraph (9) of subsec-

tion d. of section 5 of P.L.1996, c.138 (C.18A:7F-5), for the purpose of electing members of the board of education, and for any other purpose authorized by law. A vote shall not be required on the district's general fund tax levy for the budget year, other than the general fund tax levy required to support a proposal for additional funds.

(3) In addition to the process set forth in paragraph (1) of this subsection, in the event that all the constituent districts of a limited purpose regional school district approve moving the date of their annual school elections to November, by any of the procedures established pursuant to this subsection, then the annual school election for the limited purpose regional school district shall also be conducted simultaneously with the general election.

(4) In the event that the date of a school district's annual school election is moved to the day of the general election pursuant to this subsection, the board of education and the county board of elections shall enter into an agreement, pursuant to guidelines established by the Secretary of State, under which the board of education shall pay any agreed upon increase in the costs, charges, and expenses that may be associated with holding the school election simultaneously with the general election.

b. (1) In the case of a school district that has moved the date of its annual school election to November pursuant to subsection a. of this section, the question of moving the date of the school district's annual school election to the third Tuesday in April shall be submitted to the legal voters of a local or regional school district, other than a Type II district with a board of school estimate, whenever a petition signed by not less than 15% of the number of legally qualified voters who voted in the district at the last preceding general election held for the election of electors for President and Vice-President of the United States is filed with the board of education. The question shall be submitted to the voters of the district at the next general election, provided that at least 60 days have lapsed since the date of the filing of the petition.

The date of the annual school election may be moved to the third Tuesday in April without voter approval, upon the adoption of a resolution by the board of education of a local or regional school district, other than a Type II district with a board of school estimate, or the governing body or bodies of the municipality or municipalities constituting the district.

No resolution may be adopted and no petition may be filed pursuant to this subsection until at least four annual school elections have been held in November.

(2) In the event that the date of the annual school election is moved to the third Tuesday in April, a vote shall be held on the district's general fund

tax levy for the budget year including any proposal for additional funds pursuant to paragraph (9) of subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5), the election of members of the board of education, and for any other purpose authorized by law.

(3) In addition to the process set forth in paragraph (1) of this subsection, in the event that all the constituent districts of a limited purpose regional school district approve moving the date of their annual school elections to the third Tuesday in April, by any of the procedures established pursuant to this subsection, then the annual school election for the limited purpose regional school district shall also be conducted on the third Tuesday in April.

c. Notice, in writing, to change the date of a school election from the third Tuesday in April to the first Tuesday in November shall be given to the county clerk no less than 60 days prior to the third Tuesday in April to take effect for that year's election. For a change from the first Tuesday in November to the third Tuesday in April, notice must be given to the county clerk no less than 85 days prior to the third Tuesday in April to take effect for that year's election. Timely notice shall also be given by the board of education or municipal governing body adopting such resolution to any other affected boards of education and municipal governing bodies.

9. This act shall take effect immediately.

Approved December 7, 2012.

CHAPTER 79

AN ACT concerning electronic waste and amending P.L.2007, c.347, and P.L.2008, c.130, and supplementing P.L.1977, c.443 (C.26:3A2-21 et seq.).

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

1. Section 3 of P.L.2007, c.347 (C.13:1E-99.96) is amended to read as follows:

C.13:1E-99.96 Registration for television manufacturers; fee, annual report, recycling program.

3. a. Beginning on January 1, 2010, and each January 1 thereafter, each manufacturer of televisions offered for sale for delivery in this State shall

register with the department and pay a registration fee of $5,000. Each television manufacturer's registration and renewal shall include a list of all of the brands under which its televisions are sold. All fees collected pursuant to this subsection shall be allocated to the department to be used in the administration of the "Electronic Waste Management Act," P.L.2007, c.347 (C.13:1E-99.94 et seq.).

b. Each registered television manufacturer shall submit an annual renewal of its registration to the department and pay to the department a registration renewal fee of $5,000 by January 1 of each program year. Each registered television manufacturer's renewal shall include an annual report. All fees collected pursuant to this subsection shall be allocated to the department to be used in the administration of P.L.2007, c.347.

c. In addition to reporting all brands under which its televisions are sold, regardless of whether the brand is owned or licensed, the registered television manufacturer's annual report shall include the total number and weight of all new televisions sold in the State in the previous program year. The department shall determine a registered television manufacturer's market share by weight.

d. A registered television manufacturer shall inform the department, in writing, as soon as it becomes aware that it will cease selling televisions in the State.

e. By June 1, 2010, each registered television manufacturer or group of registered television manufacturers shall submit a plan to the department to collect, transport and recycle used televisions based on the television manufacturer's market share. Every plan shall be filed with a television manufacturer's annual registration, and shall include:

(1) Methods that will be used to collect the used televisions including proposed collection services;

(2) The processes and methods that will be used to recycle recovered used televisions including a description of the recycling processes that will be used, including the name and location of all authorized recyclers to be directly utilized by the plan;

(3) Means that will be utilized to publicize the collection services, including specification of a website or toll-free telephone number that provides information about the registrant's recycling program in sufficient detail to allow consumers to learn how to return their used televisions for recycling, including limitations placed by collection sites on the number of used televisions permitted for drop-off by consumers; and

(4) The intention of the registrant to fulfill its obligation through its own operations, either individually or with other registered television

manufacturers, or by contract with for-profit or not-for-profit corporations, or local government units.

The department shall hold confidential any information obtained pursuant to this subsection when shown by a registered television manufacturer that the information, if made public, would divulge competitive business information, methods or processes entitled to protection as trade secrets of the registered television manufacturer.

Recovered used televisions shall not be sent to prisons for recycling either directly or through intermediaries and nothing in this section shall be construed to allow for the recycling of used televisions by prisoners. Any person committed to a jail, prison, or other institution for the detention of persons charged with or convicted of an offense shall be disqualified from being an authorized recycler.

By January 1, 2011, each registered television manufacturer or group of registered television manufacturers shall commence its used television recycling program to implement and finance the collection, transportation, and recycling of used televisions. The used television recycling program shall accept all types and all brands of used televisions, including orphan devices.

f. Each registrant's plan or plan jointly submitted by a group of registrants shall be reviewed to determine its compliance with subsection e. of this section and approved by the department. The department may reject the plan, in whole or in part, and may impose additional requirements as a condition of approval.

g. If a registered television manufacturer fails to comply with all the conditions and terms of an approved plan, the registered television manufacturer shall be prohibited from selling or offering for sale televisions in this State.

h. Registered television manufacturers that collect, transport, and recycle used televisions in excess of their market share may sell credits to another registrant or apply that excess to the following year's recycling program; provided that no more than 25 percent of a manufacturer's obligation for any program year may be met with credits generated in a prior program year. No manufacturer or group of manufacturers, as the case may be, may cease implementing its plan required pursuant to subsection e. of this section and approved by the department, during any program year by using credits.

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

j. If less than 100 televisions are sold by a manufacturer in the previous program year, the department shall not require a manufacturer to pay

the registration fee or registration renewal fee, as appropriate, in the subsequent year, pursuant to subsection a. or b. of this section.

2. Section 3 of P.L.2008, c.130 (C.13:1E-99.96a) is amended to read as follows:

C.13:1E-99.96a Preparation of plan, annual report by department.

3. a. The department shall prepare a plan every three years that: (1) establishes used television per-capita collection and recycling goals; and (2) identifies any necessary State actions to expand collection opportunities to achieve the used television per-capita collection and recycling goals. The plan shall be posted on the department's Internet website and submitted, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

b. The department shall prepare an annual report, which shall be posted on the department's Internet website and submitted, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

The annual report shall include the following:

(1) Progress toward achieving the overall annual total recovery and recycling goals described in the plan prepared pursuant to subsection a. of this section; and

(2) An evaluation of the effectiveness of existing used television collection and processing infrastructure.

c. (Deleted by amendment, P.L.2012, c.79).

3. Section 8 of P.L.2007, c.347 (C.13:1E-99.101) is amended to read as follows:

C.13:1E-99.101 Compliance with Directive 2002/94/EC.

8. Beginning on January 1, 2011, no person shall sell or offer for sale in this State a new covered electronic device, including a television, if the covered electronic device is prohibited from being sold or offered for sale in the European Union on or after its date of manufacture due to the concentration of one or more heavy metals in the covered electronic device exceeding its maximum concentration value, as specified in the Commission of European Communities' Decision of August 18, 2005, amending Directive 2002/95/EC (European Union document 2005/618/EC), or as specified in a subsequent amendment to the Directive. The sale or offer for sale of a new covered electronic device that exceeds the European Union heavy metal maximum concentration value on or after its date of manufacture shall be permitted if the use of the heavy metal is necessary to comply

with consumer, health, or safety requirements imposed by the Underwriters Laboratories or federal or State law.

4. Section 9 of P.L.2007, c.347 (C.13:1E-99.102) is amended to read as follows:

C.13:1E-99.102 Collection of sampling information by department; registration; fee; TV exception.

9. a. (1) By January 30, 2012, and by each January 30 thereafter, the department shall:

(a) have completed an auditable, statistically valid sampling of covered electronic devices collected from consumers in this State during the previous program year. The sampling information collected shall consist of a list of brands of covered electronic devices and the weight of covered electronic devices that are identified for each brand. The department's sampling shall be conducted in accordance with a procedure established by the department and may be conducted by a third-party organization including an authorized recycler, to be determined by the department. The department may, at its discretion, be present at the sampling and may audit the methodology and the results of the third-party organization. The costs associated with the sampling shall be recovered from the fees paid by manufacturers to the department; and

(b) determine the total weight of covered electronic devices, including orphan devices, collected from consumers in this State during the previous program year.

(2) If a manufacturer or group of manufacturers conducts its own sampling of covered electronic devices, the manufacturer or group of manufacturers shall submit a report to the department annually by March 1, beginning the year after the program is initiated. The report shall include:

(a) the results of an auditable, statistically valid sampling of covered electronic devices collected from consumers in this State by the manufacturer or group of manufacturers during the previous program year. The sampling information reported shall consist of a list of brands of covered electronic devices and the weight of covered electronic devices that are identified for each brand; and

(b) the total weight of covered electronic devices, including orphan devices, collected from consumers in this State by the manufacturer or group of manufacturers during the previous program year and documentation verifying collection and recycling of such devices.

b. By February 1, 2010, and each January 1 thereafter, each manufacturer of covered electronic devices offered for sale for delivery in this State shall register with the department and pay a registration fee of $5,000. Any manufacturer to whom the department provides notification of a return share and return share in weight pursuant to subsection a. of section 12 of P.L.2007, c.347 (C.13:1E-99.105) and who has not previously filed a registration shall file a registration with the department within 30 days of receiving such notification from the department. Each manufacturer's registration and renewal shall include a list of all of the manufacturer's brands of covered electronic devices.

The provisions of this section shall not apply to any manufacturer or retailer of televisions offered for sale for delivery in this State.

c. If less than 100 covered electronic devices are sold by a manufacturer in the previous program year, the department shall not require a manufacturer to pay the registration fee or registration renewal fee, as appropriate, in the subsequent year, pursuant to subsection b. of this section.

5. Section 10 of P.L.2007, c.347 (C.13:1E-99.103) is amended to read as follows:

C.13:1E-99.103 Requirements for manufacturer provided with return share in weight greater than zero, TV exception.

10. a. By June 1, 2010, each manufacturer to whom the department provides, by April 2, 2010, a return share in weight that is greater than zero shall submit a plan to the department to collect, transport and recycle covered electronic devices.

b. Each manufacturer to whom the department provides, by February 15, 2012 or by February 15 of any year thereafter, a return share in weight that is greater than zero shall, by March 15 of that year, comply with the requirements of subsection a. of this section.

c. An individual manufacturer submitting a plan pursuant to subsection a. of this section shall collect, transport, and recycle its return share in weight.

d. A group of manufacturers jointly submitting a plan pursuant to subsection a. of this section shall collect, transport, and recycle the sum of the obligations of each participating manufacturer.

e. Every plan shall be filed with a manufacturer's annual registration, and shall include:

(1) Methods that will be used to collect the covered electronic devices including proposed collection services;

(2) The processes and methods that will be used to recycle recovered covered electronic devices including a description of the recycling processes that will be used, including the name and location of all authorized recyclers to be directly utilized by the plan;

(3) The processes and methods that will be used to recycle recovered covered electronic devices which originated from transactions between business concerns;

(4) Means that will be utilized to publicize the collection services, including specification of a website or toll-free telephone number that provides information about the manufacturer's program in sufficient detail to allow consumers to learn how to return their covered electronic devices for recycling; and

(5) The intention of the registrant to fulfill its obligation through operation of its own plan, either individually or with other manufacturers.

The department shall hold confidential any information obtained pursuant to this subsection when shown by a manufacturer that the information, if made public, would divulge competitive business information, methods or processes entitled to protection as trade secrets of the manufacturer.

Recovered covered electronic devices shall not be sent to prisons for recycling either directly or through intermediaries and nothing in this section shall be construed to allow for the recycling of covered electronic devices by prisoners. Any person committed to a jail, prison, or other institution for the detention of persons charged with or convicted of an offense shall be disqualified from engaging in the manual or mechanical separation of covered electronic devices to recover components and commodities contained therein for the purpose of re-use or recycling.

By January 1, 2011, each manufacturer or group of manufacturers required to submit a plan, pursuant to subsection a. of this section, shall commence its covered electronic device recycling program to implement and finance the collection, transportation, and recycling of covered electronic devices other than televisions. The covered electronic device recycling program shall accept all types and all brands of used covered electronic devices, including orphan devices.

f. Each manufacturer's plan or plan jointly submitted by a group of manufacturers shall be reviewed to determine its compliance with subsection e. of this section and approved by the department. The department may reject the plan, in whole or in part, and may impose additional requirements as a condition of approval.

g. If a manufacturer fails to comply with all the conditions and terms of an approved plan, the manufacturer shall be prohibited from selling or offering for sale in this State a covered electronic device.

h. Manufacturers that collect, transport, and recycle covered electronic devices in excess of their obligation may sell credits to another registrant or apply that excess to the following year's recycling obligation; provided that no more than 25 percent of a manufacturer's obligation for any program year may be met with credits generated in a prior program year. No manufacturer or group of manufacturers, as the case may be, may cease implementing its plan required pursuant to subsection e. of this section and approved by the department, during any program year by using credits.

i. (Deleted by amendment, P.L.2008, c.130)

j. (Deleted by amendment, P.L.2008, c.130)

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

l. The provisions of this section shall not apply to any manufacturer or retailer of televisions offered for sale for delivery in this State.

6. Section 12 of P.L.2007, c.347 (C.13:1E-99.105) is amended to read as follows:

C.13:1E-99.105 Determination of return share for manufacturer; TV exception; annual report.

12. a. (1) The department shall determine the return share for each program year for each manufacturer by dividing the weight of covered electronic devices identified for each manufacturer by the total weight of covered electronic devices identified for all manufacturers. For the first program year, the return share of covered electronic devices identified for each manufacturer shall be based on the best available public return share data from the United States, including data from other states, for covered electronic devices from consumers. For the second and each subsequent program year, the return share of covered electronic devices identified for each manufacturer shall be based on the most recent samplings of covered electronic devices conducted in this State pursuant to subsection a. of section 9 of P.L.2007, c.347 (C.13:1E-99.102).

(2) The department shall determine the return share in weight for each program year for each manufacturer for whom a return share is determined pursuant to paragraph (1) of this subsection by multiplying the return share for each such manufacturer by the total weight in pounds of covered electronic devices, including orphan devices, collected from consumers the

previous program year. For the first program year, the total weight in pounds of covered electronic devices shall be based on the best available public weight data from the United States, including data from other states, for covered electronic devices from consumers. For the second and each subsequent program year, the total weight in pounds of covered electronic devices shall be based on the total weight of covered electronic devices, including orphan devices, determined by the department pursuant to subsection a. of section 9 of P.L.2007, c.347 (C.13:1E-99.102).

(3) By April 2, 2011, the department shall provide each manufacturer for whom a return share is determined pursuant to paragraph (1) of this subsection with its return share and its return share in weight for the first program year. Annually thereafter, by February 15, beginning in 2013, the department shall provide each manufacturer for whom a return share is determined pursuant to paragraph (1) of this subsection with its return share and its return share in weight for the second and subsequent program years.

b. (Deleted by amendment, P.L.2008, c.130)

c. (1) The department shall ensure that at least one electronics collection opportunity is available in each county throughout the State and in such a manner as to be convenient, to the maximum extent practicable and feasible, to all consumers in the county.

(2) The department shall ensure that collection sites do not place unreasonable limits on the number of covered electronic devices permitted for drop-off by consumers.

d. (1) Beginning on January 1, 2011, the department shall maintain a list of registrants and the brands reported in each manufacturer's registration, and post the list on the department's Internet website that is updated at least once a month.

(2) The department shall organize and coordinate public education and outreach.

e. The department shall prepare a plan every three years that: (1) establishes per-capita collection and recycling goals; and (2) identifies any necessary State actions to expand collection opportunities to achieve the per-capita collection and recycling goals. The plan shall be posted on the department's Internet website and submitted, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

f. The department shall prepare an annual report, which shall be posted on the department's Internet website and submitted, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

The annual report shall include the following:

(1) The total weight of covered electronic devices collected in the State the previous calendar year;

(2) Progress toward achieving the overall annual total recovery and recycling goals described in the plan prepared pursuant to subsection e. of this section;

(3) A complete listing of all collection sites operating in the State in the prior calendar year, the parties that operated them, and the amount of material by weight collected at each site;

(4) An evaluation of the effectiveness of the education and outreach program; and

(5) An evaluation of the existing collection and processing infrastructure.

g. (Deleted by amendment, P.L.2012, c.79).

h. The provisions of this section shall not apply to any manufacturer or retailer of televisions offered for sale for delivery in this State.

7. Section 13 of P.L.2007, c.347 (C.13:1E-106) is amended to read as follows:

C.13:1E-99.106 Maintenance of Internet website, toll-free number listing recycling sites.

13. a. The department shall maintain an Internet website and toll-free number complete with up-to-date listings of where consumers can bring covered electronic devices for recycling under the provisions of this act.

b. (Deleted by amendment, P.L.2008, c.130)

c. (Deleted by amendment, P.L.2012, c.79).

d. No fees or costs may be charged to consumers for the collection, transportation, or recycling of covered electronic devices except that a nominal fee may be charged to a consumer if a financial incentive, such as a coupon, of equal or greater value is provided. Any authorized recycler may charge fees to schools or local government units for the reasonable costs incurred by the authorized recycler for the collection, transportation, or recycling of covered electronic devices.

8. Section 16 of P.L.2007, c.347 (C.13:1E-99.109) is amended to read as follows:

C.13:1E-99.109 Used covered electronic device, disposal as solid waste prohibited.

16. a. On and after January 1, 2011, no person shall knowingly dispose of a used covered electronic device, or any of the components or subassemblies thereof, as solid waste.

b. No solid waste facility in this State shall knowingly accept for disposal any truckload or roll-off container of solid waste containing a visible quantity of covered electronic devices, or any of the components or subassemblies thereof, as solid waste at any time.

c. An owner or operator of a solid waste facility may refuse to accept for disposal any truckload or roll-off container of solid waste containing a visible quantity of covered electronic devices or any of the components or subassemblies thereof.

d. An owner or operator of a solid waste facility shall not be found in violation of this section if the owner or operator has:

(1) made a good faith effort to comply with this section;

(2) posted in a conspicuous location at the solid waste facility a sign stating that covered electronic devices, or any of the components or subassemblies thereof, shall not be accepted at the solid waste facility; and

(3) notified, in writing, all persons authorized to deposit solid waste at the solid waste facility that covered electronic devices, or any of the components or subassemblies thereof, shall not be accepted at the solid waste disposal facility.

e. As used in this section, "solid waste facility" shall have the same meaning as set forth in section 3 of P.L.1970, c.39 (C.13:1E-3).

9. Section 17 of P.L.2007, c.347 (C.13:1E-99.110) is amended to read as follows:

C.13:1E-99.110 Enforcement; violations, penalties.

17. a. (Deleted by amendment, P.L.2012, c.79)

b. (Deleted by amendment, P.L.2012, c.79)

c. (Deleted by amendment, P.L.2012, c.79)

d. The "Electronic Waste Management Act," P.L.2007, c.347 (C.13:1E-99.94 et seq.), and any rule or regulation adopted pursuant thereto, shall be enforced by the department and may be enforced by every certified local health agency, as the case may be. Whenever the commissioner finds that a person has violated any provision of P.L.2007, c.347, or any rule or regulation adopted pursuant thereto, the commissioner may:

(1) issue an order, in accordance with subsection e. of this section, requiring the person found to be in violation to comply;

(2) bring a civil action in accordance with subsection f. of this section;

(3) levy a civil administrative penalty in accordance with subsection g. of this section; or

(4) bring an action for a civil penalty in accordance with subsection h. of this section.

e. Whenever, on the basis of available information, the commissioner finds that a person has violated any provision of P.L.2007, c.347, or any rule or regulation adopted thereto, the commissioner may issue an administrative enforcement order: (1) specifying the provision or provisions of P.L.2007, c.347, or the rule or regulation, of which the person is in violation; (2) citing the action which constituted the violation; (3) requiring compliance with the provision or provisions violated; and (4) providing notice to the person of the right to a hearing on the matters contained in the administrative enforcement order. The ordered party shall have 35 days from receipt of the order within which to deliver to the commissioner a written request for a hearing. An order shall be effective upon receipt and any person to whom such order is directed shall comply with the order immediately. A request for hearing shall not automatically stay the effect of the order.

f. The commissioner is authorized to, and a certified local health agency may, institute a civil action in Superior Court for appropriate relief from any violation of the provisions of P.L.2007, c.347, or any rule or regulation adopted thereof. Such relief may include, singly or in combination:

(1) a temporary or permanent injunction;

(2) recovery of reasonable costs of any investigation or inspection which led to the discovery of the violation, and for the reasonable costs of preparing and bringing a civil action commenced under this subsection;

(3) recovery of reasonable costs incurred by the State in removing, correcting, or terminating the adverse effects resulting from any violation of the provisions of P.L.2007, c.347, or any rule or regulation adopted pursuant thereto, for which a civil action has been commenced and brought under this subsection;

(4) recovery of compensatory damages caused by a violation of the provisions of P.L.2007, c.347, or any rule or regulation adopted, for which a civil action has been commenced and brought under this subsection. Assessments under this subsection shall be paid to the State Treasurer, or to the certified local health agency, as the case may be, except that compensatory damages may be paid by specific order of the court to any persons who have been aggrieved by the violation. If a proceeding is instituted by a certified local health agency, notice thereof shall be served upon the commissioner in the same manner as if the commissioner were a named party to the action or proceeding. The department may intervene as a matter of right in any proceeding brought by a certified local health agency.

g. (1) Except as authorized otherwise in paragraph (2) of this subsection, the commissioner is authorized to assess a civil administrative penalty of not less than $500 nor more than $1,000 for each violation, provided that each day during which the violation continues shall constitute an additional, separate and distinct offense.

(2) For any violation of section 3, 7, 8, 10 or 11 of P.L.2007, c.347 (C.13:1E-99.96, C.13:1E-99.100, C.13:1E-99.101, C.13:1E-99.103, or C.13:1E-99.104) or subsection a. or b. of section 6, subsection b. of section 9, or subsection a. of section 15 of P.L.2007, c.347 (C.13:1E-99.99, C.13:1E-99.102, C.13:1E-99.108), the commissioner is authorized to assess a civil administrative penalty not to exceed $25,000 for each day during which a violation continues. In assessing a civil administrative penalty, the commissioner shall consider the severity of the violation, the measures taken to prevent further violations, and whether the penalty will maintain an appropriate deterrent.

Prior to assessment of a civil administrative penalty, the person committing the violation shall be notified by certified mail or personal service that the penalty is being assessed. The notice shall identify the section of the statute, rule, regulation, or order violated; recite the facts alleged to constitute a violation; state the basis for the amount of the civil administrative penalties to be assessed; and affirm the rights of the alleged violator to a hearing. The ordered party shall have 35 days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 35-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order. The authority to levy an administrative order is in addition to all other enforcement provisions in P.L.2007, c.347, and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. The department may compromise any civil administrative penalty assessed under this section in an amount and with conditions the department determines appropriate.

h. A person who violates any provision of P.L.2007, c.347, or any rule or regulation adopted pursuant thereto, or an administrative order issued pursuant to subsection e. of this section, or a court order issued pursuant to subsection f. of this section, or who fails to pay a civil administrative penalty in full pursuant to subsection g. of this section, or who knowingly makes

any false or misleading statement on any application, record, report, or other document required to be submitted to the department, shall be subject, upon order of a court, to a civil penalty not to exceed $25,000 per day of the violation, and each day during which the violation continues shall constitute an additional, separate, and distinct offense. Any civil penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), or may be collected in a civil action commenced by a certified local health agency, or the commissioner, as the case may be. In addition to any penalties, costs or interest charges, the Superior Court, or the municipal court as the case may be, may assess against the violator the amount of economic benefit accruing to the violator from the violation.

i. As used in this section, "certified local health agency" shall have the same meaning as set forth in section 3 of P.L.1977, c.443 (C.26:3A2-23).

j. Violations of the act include, but are not limited to:

(1) the sale of a new covered electronic device by any person that is not in full compliance with the provisions of this act;

(2) the use of a qualified collection program to recycle covered electronic devices not discarded within the State, or region as provided in section 19 of P.L.2007, c.347 (C.13:1E-99.112);

(3) the knowing failure to report or accurately report any data required to be reported to the department pursuant to this act;

(4) the non-payment of any fee required pursuant to this act;

(5) failure to register, pursuant to subsection a. of section 3 of P.L.2007, c.347 (C.13:1E-99.96) or pursuant to subsection b. of section 9 of P.L.2007, c.347 (C.13:1E-99.102);

(6) failure to submit or implement a plan pursuant to section 3 or 10 of P.L.2007, c.347 (C.13:1E-99.96 or C.13:1E-99.103); and

(7) failure to comply with any provision of section 16 of P.L.2007, c.347 (C.13:1E-99.109).

C.26:3A2-25.1 Enforcement by certified local health agency.

10. In addition to the environmental health laws that are enforced by a certified local health agency pursuant to section 7 of P.L.1977, c.443 (C.26:3A2-25), a certified local health agency may agree to enforce the provisions of P.L.2007, c.347 (C.13:1E-99.94 et seq.) as provided in section 17 of P.L.2007, c.347 (C.13:1E-99.110).

11. Section 2 of P.L.2007, c.347 (C.13:1E-99.95) is amended to read as follows:

C.13:1E-99.95 Definitions relative to electronic waste management.

2. As used in sections 1 through 21 of P.L.2007, c.347 (C.13:1E-99.94 et seq.) and section 3 of P.L.2008, c.130 (C.13:1E-99.96a):

"Authorized recycler" means a person who: (1) engages in the manual or mechanical separation of covered electronic devices to recover components and commodities contained therein for the purpose of re-use or recycling; or (2) changes the physical or chemical composition of a covered electronic device by deconstructing, size reduction, crushing, cutting, sawing, compacting, shredding, or refining for the purpose of segregating components, and for the purpose of recovering or recycling those components, and who arranges for the transport of those components to an end user.

"Brand" means symbols, words, or marks that identify a covered electronic device, rather than any of its components.

"Business concern" means any corporation, association, firm, partnership, sole proprietorship, trust or other form of commercial organization. "Business concern" shall not include a small business enterprise.

"Cathode ray tube" means a vacuum tube or picture tube used to convert an electronic signal into a visual image.

"Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage function, and may include both a computer central processing unit and a monitor, but the term shall not include an automated typewriter or typesetter, a portable handheld calculator, a portable digital assistant, or other similar device.

"Consumer" means a person who purchases a covered electronic device in a transaction that is a retail sale. "Consumer" shall not include any business concern purchasing covered electronic devices.

"Covered electronic device" means a desktop or personal computer, computer monitor, portable computer, or television sold to a consumer. A "covered electronic device" shall not include any of the following: (1) an electronic device that is a part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle; (2) an electronic device that is functionally or physically a part of a larger piece of equipment designed and intended for use in an industrial, commercial, or medical setting, including diagnostic, monitoring, or control equipment; (3) an electronic device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; or (4)

a telephone of any type unless it contains a video display area greater than four inches measured diagonally.

"Department" means the Department of Environmental Protection.

"Local government unit" means any county or municipality, or any agency, instrumentality, authority or corporation of any county or municipality, including, but not limited to, sewerage, utilities and improvement authorities, or any other political subdivision of the State.

"Manufacturer" means any person: (1) who manufactures or manufactured covered electronic devices under a brand that it owns or owned or is or was licensed to use, other than a license to manufacture covered electronic devices for delivery exclusively to or at the order of the licensor; (2) who sells or sold covered electronic devices manufactured by others under a brand that the seller owns or owned or is or was licensed to use, other than a license to manufacture covered electronic devices for delivery exclusively to or at the order of the licensor; (3) who manufactures or manufactured covered electronic devices without affixing a brand; (4) who manufactures or manufactured covered electronic devices to which the person affixes or affixed a brand that the person neither owns or owned nor is or was licensed to use; (5) for whose account covered electronic devices manufactured outside the United States are or were imported into the United States, provided however, if, at the time such covered electronic devices are or were imported into the United States, another person has registered as the manufacturer of the brand of the covered electronic devices pursuant to subsection b. of section 9 of P.L.2007, c.347 (C.13:1E-99.102), then paragraph (5) of this definition shall not apply; or (6) a person who assumes the obligations and responsibilities for any manufacturer pursuant to paragraphs (1) through (5) of this definition.

"Market share" means a television manufacturer's national sales of televisions expressed as a percentage of the total weight of all television manufacturers' national sales based on the best available public data.

"Monitor" means a separate video display component of a computer, whether sold separately or together with a computer central processing unit and computer box, and includes a cathode ray tube, liquid crystal display, gas plasma, digital light processing, or other image projection technology, greater than four inches measured diagonally, and its case, interior wires and circuitry, cable to the central processing unit, and power cord.

"Obligation" means: (1) the return share in weight, identified for an individual manufacturer, as determined by the department pursuant to subsection a. of section 12 of P.L.2007, c.347 (C.13:1E-99.105); or (2) the market share, identified for an individual television manufacturer, as deter-

mined by the department pursuant to subsection c. of section 3 of P.L.2007, c.347 (C.13:1E-99.96).

"Orphan device" means a covered electronic device for which no manufacturer can be identified, or for which the original manufacturer no longer exists.

"Person" means an individual, trust firm, joint stock company, business concern, and corporation, including, but not limited to, a government department, partnership, limited liability company, or association.

"Portable computer" means a computer and video display greater than four inches in size that can be carried as one unit by an individual, including a laptop computer.

"Program year" means a full calendar year beginning on or after January 1,.2011.

"Purchase" means the taking, by sale, of title in exchange for consideration.

"Recycling" means any process by which materials which would otherwise become solid waste are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products. "Recycling" shall not include energy recovery or energy generation by means of incinerating electronic waste whether apart or in combination with other wastes.

"Registrant" means a manufacturer of covered electronic devices that is in full compliance with the requirements of this act.

"Retail sales" means the sale of covered electronic devices through sales outlets, via the Internet, mail order, or other means, whether or not the retailer has a physical presence in this State.

"Retailer" means a person who owns or operates a business that sells new covered electronic devices in this State by any means to a consumer.

"Return share" means the proportion of covered electronic devices for which an individual manufacturer is responsible to collect, transport, and recycle, as determined by the department pursuant to subsection a. of section 12 of P.L.2007, c.347 (C.13:1E-99.105).

"Return share in weight" means the total weight of covered electronic devices for which an individual manufacturer is responsible to collect, transport, and recycle, as determined by the department pursuant to subsection a. of section 12 of P.L.2007, c.347 (C.13:1E-99.105).

"Sale" or "sell" means any transfer for consideration of title, including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other, similar electronic means, and excluding leases.

"Small business enterprise" means any business which has its principal place of business in this State, is independently owned and operated, and employs the equivalent of fewer than 50 full-time employees.

"Television" means a stand-alone display system containing a cathode ray tube or any other type of display primarily intended to receive video programming via broadcast, having a viewable area greater than four inches measured diagonally, able to adhere to standard consumer video formats and having the capability of selecting different broadcast channels and support sound capability.

"Video display" means an output surface having a viewable area greater than four inches when measured diagonally that displays moving graphical images or a visual representation of image sequences or pictures, showing a number of quickly changing images on a screen in fast succession to create the illusion of motion, including, if applicable, a device that is an integral part of the display and cannot be easily removed from the display by the consumer that produces the moving image on the screen. A "video display" typically uses a cathode ray tube, liquid crystal display, gas plasma, digital light processing, or other image projection technology.

12. This act shall take effect immediately.

Approved December 21, 2012.

CHAPTER 80

AN ACT concerning the education costs of students residing in domestic violence shelters or transitional living facilities and amending P.L.1979, c.207 and P.L.1989, c.290.

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

1. Section 19 of P.L.1979, c.207 (C.18A:7B-12) is amended to read as follows:

C.18A:7B-12 Determination of district of residence.

19. For school funding purposes, the Commissioner of Education shall determine district of residence as follows:

a. (1) In the case of a child placed in a resource family home prior to the effective date of P.L.2010, c.69 (C.30:4C-26b et al.), the district of residence shall be the district in which the resource family parents reside. If such a child in a resource family home is subsequently placed in a State facility or by a State agency, the district of residence of the child shall then be determined as if no such resource family placement had occurred.

(2) In the case of a child placed in a resource family home on or after the effective date of P.L.2010, c.69 (C.30:4C-26b et al.), the district of residence shall be the present district of residence of the parent or guardian with whom the child lived prior to the most recent placement in a resource family home.

b. The district of residence for children who are in residential State facilities, or who have been placed by State agencies in group homes, skill development homes, private schools or out-of-State facilities, shall be the present district of residence of the parent or guardian with whom the child lived prior to his most recent admission to a State facility or most recent placement by a State agency.

c. The district of residence for children whose parent or guardian temporarily moves from one school district to another as the result of being homeless shall be the district in which the parent or guardian last resided prior to becoming homeless. For the purpose of this amendatory and supplementary act, "homeless" shall mean an individual who temporarily lacks a fixed, regular and adequate residence.

d. If the district of residence cannot be determined according to the criteria contained herein, if the criteria contained herein identify a district of residence outside of the State, or if the child has resided in a domestic violence shelter or transitional living facility located outside of the district of residence for more than one year, the State shall assume fiscal responsibility for the tuition of the child. The tuition shall equal the approved per pupil cost established pursuant to section 24 of P.L.1996, c.138 (C.18A:7F-24). This amount shall be appropriated in the same manner as other State aid under this act. The Department of Education shall pay the amount to the Department of Human Services, the Department of Children and Families, the Department of Corrections or the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or, in the case of a homeless child or a child in a family resource home, the Department of Education shall pay to the school district in which the child is enrolled the weighted base per pupil amount calculated pursuant to section 7 of P.L.2007, c.260 (C.18A:7F-49) and the appropriate security categorical aid per pupil and special education categorical aid per pupil.

e. If the State has assumed fiscal responsibility for the tuition of a child in a private educational facility approved by the Department of Education to serve children who are classified as needing special education services, the department shall pay to the Department of Human Services, the Department of Children and Families or the Juvenile Justice Commission, as appropriate, the aid specified in subsection d. of this section and in addition, such aid as required to make the total amount of aid equal to the actual cost of the tuition.

2. Section 3 of P.L.1989, c.290 (C.18A:7B-12.1) is amended to read as follows:

C.18A:7B-12.1 Homeless child, determination of district of residence; tuition costs, transportation.

3. The district of residence for a homeless child determined pursuant to section 19 of P.L.1979, c.207 (C.18A:7B-12) shall be responsible for the education of the homeless child. The district of residence shall determine the educational placement of the child after consulting with the parent or guardian. This determination shall be: a. to continue the child's education in the school district of last attendance, b. to enroll the child in the district of residence if the district of residence is not the district of last attendance, or c. to enroll the child in the school district where the child is temporarily living, whichever is in the child's best interest. If the parent or guardian objects to the determination made by the district of residence, the county superintendent of schools shall be notified and within 48 hours shall determine the placement of the child based on criteria established by the State Board of Education. Any appeals regarding the determination shall be resolved according to rules established by the State Board of Education.

When the homeless child attends school in a district other than the district of residence, the district of residence shall pay the costs of tuition for the child to attend school in that district and shall pay for any transportation costs incurred by that district; except that in the case of a child who has resided in a domestic violence shelter or transitional living facility located in a district other than the district of residence for more than one year, the State shall pay the costs of tuition for the child to attend school in that district. When the homeless child attends school in the district of residence while temporarily residing in another district, the district of residence shall provide for transportation to and from school pursuant to the provisions of N.J.S.18A:58-7.

C.18A:7B-12.2 Rules.

3. The Commissioner of Education, in consultation with the Department of Children and Families, shall promulgate rules pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the provisions of this act. The rules shall identify those facilities that qualify as transitional living facilities or domestic violence shelters under this act.

4. This act shall take effect immediately and shall first apply in the 2012-2013 school year.

Approved December 21, 2012.

JOINT RESOLUTIONS

(1535)

JOINT RESOLUTION NO. 1

A JOINT RESOLUTION designating June 2012 as "Congenital Adrenal Hyperplasia Awareness Month."

WHEREAS, Congenital Adrenal Hyperplasia (CAH) is a family of inherited disorders that disrupt the production of several vital hormones including cortisol, which is responsible for managing blood sugar and stress, and aldosterone, which is responsible for managing salt and fluid levels in the body; and

WHEREAS, As an autosomal recessive genetic disorder, parents who do not have CAH may carry the gene that causes the disorder and may pass it to their children; two parents who are carriers of the gene would have a one in four chance of a child being born with CAH; and

WHEREAS, The disorder may occur in a variety of forms, including Classical CAH, a rare and potentially fatal condition, and Non-classical CAH, a much more common but less dangerous condition; and

WHEREAS, Classical CAH can lead to potentially fatal salt-wasting crises and may also cause symptoms such as an arrhythmic heartbeat, dehydration, and vomiting; and

WHEREAS, Classical CAH also causes increased production of androgen, which causes infant girls to develop male characteristics that they would not otherwise develop, including genital anomalies that are recognizable in the womb, which some parents choose to have corrected with surgery; and

WHEREAS, Classical CAH in infant boys is not as easily recognized as in girls and may often not be identified until they present with vomiting or life-threatening adrenal shock within the first few weeks after birth; and

WHEREAS, Non-classical CAH is a much more common version of the disorder that is not life-threatening, but can affect puberty and growth in children and may cause infertility in males and females as well as other symptoms affecting quality of life; and

WHEREAS, Early detection and treatment is essential to prevent death in infants with some versions of CAH, and all CAH patients require monitoring and hormone treatment throughout their lives; and

WHEREAS, CAH can be detected by newborn screening, and as of July 2008, every state in the United States mandates screening for CAH, but many children born around the world are not screened even though globally about one in 10,000-14,000 people suffer from classic CAH; and

WHEREAS, It is appropriate that the residents of New Jersey become better informed about CAH and its impact on the lives and health of so many; now, therefore,

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

1. June 2012 is designated as "Congenital Adrenal Hyperplasia Awareness Month" in the State of New Jersey, and the citizens of New Jersey are encouraged to observe the month with appropriate activities and programs.

2. The governor is respectfully requested to issue a proclamation calling upon public officials and the citizens of New Jersey to observe the month with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved August 8, 2012.

JOINT RESOLUTION NO. 2

A JOINT RESOLUTION designating June of each year as "Men's Health Awareness Month."

WHEREAS, The health concerns of men affect everyone in the Garden State, as nearly every citizen of New Jersey has had a father, husband, son, brother, or male friend die from disease or illness at a premature age; and

WHEREAS, Despite advances in medical technology and research, men continue to live an average of five years less than women; and

WHEREAS, The ten leading causes of death in men are heart disease, prostate and other cancers, stroke, accidents and unintentional injuries, lung disease, diabetes, pneumonia and influenza, suicide, chronic liver disease and cirrhosis, and kidney disease; and

WHEREAS, According to the American Cancer Society, one in two men are diagnosed with cancer in their lifetime; and

WHEREAS, The likelihood that a man will develop prostate cancer is one in six; and

WHEREAS, According to the American Cancer Society, it is estimated that 241,730 new cases of prostate cancer will occur in the United States in 2012, and prostate cancer is the second-leading cause of cancer death in men, with 28,170 estimated deaths from prostate cancer to occur in 2012; and

WHEREAS, African-American men in the United States have the highest incidence of prostate cancer; and

WHEREAS, The number of cancer survivors is growing in the United States as a result of physicians' ability to find cancer earlier, diagnose it more accurately, and treat it more effectively; and

WHEREAS, Follow-up care and patient education on cancer survivorship issues after prostate cancer treatment is a critical component to patient care that will aid survivors' physical and psychosocial well-being and provide them with coordinated care; and

WHEREAS, An estimated 13 million men in the United States are affected by low testosterone, also known as hypogonadism, and, despite the high prevalence of this disease, testosterone deficiency is undertreated and overlooked because men frequently ignore their symptoms or attribute them to other causes such as aging; and

WHEREAS, Many men with low testosterone will benefit from treatments now available to them; and

WHEREAS, Many men are reluctant to visit a health center or physician for regular screening examinations of male-related health problems for a variety of reasons, including fear, lack of information, and cost factors; and

WHEREAS, Significant numbers of male-related health problems, such as prostate cancer, testicular cancer, infertility, and colon cancer, could be detected and treated if men's awareness of these problems was more pervasive; and

WHEREAS, Educating both the public and health care providers about the importance of early detection of male-related health problems will result in reducing rates of mortality for these diseases; and

WHEREAS, Appropriate use of tests such as Prostate Specific Antigen (PSA) exams, blood pressure screens, and cholesterol screens, in conjunction with clinical examination and self-testing, can result in the detection of many male-related health problems in their early stages and increased survival rates; and

WHEREAS, Men who are educated about the value that preventive health can have in prolonging one's lifespan and their role as a productive fam-

ily member will be more likely to participate in health screenings and proactively take charge of their health; now, therefore,

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

C.36:2-190 "Men's Health Awareness Month," June; designated.

1. June of each year is designated as "Men's Health Awareness Month."

C.36:2-191 Annual observance.

2. The Governor shall annually issue a proclamation calling upon public officials and the citizens of this State to observe the month with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved September 24, 2012.

JOINT RESOLUTION NO. 3

A JOINT RESOLUTION declaring October of every year as "Agent Orange Awareness Month" and encouraging increased awareness about potential negative health effects of exposure on Vietnam veterans.

WHEREAS, Our Vietnam veterans valiantly served our country in what was a difficult, unconventional war; thousands gave their lives, and thousands of others were wounded and injured in battle; and

WHEREAS, In the years after the war, it has been disturbing to find that many of these wounds and injuries were caused by the indiscriminate use of chemicals as weapons of war by the United States military in the heavily forested areas of Vietnam; and

WHEREAS, Between 1961 and 1971, the United States military sprayed more than 19 million gallons of 15 different herbicides in South Vietnam and surrounding areas with the purpose of killing the plants, crops and forests that provided food and cover for enemy troops; and

WHEREAS, One of the most common herbicides used was "Agent Orange" which, named after the color of the stripe on its storage drums, was a mixture containing dioxin, a chemical associated in laboratory studies

and epidemiologic studies with certain skin diseases and an increased risk of both certain types of cancer and reproductive and developmental defects; and

WHEREAS, In addition to the trauma of war, some veterans are experiencing adverse health effects as a result of the use of Agent Orange to defoliate the jungle areas of Vietnam by the United States military; and

WHEREAS, Today, it is well known that Agent Orange is scientifically associated with a number of negative health effects on thousands of exposed Vietnam veterans, including chloracne, non-Hodgkin's lymphoma, soft tissue sarcomas, peripheral neuropathy, Hodgkin's disease, porphyria cutanea tarda, diabetes, multiple myeloma, respiratory cancers, prostate cancer, chronic lymphocytic leukemia, Parkinson's disease, ischemic heart disease, hypertension, AL amyloidosis, and spina bifida and other birth defects in the children of Vietnam veterans; and

WHEREAS, It is estimated that 2.6 million personnel served within the borders of South Vietnam and adjacent waters, and the Department of Veterans Affairs makes the presumption that all veterans who served in Vietnam were exposed to Agent Orange; and

WHEREAS, Given the presumed exposure, and the many negative health effects that have been linked to service in the Vietnam war, it is essential that we raise awareness about this issue in our communities and that all Vietnam veterans who have not already done so seek proper health screening; now, therefore,

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

C.36:2-192 "Agent Orange Awareness Month," October; designated.

1. The Legislature of the State of New Jersey hereby declares October of every year as "Agent Orange Awareness Month," encourages all citizens and residents of this State to increase their awareness about the negative health effects associated with exposure to Agent Orange during the Vietnam war, and especially urges all Vietnam veterans to seek proper medical screening, and free medical care from the United States Department of Veterans Affairs, when possible.

C.36:2-193 Annual observance.

2. The Governor is requested to issue a proclamation calling upon the public officials and all citizens and residents of New Jersey to observe the month with appropriate activities and programs.

3. A duly authenticated copy of this joint resolution shall be transmitted to the New Jersey chapters of the Vietnam Veterans of America and to the Order of the Silver Rose.

4. This joint resolution shall take effect immediately.

Approved September 24, 2012.

JOINT RESOLUTION NO. 4

A JOINT RESOLUTION designating November 10 of each year as "Neuroendocrine Tumor Cancer Awareness Day" in New Jersey.

WHEREAS, Neuroendocrine cells, located throughout the body, produce hormones used for a variety of important functions, such as regulating air and blood flow through the lungs and the production of adrenaline in the adrenal glands; and

WHEREAS, Neuroendocrine tumor cancer (NET cancer) occurs when these neuroendocrine cells grow uncontrollably into malignant tumors, disrupting the cells' important functions, and causing a wide variety of serious symptoms including recurrent lung infections, wheezing, abdominal pain, heart palpitations, heartburn, skin rashes, anxiety attacks, and sometimes death; and

WHEREAS, NET cancer most often originates in the lung or gastrointestinal system but can also begin in other organs, such as the pancreas, kidneys, ovaries, testes, or thyroid gland; and

WHEREAS, Even though thousands of Americans suffer from NET cancer, mistakes in diagnosis and caring for those suffering from NET cancer are far too common due to a lack of knowledge in the medical community about the disease; and

WHEREAS, Over 90 percent of NET cancer patients are incorrectly diagnosed and initially treated for the wrong disease; and

WHEREAS, Misdiagnoses and delayed diagnoses mean that NET cancer patients are treated for the wrong disease, on average, for five to seven years, by which point the cancer has often spread, making survival less likely; and

WHEREAS, Despite the fact that the majority of neuroendocrine tumors are cancerous, healthcare professionals often believe they are not cancerous, are unlikely to cause serious harm, and underestimate the tumor's ability

to spread to other parts of the body, further decreasing the patient's likelihood of survival; and

WHEREAS, Despite the well-publicized illness and death of Steve Jobs, who succumbed to a form of NET cancer, knowledge of the disease is too limited both within the medical community and among the general public; and

WHEREAS, Greater awareness and knowledge of NET cancer both in the medical and lay communities would substantially benefit those affected by helping to generate the funding for further research to improve treatments, and ultimately save more lives; now, therefore,

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

C.36:2-194 "Neuroendocrine Tumor Cancer Awareness Day," November 10; designated.

1. November 10 of each year is designated as "Neuroendocrine Tumor Cancer Awareness Day" in the State of New Jersey in recognition of the plight of those suffering from the disease, and in order to foster greater awareness and understanding both among the general public and within the medical community so that further research may be funded, treatments may improve, diagnoses may be more timely and accurate, and more lives may be saved.

C.36:2-195 Annual observance.

2. The Governor shall annually issue a proclamation calling upon officials and the citizens of this State to observe "Neuroendocrine Tumor Cancer Awareness Day" with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved November 8, 2012.

JOINT RESOLUTION NO. 5

A JOINT RESOLUTION designating May of each year as Asian Pacific American Heritage Month in the State of New Jersey.

WHEREAS, The Asian Pacific American community in New Jersey is one of the largest in the United States and has enriched the State with its cultural diversity; and

WHEREAS, In 1978, a joint congressional resolution, signed by President Jimmy Carter established the first seven days of May as Asian Pacific American Heritage Week; and

WHEREAS, In May 1990, the holiday was expanded further when President George H. W. Bush designated the month of May to be Asian Pacific American Heritage Month; and

WHEREAS, It is appropriate to recognize the enormous contributions Asian Pacific American residents have made to the arts, sciences, business, and education in New Jersey; and

WHEREAS, The culture and contributions of our Asian and Pacific Islander residents will continue to grow in significance as more Asian Pacific Americans choose to make New Jersey their home; and

WHEREAS, The State of New Jersey takes pride in its cultural diversity and welcomes the opportunity to honor our Asian Pacific American residents for their lasting, increasing imprint upon the State; now, therefore,

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

C.36:2-196 Asian Pacific American Heritage Month, May; designated.

1. The month of May each year is designated as Asian Pacific American Heritage Month in the State of New Jersey to acknowledge the positive impact the Asian Pacific American population has had on the State and its citizens and residents.

C.36:2-197 Annual observance.

2. The Governor is requested to annually issue a proclamation and call upon public officials, private organizations, and all citizens and residents of this State to observe the month of May each year with appropriate events and activities.

3. This joint resolution shall take effect immediately.

Approved November 19, 2012.

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 85

WHEREAS, Assembly Republican Leader Alex DeCroce was an exceptional individual, a man of impeccable character and dedication to the people of New Jersey, and a devoted leader, public servant, mentor, family-man, friend, and role model; and

WHEREAS, Assemblyman DeCroce was born in Morristown, New Jersey in 1936, attended Boonton High School and Seton Hall University, and resided in Parsippany-Troy Hills, New Jersey; and

WHEREAS, Assemblyman DeCroce began his remarkable career of public service by being elected as a member of the Morris County Board of Chosen Freeholders, serving from 1984 to 1989; and

WHEREAS, Assemblyman DeCroce began his service in the New Jersey General Assembly in 1989, and thereafter was re-elected eleven times, serving until 2012 as a citizen legislator loved by his constituents; and

WHEREAS, during his years of public service, Assemblyman DeCroce remained focused on improving New Jersey through positive and principled leadership, being chosen by his peers to numerous leadership positions including Chairman of the Assembly Transportation Committee, Deputy Speaker from 1994 to 2001, Assembly Republican Conference Leader from 2002 to 2003, and Assembly Republican Leader from 2003 until his passing; and

WHEREAS, as Chairman of the Assembly Transportation Committee, Assemblyman DeCroce sponsored the laws to renew the Transportation Trust Fund and dedicate the Motor Fuels Tax to transportation construction projects; and

WHEREAS, Assemblyman DeCroce was a pioneer and an unwavering advocate for the rights of criminal victims, seeking to ensure justice and fairness for those who had been wronged; and

WHEREAS, Assemblyman DeCroce earned a reputation in the Legislature for his bipartisanship, unwavering kindness, and gentle nature even while fighting for his principles; and

WHEREAS, Assemblyman DeCroce dedicated himself to tirelessly serving the people of Morris County and the people of New Jersey in all facets of his life, not just through his government service, but through his work on many charitable boards and foundations, and his service as an accomplished realtor in his local business partnership with the late Congressman Dean Gallo; and

WHEREAS, above all of his other accomplishments, Assemblyman DeCroce was a caring and devoted husband, father, and grandfather, and New Jersey is grateful to his loving family for sharing him with us during his many years of public service; and

WHEREAS, it is with deep personal sadness that we honor the memory and mourn the passing of Assembly Republican Leader DeCroce and extend sympathy to his family, his many friends and admirers, and his respectful colleagues;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Tuesday, January 17, 2012 in recognition and mourning of the passing of Assemblyman Alex DeCroce.
2. This Order shall take effect immediately.

Dated January 13, 2012.

EXECUTIVE ORDER NO. 86

WHEREAS, United States Marine Corporal Kevin J. Reinhard grew up in Woodbridge, New Jersey and graduated from St. Joseph's High School in Metuchen, New Jersey; and

WHEREAS, Corporal Reinhard attended Ramapo College and Middlesex County College and in 2008 he interrupted his studies to enlist in the U.S. Marine Corps; and

WHEREAS, Corporal Reinhard was assigned to Marine Heavy Helicopter Squadron 363, Marine Aircraft Group 24, 1st Marine Aircraft Wing, III Marine Expeditionary Force, Kaneohe Bay, Hawaii; and

WHEREAS, Corporal Reinhard tragically lost his life while supporting combat operations in Helmand Province, Afghanistan; and

WHEREAS, Corporal Reinhard was a dedicated Marine as well as a loving son and brother, whose memory lives in the hearts of his family and fellow Marines; and

WHEREAS, Corporal Reinhard's patriotism and dedicated service to his country and his fellow Marines make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Monday, January 30, 2012, in recognition and mourning of a brave and loyal American hero, United States Marine Corporal Kevin J. Reinhard.
2. This Order shall take effect immediately.

Dated January 26, 2012.

EXECUTIVE ORDER NO. 87

WHEREAS, Whitney Houston was a gifted singer, remarkable performer, and iconic figure who left an indelible mark upon the popular music landscape in the State of New Jersey and across our Nation; and

WHEREAS, Whitney Houston was born in Newark, New Jersey on August 9, 1963, and was raised in East Orange, New Jersey; and

WHEREAS, Whitney Houston, at a young age, began singing at Newark's New Hope Baptist Church, where her mother, also a Grammy-winning artist, led the music program for many years; and

WHEREAS, Whitney Houston passed away in Beverly Hills, California on February 11, 2012, at the age of 48; and

WHEREAS, Whitney Houston's vibrant and spectacular voice endeared her to countless fans in New Jersey, across the nation, and around the world, and has enriched the lives of fans of many different genres of music, including pop and rhythm and blues; and

WHEREAS, Whitney Houston's considerable musical talent and unique voice contributed to her recording success, which included more than 170 million combined albums, singles, and videos sold worldwide during her career, as well as two albums that sold more than 10 million copies in the United States alone: her 1985 debut album, "Whitney Houston," and the 1992 soundtrack to "The Bodyguard"; and

WHEREAS, Whitney Houston charted seven consecutive No. 1 Billboard Hot 100 hits and seven consecutive multi-platinum albums, and her second album, "Whitney," released in 1987, became the first album by a woman to enter the Billboard charts at No. 1; and

WHEREAS, her recording success in the music industry led her to appear in numerous feature films, including "The Bodyguard," "Waiting to Exhale," and "The Preacher's Wife"; and

WHEREAS, having enriched the lives of so many people during her musical and entertainment career, Whitney Houston left a legacy in this State that will be cherished for many years; and

WHEREAS, through her accomplishments and achievements in the entertainment industry and her contributions to the cultural identity of New Jersey, Whitney Houston made New Jersey a better place; and

WHEREAS, it is with deep sadness that we mourn the loss of Whitney Houston and extend our sincere sympathy to her family, friends, and countless fans; and

WHEREAS, it is appropriate to recognize the achievements and contributions, to honor the memory, and to mark the passing of Whitney Houston;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Friday, February 17, 2012, in recognition and mourning of the passing of Whitney Houston.

2. This Order shall take effect immediately.

Dated February 15, 2012.

EXECUTIVE ORDER NO. 88

WHEREAS, United States Marine Lance Corporal Osbrany Montes De Oca grew up in North Arlington, New Jersey and graduated from North Arlington High School; and

WHEREAS, Lance Corporal Montes De Oca enlisted in the U.S. Marine Corps shortly after graduating high school; and

WHEREAS, Lance Corporal Montes De Oca was assigned to 2nd Battalion, 6th Marine Regiment, 2nd Marine Division, II Marine Expeditionary Force, Camp Lejeune, NC; and

WHEREAS, Lance Corporal Montes De Oca tragically lost his life while supporting combat operations in Helmand Province, Afghanistan; and

WHEREAS, Lance Corporal Montes De Oca was a dedicated Marine as well as a loving son and brother, whose memory lives in the hearts of his family and fellow Marines; and

WHEREAS, Lance Corporal Montes De Oca's patriotism and dedicated service to his country and his fellow Marines make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Tuesday, February 21, 2012 in recognition and mourning of a brave and loyal American hero, United States Marine Lance Corporal Osbrany Montes De Oca.

2. This Order shall take effect immediately.

Dated February 16, 2012.

EXECUTIVE ORDER NO. 89

WHEREAS, preparing every New Jersey student for college and career, regardless of zip code, is one of the foremost goals of this Administration; and

WHEREAS, on February 23, 2012, the Department of Education released its "Education Funding Report," which advanced several funding and other reforms designed to meet that goal and close the State's persistent achievement gap; and

WHEREAS, among those reforms were a number of suggested changes to the School Funding Reform Act (SFRA) funding formula; and

WHEREAS, the SFRA is used to distribute State aid to school districts through a formula that provides more State aid to districts with greater numbers of students determined to be economically at-risk and districts with less property wealth; and

WHEREAS, an at-risk student is defined in the SFRA as a student participating in the Federal Free and Reduced Price Lunch Program; and

WHEREAS, under the SFRA, each at-risk student is funded at between 147%-157% of his non-economically disadvantaged counterpart; and

WHEREAS, a June 2011 report from the Office of the State Auditor found that as many as 37% of the students enrolled in the Federal Free and Reduced Price Lunch Program are enrolled in the Program fraudulently, with the result that certain districts are likely receiving more State aid than they are rightly entitled to under the SFRA; and

WHEREAS, in August 2010, the Office of the State Comptroller released a report titled "A Programmatic Examination of Municipal Tax Abatements," which found, among other things, that tax abatements keep school districts' property wealth artificially low, with the result that those districts are receiving more State aid than they are rightly entitled to under the SFRA; and

WHEREAS, the Fiscal Year 2013 Budget Proposal calls for approximately $7.8 billion in SFRA formula aid, an increase of $213 million over Fiscal Year 2012 State education funding and the largest appropriation of State education dollars in New Jersey's history; and

WHEREAS, as Governor, I have an obligation to both New Jersey's students and taxpayers to ensure that education funds are allocated fairly and equitably; and

WHEREAS, the conclusions of the Education Funding Report, the State Auditor report, and the State Comptroller report suggest that some of the State's education dollars are being misdirected, and ultimately misappropriated and misspent, by districts with fewer at-risk students than reflected through participation in the Federal Free and Reduced Price Lunch Program and with greater local property wealth than reported to the State because of municipal tax abatements; and

WHEREAS, given the conclusions of the Education Funding Report, the State Auditor report, and the State Comptroller report, the tens of millions of dollars or more in State aid that may have been misdirected to school districts in the

past, and the tens of millions of dollars or more that may be misdirected to school districts in the future, a Task Force on Education Funding is necessary to study the conclusions of the various reports and recommend changes to the SFRA where appropriate;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created the New Jersey Education Funding Task Force, hereinafter referred to as the "Task Force."

2. The Task Force shall consist of seven (7) members appointed by the Governor who shall serve at his pleasure. The Governor shall select a chairperson from among the members of the Task Force. The Task Force shall consist of individuals from both inside and outside government who have knowledge or expertise in the areas of education funding, policy, administration, governance, and fiscal management. All members of the Task Force shall serve without compensation. The Task Force shall organize as soon as practicable after the appointment of its members.

3. The Task Force is charged with examining the State's school funding formula and developing recommendations for the Governor concerning those areas of the formula that may be susceptible to fraud or subject to outside manipulation, including, but not limited to, participation in the Federal Free and Reduced Price Lunch Program as a proxy for at-risk status and the municipal tax abatement programs. In developing its recommendations, the Task Force shall specifically consider the following issues: (a) economically effective measures of student poverty; (b) educationally sound measures of defining at-risk students; (c) appropriate adjustments to the SFRA to account for municipal property ratable bases that may be artificially deflated as a result of municipal property tax abatements; (d) identifying all aspects of the SFRA that may be susceptible to fraud, or subject to undue outside manipulation and recommendations to address these abuses; and (g) such other matters as may be referred to the Task Force by the Governor.

4. The Department of Education shall provide staff to support the Task Force as necessary and appropriate. The Task Force shall be authorized to call upon any department, office, division, or agency of this State to supply it with any information, personnel, or other assistance available as the Task Force deems necessary to discharge its duties under this Order. Each department, office, division, and agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully with the Task Force within the limits of its authority and to furnish the Task Force with such assistance on as timely a basis as is necessary to accomplish the purposes of this Order.

5. The Task Force may consult with experts or other knowledgeable individuals in the public or private sector on any aspect of its mission, and may elicit public input from individuals, members of the education community, organizations, and other interested parties.

6. The Task Force may report to the Governor from time to time and shall issue a final report to the Governor setting forth the Task Force's recommendations pursuant to this Order no later than 120 days after organizing. The Task Force shall expire upon the issuance of its final report.

7. The final report of the Task Force shall be provided to the Legislature and shall be made available to the public.

8. This Order shall take effect immediately.

Dated March 5, 2012.

EXECUTIVE ORDER NO. 90

WHEREAS, Congressman Donald M. Payne was an effective and determined public servant who served more than twenty-three years in the United States House of Representatives, and was admired for his valuable contributions to the people of the State of New Jersey, the citizens of the United States, and the international community; and

WHEREAS, Congressman Payne was born in Newark, New Jersey in 1934, and remained close to his roots throughout his life; and

WHEREAS, Congressman Payne graduated from Seton Hall University in 1957, and later pursued graduate studies at Springfield College in Massachusetts; and

WHEREAS, Congressman Payne was dedicated to his community, teaching English and social studies and coaching football and track in the Newark public school system; serving as president of the Young Men's Christian Association (YMCA) of the United States, where he was the first African American to hold that position; and working as an executive at the Prudential Insurance Company; and

WHEREAS, Congressman Payne, prior to his election to the United States House of Representatives, served in county and local government, as the President of the Essex County Board of Chosen Freeholders and as a member of the Newark City Council; and

WHEREAS, in 1988, Congressman Payne became the State's first African American to be elected to the United States Congress, and, in 2010, was reelected to serve his twelfth term representing the 10th district, which includes the City of Newark and parts of Essex, Hudson, and Union counties; and

WHEREAS, during his years of service in the House of Representatives, Congressman Payne earned a reputation as a passionate legislator who held true to his principles, holding numerous leadership positions including serving as the Chairman of the Congressional Black Caucus; as a member of the House Democratic Leadership Advisory Group; as a senior member of the House Committee on Education and the Workforce; and as a senior member of the House Committee on Foreign Affairs, where he served as Ranking member of the Subcommittee on Africa, Global Health, and Human Rights; and

WHEREAS, Congressman Payne is recognized for his many accomplishments both domestic and abroad as a strong advocate for education reform; a champion of global health initiatives, including tireless efforts to ensure significant resources for HIV/AIDS, tuberculosis, and malaria prevention and treatment; and a leader in efforts to restore democracy and defend human rights from Northern Ireland to Sudan; and

WHEREAS, Congressman Payne will be remembered for his thoughtfulness, diligence, civility, pragmatism, and ability to reach across the aisle on issues impacting the freedom and human rights of people throughout the world; and

WHEREAS, Congressman Payne dedicated his life to service, not just through his elected positions, but through his work on charitable boards and foundations; and

WHEREAS, it is with deep sadness that we mourn the loss of Congressman Payne, and extend our sincere sympathy to his family and friends, and to his constituents who were well served by his leadership; and

WHEREAS, in recognition of his achievements and service to New Jersey, it is fitting and appropriate to honor the memory and passing of Congressman Donald M. Payne;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Wednesday, March 14, 2012, in recognition and mourning of the passing of Congressman Donald M. Payne.

2. This Order shall take effect immediately.

Dated March 12, 2012.

EXECUTIVE ORDER NO. 91

WHEREAS, United States Marine Staff Sergeant Joseph D'Augustine grew up in Waldwick, New Jersey and entered the United States Marine Corps immediately upon graduating from Waldwick High School; and

WHEREAS, Staff Sergeant D'Augustine was assigned to the 8th Engineer Support Battalion, 2nd Marine Logistics Group, II Marine Expeditionary Force, Camp Lejeune, North Carolina; and

WHEREAS, Staff Sergeant D'Augustine tragically lost his life while supporting combat operations in Operation Enduring Freedom in Helmand Province, Afghanistan; and

WHEREAS, Staff Sergeant D'Augustine was a dedicated Marine as well as a loving son and brother, whose memory lives in the hearts of his family, friends, and fellow Marines; and

WHEREAS, Staff Sergeant D'Augustine's heroism, patriotism, and service to his country and his fellow Marines makes it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, KIMBERLY M. GUADAGNO, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Wednesday, April 4, 2012 in recognition and mourning of a brave and loyal American hero, United States Marine Staff Sergeant Joseph D'Augustine.
2. This Order shall take effect immediately.

Dated April 2, 2012.

EXECUTIVE ORDER NO. 92

WHEREAS, New Jersey faces the problem of insufficient shelter for a growing number of homeless individuals and families, including seniors, people with disabilities, children, and veterans; and

WHEREAS, housing is one of the basic needs of all individuals and families within the State of New Jersey and across the nation; and

WHEREAS, homelessness creates barriers to safety, health, education, and full productive participation in the community; and

WHEREAS, each year, individuals and families lose their housing and become homeless due to assorted unforeseen circumstances and often through no fault of their own; and

WHEREAS, there is no single, simple solution to the problems of homelessness because of the different sub-populations of the homeless, the different causes of and reasons for homelessness, and the different needs of homeless individuals and families; and

WHEREAS, the United States Interagency Council on Homelessness, created in 1987 pursuant to what is now known as the McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11311 et seq., supports the creation of national partnerships at every level of government and with the private sector to prevent and reduce homelessness in the nation;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established in the Department of Human Services ("DHS") an Interagency Council on Homelessness (the "Council").

2. The membership of the Council shall be comprised of the following: (i) the Commissioners of the Department of Children and Families, the Department of Community Affairs ("DCA"), the Department of Corrections, the Department of Education, the Department of Health and Senior Services, the Department of Human Services, and the Department of Labor and Workforce Development, the Executive Director of the New Jersey Housing and Mortgage Finance Agency, the Chair of the State Parole Board, the Adjutant General of the Department of Military and Veterans Affairs, and a representative of the Office of the Governor, each of whom shall serve ex officio and may appoint a designee; and (ii) fifteen (15) public members appointed by the Governor.

3. The Commissioners of DHS and DCA, or their designees, shall act as co-chairpersons of the Council.

4. The public members of the Council shall serve at the pleasure of the Governor and without compensation.

5. The Council shall meet on a regular basis as determined by the co-chairpersons.

6. The Council shall:

a. Consider the Interim Report issued by the Council on Preventing and Reducing Homelessness;

b. Identify statutory and regulatory impediments to the effective provision of services to homeless individuals and families and recommend changes to relevant laws, regulations, programs, and policies in order to better address the use of State funds directed to homelessness and homelessness prevention;

c. Prepare an annual report to the Governor by or before December 31st of each year through the term of the Council detailing the work of the Council over the previous twelve months; and

d. Utilizing the aforementioned reports and building upon the interim findings and recommendations of the Council, prepare a comprehensive ten-year plan to prevent and end homelessness in New Jersey.

7. The Council shall organize and meet as soon as practicable after the appointment of a majority of its members.

8. Staffing for the Council shall be undertaken and coordinated by DHS and DCA.

9. The Council is authorized to call upon any department, division, office, or agency of State government to provide such information, resources, or other assistance deemed necessary to discharge its responsibilities under this Order. Each department, division, office, and agency of this State is hereby required, to the extent not inconsistent with law, to cooperate with the Council and to furnish it with such information, personnel, and assistance as is necessary to accomplish the purposes of this Order.

10. The Council shall operate until December 31, 2014.

11. This Order shall take effect immediately.

Dated April 18, 2012.

EXECUTIVE ORDER NO. 93

WHEREAS, United States Marine Corporal Derek A. Kerns grew up in Woodstown, New Jersey and entered the United States Marine Corps upon graduating from Woodstown High School; and

WHEREAS, Corporal Kerns was a MV-22 chief with the Marine Medium Tiltrotor Squadron 261, Marine Aircraft Group 26MV-22 based at Marine Corps Air Station New River in North Carolina; and

WHEREAS, Corporal Kerns was an honorable and courageous young man who loved his country and the military; and

WHEREAS, Corporal Kerns tragically lost his life during a military training exercise in Morocco; and

WHEREAS, Corporal Kerns was a dedicated Marine as well as a loving husband, father, son, and brother, whose memory lives in the hearts of his family, friends, and fellow Marines; and

WHEREAS, Corporal Kerns' heroism, patriotism, and service to his country and his fellow Marines makes it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Friday, April 20, 2012, in recognition and mourning of a brave and loyal American hero, United States Marine Corporal Derek A. Kerns.

2. This Order shall take effect immediately.

Dated April 17, 2012.

EXECUTIVE ORDER NO. 94

WHEREAS, United States Army Sergeant Shauna Brocklebank Adams grew up in Long Branch, New Jersey and graduated from Montclair State University in 2008; and

WHEREAS, Sergeant Brocklebank Adams enlisted in the United States Army in 2010; and

WHEREAS, Sergeant Brocklebank Adams was an honorable and courageous young woman who loved her country and the military; and

WHEREAS, Sergeant Brocklebank Adams tragically lost her life during a training exercise in South Korea; and

WHEREAS, Sergeant Brocklebank Adams was a dedicated soldier as well as a loving wife, daughter, and sister, whose memory lives in the hearts of her family, friends, and fellow soldiers; and

WHEREAS, Sergeant Brocklebank Adams' heroism, patriotism, and service to her country and her fellow soldiers makes it appropriate and fitting for the State of New Jersey to remember her and her family, to mark her passing, and to honor her memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Thursday, May 10, 2012, in recognition and mourning of a brave and loyal American hero, United States Army Sergeant Shauna Brocklebank Adams.

2. This Order shall take effect immediately.

Dated May 7, 2012.

EXECUTIVE ORDER NO. 95

WHEREAS, United States Navy Lieutenant Christopher E. Mosko graduated from Eau Claire Memorial High School in 2002;

WHEREAS, Lieutenant Mosko participated in the Naval Reserve Officers Training Corps program;

WHEREAS, Lieutenant Mosko was commissioned into the United States Navy upon graduation from Drexel University in 2007;

WHEREAS, Lieutenant Mosko was stationed at EOD Mobile Unit 3, San Diego, California;

WHEREAS, Lieutenant Mosko was assigned as a Navy Explosive Ordnance Disposal Platoon Commander to Combined Joint Special Operations Task Force, Afghanistan; and

WHEREAS, Lieutenant Mosko was an honorable and courageous young man who loved his family, his country, and the Navy; and

WHEREAS, Lieutenant Mosko tragically lost his life while conducting combat operations in Nawa district, Ghazni province, Afghanistan; and

WHEREAS, Lieutenant Mosko was a dedicated Naval Officer as well as a loving husband, son, and brother, whose memory lives in the hearts of his family, friends, and fellow sailors; and

WHEREAS, Lieutenant Mosko's heroism, patriotism, and service to his country make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Monday, May 21, 2012, in recognition and mourning of a brave and loyal American hero, United States Navy Lieutenant Christopher E. Mosko.

2. This Order shall take effect immediately.

Dated May 17, 2012.

EXECUTIVE ORDER NO. 96

WHEREAS, United States Army Private First Class Leroy DeRonde III grew up in Jersey City, New Jersey;

WHEREAS, Private First Class DeRonde entered the United States Army in January 2011; and

WHEREAS, Private First Class DeRonde was assigned to F Company, 125th Brigade Support Battalion attached to 2nd Battalion, 5th Infantry Regiment, 3rd Brigade Combat Team, 1st Armored Division, Fort Bliss, Texas; and

WHEREAS, Private First Class DeRonde was an honorable and courageous young man who loved his country and the military; and

WHEREAS, Private First Class DeRonde tragically lost his life in Chak-E Wardak District, Afghanistan, while supporting Operation Enduring Freedom; and

WHEREAS, Private First Class DeRonde was a dedicated soldier as well as a loving son and brother, whose memory lives in the hearts of his family, friends, and fellow soldiers; and

WHEREAS, Private First Class DeRonde's heroism, patriotism, and service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Friday, June 8, 2012, in recognition and mourning of a brave and loyal American hero, United States Army Private First Class Leroy DeRonde III.

2. This Order shall take effect immediately.

Dated June 6, 2012.

EXECUTIVE ORDER NO. 97

WHEREAS, on February 3, 2010, I signed Executive Order No. 11 (2010) establishing a New Jersey Gaming, Sports and Entertainment Advisory Commission, hereinafter referred to as the Commission, for the purpose of developing recommendations to implement a comprehensive, statewide approach concerning the issues and financial needs of the State's gaming, professional sports, and entertainment industries; and

WHEREAS, on July 21, 2010, after receiving the Commission's final report, I signed Executive Order No. 34 (2010) extending the Commission's existence until June 30, 2011, to support the implementation of the Commission's recommendations that I accepted; and

WHEREAS, on June 30, 2011, I signed Executive Order No. 69 (2011) extending the Commission's existence until June 30, 2012, to utilize the Commission's expertise in continuing to execute its recommendations; and

WHEREAS, New Jersey's gaming, sports and entertainment industries continue to be vitally important to the health of the State's economy and to enhancing the quality of life of our citizens; and

WHEREAS, New Jersey's tourism industry is equally important to the State's economy and faces many of the same challenges that currently confront the gaming, sports and entertainment industries; and

WHEREAS, I recently introduced executive branch organizational reforms that would reposition the New Jersey Sports and Exposition Authority (NJSEA) within the Department of State (DOS) and would empower the NJSEA to consult, collaborate, and work in partnership with the Division of Travel and Tourism and the Motion Picture and Television Development Commission, within DOS, to coordinate economic development and promotional and marketing efforts related to tourism, entertainment, and sports; and

WHEREAS, it is therefore appropriate to extend the Commission's existence for an additional period to facilitate this important transition;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Executive Orders Nos. 34 and 69 are hereby superseded and Paragraph 6 of Executive Order No. 11 (2010) is amended to provide that the Commission shall not expire upon the issuance of its final report, but rather shall continue in existence until June 30, 2013, or such other date as I shall establish, in order to continue to support the implementation of its recommendations, to facilitate the repositioning of the New Jersey Sports and Exposition Authority as a lead state agency for the coordination of economic development and promotional and marketing efforts related to tourism, entertainment, and sports, and to engage in any other related matters that are referred to the Commission by me or that meet with my approval.

2. This Order shall take effect immediately.

Dated June 29, 2012.

EXECUTIVE ORDER NO. 98

WHEREAS, Patrolman Christopher Reeves has been a member of the City of Millville Police Department since 2004; and

WHEREAS, Patrolman Reeves graduated from Millville Senior High School in 1991, served in the United States Marine Corps, then graduated from the Vineland Police Academy in 2004; and

WHEREAS, Patrolman Reeves was loving and devoted son, husband, and father; and

WHEREAS, Patrolman Reeves tragically lost his life in the line of duty; and

WHEREAS, Patrolman Reeves' selfless devotion to public service and the protection of others makes him a hero and a true role model for all New Jerseyans; and

WHEREAS, it is appropriate and fitting for the State of New Jersey to recognize his true commitment to the welfare and safety of others, to mark his untimely passing, to honor his memory, and to remember his family, friends and fellow police officers as they mourn their tragic loss;

NOW, THEREFORE, I, KIMBERLY M. GUADAGNO, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Friday, July 13, 2012, in recognition of the life and in mourning of the passing of Patrolman Christopher Reeves.

2. This Order shall take effect immediately.

Dated July 11, 2012.

EXECUTIVE ORDER NO. 99

WHEREAS, United States Army Specialist Jonathan Batista graduated from Rutherford High School in 2007, before moving to Kinnelon, New Jersey; and

WHEREAS, Specialist Batista entered the United States Army in 2010 and was assigned to Battery B, 2nd Battalion, 321st Airborne Field Artillery Regiment, 4th Brigade Combat Team, 82nd Airborne Division, Fort Bragg, North Carolina; and

WHEREAS, Specialist Batista was an honorable and courageous young man who loved his country and the military; and

WHEREAS, Specialist Batista tragically lost his life while supporting Operation Enduring Freedom; and

WHEREAS, Specialist Batista was a dedicated soldier as well as a loving husband and son, whose memory lives in the hearts of his family, friends, and fellow soldiers; and

WHEREAS, Specialist Batista's heroism, patriotism, and service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Wednesday, July 18, 2012, in recognition and mourning of a brave and loyal American hero, United States Army Specialist Jonathan Batista.

2. This Order shall take effect immediately.

Dated July 16, 2012.

EXECUTIVE ORDER NO. 100

WHEREAS, on July 20, 2012 senseless and devastating acts of violence were perpetrated at the Century 16 movie theater in Aurora, Colorado; and

WHEREAS, these horrific acts victimized numerous persons, their families, friends, and loved ones; and

WHEREAS, Alex Teves was born in New Jersey and spent the first thirteen years of his life in Verona before moving to Phoenix, Arizona, and earned his master's degree at the University of Colorado Denver, before his life was tragically taken from him; and

WHEREAS, Jacci Fry lived in Byram Township, New Jersey, and graduated from Lenape Valley Regional High School in 2007, before moving to the Denver area five months ago, and suffered injuries from the acts of violence; and

WHEREAS, it is with profound sadness that we mourn the loss of all the victims of the devastating acts of violence, their families, friends, and loved ones; and

WHEREAS, it is appropriate to recognize the victims, to honor their memories, and to mark their passing;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Wednesday, July 25 2012, in recognition and mourning of the passing of the victims of the shootings in Aurora, Colorado.

2. This Order shall take effect immediately.

Dated July 23, 2012.

EXECUTIVE ORDER NO. 101

WHEREAS, United States Army Sergeant First Class Gunther H. Wald, of Palisades Park, New Jersey, was reported missing in action during the Vietnam War in 1969; and

WHEREAS, Sergeant First Class Wald was last accounted for when he was part of a Special Forces reconnaissance patrol operating in Quang Tri Province, near the Vietnam-Laos border; and

WHEREAS, Sergeant First Class Wald and the patrol were reportedly ambushed by enemy forces on November 3, 1969; and

WHEREAS, due to heavy enemy presence and poor weather conditions, a search-and-rescue team was not able to reach the site for eight days; and

WHEREAS, the search-and-rescue team found military equipment belonging to another member of the patrol, but no other signs of the patrol;

WHEREAS, Sergeant First Class Wald's remains have been identified and returned to his family for burial with full military honors; and

WHEREAS, Sergeant First Class Wald was a courageous soldier who loved his family, friends, and fellow soldiers; and

WHEREAS, Sergeant First Class Wald was, in turn, loved by his family, friends, and fellow soldiers, who take great pride in his commitment, heroism, and achievements; and

WHEREAS, Sergeant First Class Wald made the ultimate sacrifice, giving his life in the line of duty, while fighting on behalf of his country; and

WHEREAS, it is appropriate and fitting to mark his passing, honor his memory, and remember his family as they mourn their loss;

NOW, THEREFORE, I, KIMBERLY M. GUADAGNO, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Thursday, August 30, 2012, in recognition and mourning of a brave and loyal American hero, United States Army Sergeant First Class Gunther H. Wald.

2. This Order shall take effect immediately.

Dated August 28, 2012.

EXECUTIVE ORDER NO. 102

WHEREAS, on September 11, 2001, unprecedented terrorist attacks were launched on New York, Washington, D.C. and Pennsylvania; and

WHEREAS, more than one quarter of the victims of the September 11, 2001 attacks were New Jerseyans, with nearly seven hundred of our residents killed in the attacks; and

WHEREAS, many New Jerseyans, including thousands of police, fire, military, emergency and construction personnel responded to this tragedy; and

WHEREAS, these horrific attacks not only caused a tremendous loss of life, but also inflicted immense pain and anguish on those who survived the events of that day; and

WHERAS, eleven years later, the lives of hundreds of New Jersey families are still dramatically affected by the loss of a parent, spouse, child or other loved one; and

WHEREAS, this tragic event will be remembered by all New Jerseyans, both privately as well as in public remembrances and memorial ceremonies; and

WHEREAS, it is fitting that this day be observed with full solemnity, in tribute to the thousands of innocent victims who perished in the attacks;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies, instrumentalities and all public buildings during appropriate hours on Tuesday, September 11, 2012 in recognition and mourning of all of those lost in the September 11th attacks, and particularly, those lost from our home State.

2. This Order shall take effect immediately.

Dated September 7, 2012.

EXECUTIVE ORDER NO. 103

WHEREAS, United States Army Sergeant Jonathan Gollnitz grew up in Fredonia, New York, and was later a resident of Lakehurst, New Jersey; and

WHEREAS, Sergeant Gollnitz graduated from Levant Christian School in 2003, and soon after joined the United States Navy; and

WHEREAS, Sergeant Gollnitz, after serving in the United States Navy, enlisted in the United States Army; and

WHEREAS, Sergeant Gollnitz was assigned to A Troop, 1st Squadron, 91st Cavalry Regiment, 173rd Airborne Brigade Combat Team, V Corps, Schweinfurt, Germany; and

WHEREAS, Sergeant Gollnitz was an honorable and courageous man who loved his country and the military; and

WHEREAS, Sergeant Gollnitz tragically lost his life while supporting Operation Enduring Freedom; and

WHEREAS, Sergeant Gollnitz was a brave and dedicated soldier as well as a loving son, brother, and father, whose memory lives in the hearts of his family, friends, and fellow soldiers; and

WHEREAS, Sergeant Gollnitz's heroism, patriotism, and service to his country make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, KIMBERLY M. GUADAGNO, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Tuesday, October 9, 2012, in recognition and mourning of a brave and loyal American hero, United States Army Sergeant Jonathan Gollnitz.

2. This Order shall take effect immediately.

Dated October 4, 2012.

EXECUTIVE ORDER NO. 104

WHEREAS, the National Weather Service is predicting that Hurricane Sandy will move along the New Jersey coast beginning on October 28, 2012, bringing the

potential for severe weather conditions, including heavy rains, high winds, dangerous storm surges, and stream and river flooding that may threaten homes and other structures, and endanger lives in the State; and

WHEREAS, it is necessary to take action in advance of the storm to lessen the threat to lives and property in this State; and

WHEREAS, the impending weather conditions may cause outages of power, impede transportation and the flow of traffic in New Jersey, and thereby make it difficult or impossible for citizens to obtain the necessities of life, as well as essential services such as police, fire, and first aid; and

WHEREAS, the impending weather conditions constitute an imminent hazard, which threatens and presently endangers the health, safety, and resources of the residents of one or more municipalities and counties of this State; and

WHEREAS, this situation may become too large in scope to be handled by the normal county and municipal operating services in some parts of this State, and this situation may spread to other parts of the State; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App. A:9-33, et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4, and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, in order to protect the health, safety, and welfare of the people of the State of New Jersey, DO DECLARE and PROCLAIM that a State of Emergency exists in the State of New Jersey and I hereby ORDER and DIRECT the following:

1. I authorize and empower the State Director of Emergency Management, who is the Superintendent of State Police, to activate those elements of the State Emergency Operations Plan that he deems necessary to further safeguard the public security, health, and welfare, to direct the activation of county and municipal emergency operations plans as necessary, and to coordinate the preparation, response, and recovery efforts from this emergency with all governmental agencies, volunteer organizations, and the private sector.

2. I authorize and empower the State Director of Emergency Management, in accordance with N.J.S.A. App. A:9-33, et seq., as supplemented and amended, through the police agencies under his control, to determine the control and direction of the flow of vehicular traffic on any State or interstate highway, municipal or county road, and any access road, including the right to detour, reroute, or divert any or all traffic and to prevent ingress or egress from any area that, in the State Director's discretion, is deemed necessary for the protection of the health, safety, and welfare of the public, and to remove parked or abandoned vehicles from such roadways as conditions warrant.

3. I authorize and empower the Attorney General, pursuant to the provisions of N.J.S.A. 39:4-213, acting through the Superintendent of State Police, to determine the control and direction of the flow of vehicular traffic on any State or inter-

state highway, municipal or county road, and any access road, including the right to detour, reroute, or divert any or all traffic, and to prevent ingress or egress and further authorize all law enforcement officers to enforce any such order of the Superintendent of State Police within their respective municipalities.

4. I authorize and empower the State Director of Emergency Management to order the evacuation of all persons, except for those emergency and governmental personnel whose presence the State Director deems necessary, from any area where their continued presence could present a danger to their health, safety, or welfare because of the conditions created by this emergency.

5. I authorize and empower the State Director of Emergency Management to utilize all facilities owned, rented, operated, and maintained by the State of New Jersey to house and shelter persons who may need to be evacuated from a residence, dwelling, building, structure, or vehicle during the course of this emergency.

6. I authorize and empower the executive head of any agency or instrumentality of the State government with authority to promulgate rules to waive, suspend, or modify any existing rule the enforcement of which would be detrimental to the public welfare during this emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary for the duration of this Executive Order, subject to my prior approval and in consultation with the State Director of Emergency Management. Any such waiver, modification, or suspension shall be promulgated in accordance with N.J.S.A. App. A:9-45.

7. I authorize and empower the Adjutant General, in accordance with N.J.S.A. 38A:2-4 and N.J.S.A. 38A:3-6.1, to order to active duty such members of the New Jersey National Guard who, in the Adjutant General's judgment, are necessary to provide aid to those localities where there is a threat or danger to the public health, safety, and welfare and to authorize the employment of any supporting vehicles, equipment, communications, or supplies as may be necessary to support the members so ordered.

8. In accordance with the N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of the State government and of each and every political subdivision of the State, whether of persons, properties, or instrumentalities, and to commandeer and utilize any personal services and any privately owned property necessary to protect against this emergency.

9. In accordance with N.J.S.A. App. A:9-40, no municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution, which will or might in any way conflict with any of the provisions of this Order, or which will in any way interfere with or impede the achievement of the purposes of this Order.

10. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully with the State Director of Emergency Management in all matters concerning this state of emergency.

11. In accordance with N.J.S.A. App. A:9-34, N.J.S.A. App. A:9-40.6, and N.J.S.A. 40A:14-156.4, no municipality or public or semipublic agency shall send public works, fire, police, emergency medical, or other personnel or equipment into any non-contiguous disaster-stricken municipality within this State, nor to any disaster-stricken municipality outside this State, unless and until such aid has been directed by the county emergency management coordinator or his deputies in consultation with the State Director of Emergency Management.

12. This Order shall take effect immediately and shall remain in effect until such time as it is determined by me that an emergency no longer exists.

Dated October 27, 2012.

EXECUTIVE ORDER NO. 105

WHEREAS, beginning on October 28, 2012, and continuing through October 30, 2012, Hurricane Sandy struck the State of New Jersey with high winds and torrential rains; and

WHEREAS, Hurricane Sandy produced unprecedented severe weather conditions, including enormous storm surges and devastating flooding; and

WHEREAS, Hurricane Sandy has destroyed entire communities across New Jersey, and left much of the State inaccessible; and

WHEREAS, the damage caused from Hurricane Sandy, including fallen trees, downed power lines, damage to roadways, and disruptions in electrical service has produced dangerous conditions throughout the State that continue to jeopardize the public safety; and

WHEREAS, on October 31, 2012, children and their families across New Jersey plan to share in the holiday of Halloween; and

WHEREAS, the hazardous conditions created by Hurricane Sandy make the traditional community celebrations of Halloween, including neighborhood "trick or treating" walks both dangerous to our State's children, and imprudent at a time when all New Jerseyans are struggling to cope with their losses; and

WHEREAS, it is necessary to take action to minimize additional risks to lives and the public safety as the State begins rebuilding and recovering from Hurricane Sandy; and

WHEREAS, on October 27, 2012, in light of the dangers posed by Hurricane Sandy, and pursuant to the authority provided under the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App. A:9-33, et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4, and all amendments and supplements thereto, I declared a State of Emergency; and

WHEREAS, in accordance with the N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of the State government to protect against the emergency created by Hurricane Sandy;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Celebrations of Halloween scheduled for October 31, 2012 in all parts of New Jersey shall be held on Monday, November 5, 2012.
2. This Order shall take effect immediately.

Dated October 31, 2012.

EXECUTIVE ORDER NO. 106

WHEREAS, New Jersey has suffered substantial damage from Hurricane Sandy including significant disruption of the power generation necessary to maintain our State's water supply; and

WHEREAS, in the aftermath of Hurricane Sandy, the use of water throughout the State must be managed and reduced in order to preserve a dependable supply of water; and

WHEREAS, the Commissioner of the Department of Environmental Protection has found that emergency measures are necessary to prevent a water shortage; and

WHEREAS, cooperative efforts to ensure sound water use, both inside and outside the home, will reduce consumption and thereby minimize the need for treatment and production that places additional strains on our State's energy supply; and

WHEREAS, the damage caused from Hurricane Sandy, including fallen trees, downed power lines, damage to roadways, and disruptions in electrical service has produced dangerous conditions throughout the State that continue to jeopardize the public safety; and

WHEREAS, the Commissioner of the Department of Environmental Protection has the authority pursuant to N.J.S.A. 58:1A-1, et seq. and N.J.A.C. 7:19-1, et seq., to adopt such rules, regulations, orders, and directives as deemed necessary to help alleviate a water emergency; and

WHEREAS, it is necessary to take action to minimize additional risks to lives and the public safety as the State begins rebuilding and recovering from Hurricane Sandy; and

WHEREAS, on October 27, 2012, in light of the dangers posed by Hurricane Sandy, and pursuant to the authority provided under the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App. A:9-33, et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4, and all amendments and supplements thereto, I declared a State of Emergency; and

WHEREAS, in accordance with the N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of the State government to protect against the emergency created by Hurricane Sandy;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. A state of water emergency exists throughout the State of New Jersey by reasons of the facts and circumstances set forth above.

2. The Commissioner of the Department of Environmental Protection is directed pursuant to N.J.S.A. 58:1A-1, et seq. and N.J.A.C. 7:19-1 et seq., and all other applicable authority, to take whatever steps are necessary and proper to alleviate the water emergency and effectuate this Order, including:

a. Identifying and imposing such water use restrictions and conservation measures deemed necessary for the entire State, or for a specific region, taking into consideration region-specific hydrogeologic conditions and infrastructure;

b. Identifying and implementing statewide strategies for the use of alternate water supplies;

c. Identifying and implementing measures to establish priorities for the distribution of the State's water supply to mitigate the present water emergency; and

d. Working with all Departments and Agencies of State government to reduce water consumption.

3. It shall be the duty of every person and entity in the State to fully cooperate in all matters concerning this water emergency and to comply with the mandatory restrictions on uses of water as defined in Administrative Orders issued by the Commissioner of the Department of Environmental Protection pursuant to this Order.

4. Any person who shall violate any provision of this Order, or impede or interfere with any action ordered or taken pursuant to this Order, shall be subject to the penalties provided under N.J.S.A. 58:1A-1 et seq., N.J.S.A. App. A:9-49 et seq., and N.J.A.C. 7:19-1 et seq..

5. No municipality, county, or any other agency or political subdivision of the State shall enact or enforce any order, rule, regulation, ordinance, or resolution which conflicts with any provision of this Order, or any Administrative Orders issued by the Commissioner of the Department of Environmental Protection pursuant to this Order.

6. This Order shall take effect immediately.

Dated October 31. 2012.

EXECUTIVE ORDER NO. 107

WHEREAS, beginning on October 28, 2012, and continuing through October 30, 2012, Hurricane Sandy struck the State of New Jersey with high winds and torrential rains; and

WHEREAS, Sandy produced unprecedented severe weather conditions, including enormous storm surges and devastating flooding; and

WHEREAS, Sandy destroyed entire communities across New Jersey, and left much of the State inaccessible; and

WHEREAS, Sandy has damaged and destroyed property throughout the State and will result in property owners filing claims with their insurers related to that damage; and

WHEREAS, the damage caused from Sandy, including fallen trees, downed power lines, damage to roadways, and disruptions in electrical service, has produced dangerous conditions throughout the State that continue to jeopardize public safety; and

WHEREAS, the effects of Sandy have disrupted transportation and communication, making it difficult for the citizens of the State to meet normal deadlines and comply with documentation requirements of insurers, banks, savings and loans, mortgage bankers and brokers, insurance producers, real estate brokers, and any other person or entity subject to licensure or regulation by the Department of Banking and Insurance; and

WHEREAS, it is necessary to take action to minimize additional risks to lives and public safety as the State begins rebuilding and recovering from Sandy; and

WHEREAS, the National Weather Service categorized Sandy as a post-tropical storm prior to landfall in New Jersey; and

WHEREAS, on October 27, 2012, in light of the dangers posed by Sandy, and pursuant to the authority provided under the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App. A:9-33, et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4, and all amendments and supplements thereto, I declared a State of Emergency; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and –51, I reserved the right to utilize and employ all available resources of the State government to protect against the emergency created by Sandy; and

WHEREAS, pursuant to N.J.S.A. App. A:7-1, the Commissioner of the Department of Banking and Insurance has the power to make, alter, amend, and rescind rules and regulations imposing any condition upon the conduct of the business of any insurance company that may be necessary or desirable to maintain sound methods of insurance and to safeguard the interests of policyholders, beneficiaries, and the public generally, during the period of an emergency; and

WHEREAS, pursuant to N.J.S.A. 17:36-5.34 and N.J.S.A. 17:1-15 the Commissioner of the Department of Banking and Insurance has the authority to establish by regulation uniform policy language regarding the applicability of hurricane deductibles, and is granted wide authority to administer the work of the Department;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. In light of the National Weather Service's categorization of Sandy as a post-tropical storm, it shall be a violation of N.J.A.C. 11:2-42.7 for any insurer to apply a mandatory or optional hurricane deductible to the payment of claims for property damage attributable to Sandy.

2. All insurers, banks, savings and loans, mortgage bankers and brokers, insurance producers, real estate brokers, and any other person or entity subject to licensure or regulation by the Department shall take into consideration the difficulties related to Sandy that all citizens of the State continue to suffer and therefore exercise appropriate forbearances on collection, cancellation, documentation and other regulatory requirements, including, but not limited to: notifications of hospital admissions; due dates for claim filings, premium and loan payments and late fees; prior authorization requirements; and limitations on prescription refills.

3. All authorized and admitted property and casualty insurers subject to licensure or regulation by the Department may make first- or third-party claim payments for claims related to Sandy by methods other than those permitted by N.J.A.C. 11:2-17.8(k), such as prepaid debit cards, electronic transfer or other comparable alternate payment method, but only: (a) where the claimant agrees to receive a claim payment by an alternate payment method; (b) if the alternate payment method is not subject to any fees that would result in the insured receiving less than the full amount due; (c) if the insured is permitted, at any time, to convert any balance into cash; and (d) if the claimant is notified of applicable terms and conditions.

4. The Commissioner of the Department of Banking and Insurance is directed to take all appropriate steps to effectuate this Order.

5. This Order shall take effect immediately.

Dated November 1, 2012.

EXECUTIVE ORDER NO. 108

WHEREAS, beginning on October 28, 2012, and continuing through October 30, 2012, Hurricane Sandy struck the State of New Jersey with high winds and torrential rains; and

WHEREAS, Sandy produced unprecedented severe weather conditions, including enormous storm surges, devastating winds, and widespread flooding; and

WHEREAS, Sandy destroyed entire communities across New Jersey, and left much of the State inaccessible; and

WHEREAS, the damage caused from Sandy, including fallen trees, downed power lines, damage to roadways, and unprecedented disruptions in electrical service, has produced dangerous conditions throughout the State that continue to jeopardize public safety; and

WHEREAS, the effects of Sandy, especially the widespread power outages, have disrupted the orderly sale of motor fuel, making it difficult for the citizens of the State to access adequate quantities of motor fuel; and

WHEREAS, the orderly and measured sale of motor fuel is necessary to ensure that all citizens of New Jersey have a steady and reliable source of power for both transportation and maintenance of essential services at home; and

WHEREAS, N.J.S.A. 52:27F-17 authorizes the Governor to proclaim by Executive Order a state of energy emergency upon a finding by the Board of Public Utilities that there exists an energy supply shortage of a dimension which endangers the public health, safety, or welfare; and

WHEREAS, the Board of Public Utilities has found that there exists a motor fuel supply shortage of a dimension which endangers the public health, safety, and welfare throughout the entire State; and

WHEREAS, on October 27, 2012, in light of the dangers posed by Sandy, and pursuant to the authority provided under the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App. A:9-33, et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4, and all amendments and supplements thereto, I declared a State of Emergency; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and –51, I reserved the right to utilize and employ all available resources of the State government to protect against the emergency created by Sandy; and

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the statutes of this State, do hereby ORDER and DIRECT:

1. A limited state of energy emergency with regard to the supply of motor fuel exists in the following counties: Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Monmouth, Passaic, Somerset, Sussex, Union, and Warren.

2. The Board of Public Utilities is empowered to implement all provisions of N.J.A.C. 14:29, and, more specifically, is empowered to implement the provisions of N.J.A.C. 14:29-6.2 including, but not limited to:

a. Requiring retail dealers of motor fuel to only sell motor fuel for use in a passenger automobile bearing license plates, the last number of which is an even number, on even numbered days of each month; and

b. Requiring retail dealers of motor fuel to only sell motor fuel for use in a passenger automobile bearing license plates, the last number of which is an odd number, on odd numbered days of each month; and

c. Deeming all license plates not displaying a number as an odd numbered plate.

3. The President of the Board of Public Utilities is directed to take all appropriate steps to effectuate and enforce this Order.

4. This Order shall take effect at noon on November 3, 2012.

Dated November 2, 2012.

EXECUTIVE ORDER NO. 109

WHEREAS, beginning on October 28, 2012, and continuing through October 30, 2012, Hurricane Sandy struck the State of New Jersey; and

WHEREAS, Sandy produced unprecedented severe weather conditions, including enormous storm surges, devastating winds, and widespread flooding; and

WHEREAS, the damage caused from Sandy, including fallen trees, downed power lines, and unprecedented disruptions in electrical service, has produced dangerous conditions throughout the State; and

WHEREAS, residents of New Jersey require adequate access to retail supplies of clothing and apparel, building and lumber supply materials, furniture, home furnishings, and household appliances, among other items, as the State continues rebuilding and returning to normal; and

WHEREAS, under, N.J.S.A. 40A:64, et seq., local governments within New Jersey may prohibit the sale of certain goods, including, among other items, clothing, building supply materials, furniture, home furnishings, and household appliances on Sunday; and

WHEREAS, on November 3, 2012, the County of Bergen, through its County Executive, petitioned that the restrictions on the sale of certain goods on Sunday pursuant to N.J.S.A. 40A:64, et seq., and similar rules, regulations, ordinances, and resolutions, be temporarily suspended in Bergen County to accommodate the extraordinary needs caused by Hurricane Sandy; and

WHEREAS, on October 27, 2012, in light of the dangers posed by Sandy, and pursuant to the authority provided under the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App. A:9-33, et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4, and all amendments and supplements thereto, I declared a State of Emergency; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and –51, I reserved the right to utilize and employ all available resources of the State government to protect against the emergency created by Sandy; and

WHEREAS, in accordance with N.J.S.A. App. A:9-40, I declared that, due to the State of Emergency, no municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution, which will or might in any way conflict with any of the provisions of my Executive Orders, or which will in any way interfere with or impede their achievement;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the statutes of this State, do hereby ORDER and DIRECT:

1. The restrictions on certain Sunday sales pursuant to N.J.S.A. 40A:64, et seq., are suspended.

2. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution, which will or might in any way conflict with any of the provisions of this Executive Order, or which will in any way interfere with or impede its achievement.

3. This Order shall take effect immediately.

Dated November 4, 2012.

EXECUTIVE ORDER NO. 110

WHEREAS, beginning on October 28, 2012, and continuing through October 30, 2012, Hurricane Sandy struck the State of New Jersey; and

WHEREAS, Sandy destroyed entire communities across New Jersey, and left much of the State inaccessible; and

WHEREAS, the damage caused from Sandy, including fallen trees, downed power lines, damage to roadways, and unprecedented disruptions in electrical service, has produced dangerous conditions throughout the State that continue to jeopardize the public safety; and

WHEREAS, the effects of Sandy, especially the widespread power outages, have disrupted the orderly sale of motor fuel, making it difficult for the citizens of the State to access adequate motor fuel; and

WHEREAS, the orderly and measured sale of motor fuel is necessary to ensure that all citizens of New Jersey have a steady and reliable source of power for both transportation and maintenance of essential services at home; and

WHEREAS, on November 2, 2012, pursuant to N.J.S.A. 52:27F-17 and due to the existence of an energy supply shortage of a dimension which endangers the public health, safety, or welfare, I declared a limited state of energy emergency in twelve counties with regard to motor fuel; and

WHEREAS, on October 27, 2012, in light of the dangers posed by Sandy, and pursuant to the authority provided under the Constitution and Statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App. A:9-33, et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4, and all amendments and supplements thereto, I declared a State of Emergency; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of the State government to protect against the emergency created by Sandy; and

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Any wholesaler or retail dealer of motor fuels may procure and sell motor fuel from any source for sale to the public, so long as the motor fuel meets all oth-

erwise applicable standards and the seller, at wholesale and retail, informs the purchaser, through written bills of lading at wholesale and dispenser labels at retail, that the fuel is not of the brand usually represented by the seller.

2. No such seller referenced in paragraph (1) of this Order shall be a party to the substitution of one grade of motor fuel for another.

3 The Director of the Division of Taxation, in the Department of Treasury, is directed to take all appropriate steps to effectuate and enforce this Order.

4. This Order shall take effect immediately and shall expire in ten (10) days.

Dated November 4, 2012.

EXECUTIVE ORDER NO. 111

WHEREAS, beginning on October 28, 2012, and continuing through October 30, 2012, Hurricane Sandy struck the State of New Jersey with-high hinds and torrential rains; and

WHEREAS, Sandy produced unprecedented severe weather conditions, including enormous storm surges, devastating winds, and widespread flooding; and

WHEREAS, Sandy destroyed entire communities across New Jersey, and left much of the State inaccessible; and

WHEREAS, the damage caused from Sandy, including fallen trees, downed power lines, damage to roadways, and unprecedented disruptions in electrical service, has produced dangerous conditions throughout the State; and

WHEREAS, alleviating the impacts of Sandy's destruction requires the contribution of all levels of Federal, State, and local government units; and

WHEREAS, under N.J.S.A. 40A:4-62.1, a local government unit may, by resolution, establish a snow removal reserve to address the expected costs of snow and ice removal each winter; and

WHEREAS, money in these reserves can be utilized only for expenses related to snow and ice removal in a subsequent budget year; and

WHEREAS, on October 27, 2012, in light of the dangers posed by Sandy, and pursuant to the authority provided under the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App. A:9-33, et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4, and all amendments and supplements thereto, I declared a State of Emergency; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by Sandy; and

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the statutes of this State, do hereby ORDER and DIRECT:

1. A local government unit that has established a snow removal fund pursuant to N.J.S.A. 40A:4-62.1, may, by resolution, utilize existing reserves as necessary to protect the safety, security, health, and welfare of its citizens from the damage caused by Hurricane Sandy. Any reimbursement of these expenditures shall be deposited back into the fund.

2. This Order shall take effect immediately.

Dated November 5, 2012.

EXECUTIVE ORDER NO. 112

WHEREAS, United States Navy Petty Officer 2nd Class Matthew G. Kantor was a resident of Gillette, New Jersey;

WHEREAS, Petty Officer Kantor graduated from Watchung Hills Regional High School in June 2008 and enlisted in the United States Navy in March 2009;

WHEREAS, Petty Officer Kantor was assigned to an East Coast-based Naval Special Warfare unit in Virginia Beach, Virginia; and

WHEREAS, Petty Officer Kantor was an honorable and courageous young man who loved his country and the Navy; and

WHEREAS, Petty Officer Kantor has received some of our nation's highest military honors, including the Bronze Star with "V," Purple Heart Medal, Combat Action Ribbon, Navy Commendation Medal, Good Conduct Medal, National Defense Service Medal, Afghanistan Campaign Medal, and NATO Medal; and

WHEREAS, Petty Officer Kantor tragically lost his life while supporting stability operations in Zabul, Afghanistan; and

WHEREAS, Petty Officer Kantor was a dedicated sailor as well as a loving son and brother, whose memory lives in the hearts of his family, friends, and fellow sailors; and

WHEREAS, Petty Officer Kantor's heroism, patriotism, and service to his country and his fellow sailors make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Friday, November 9, 2012, in recognition and mourning of a brave and loyal American hero, United States Navy Petty Officer 2nd Class Matthew G. Kantor.

2. This Order shall take effect immediately.

Dated November 7, 2012.

EXECUTIVE ORDER NO. 113

WHEREAS, beginning on October 28, 2012, and continuing through October 30, 2012, Hurricane Sandy struck the State of New Jersey; and

WHEREAS, Sandy produced unprecedented severe weather conditions, including enormous storm surges, devastating winds, and widespread flooding; and

WHEREAS, the damage caused from Sandy, including fallen trees, downed power lines, and unprecedented disruptions in electrical service, has produced dangerous conditions throughout the State; and

WHEREAS, it is necessary to take action to minimize and mitigate additional hardships, loss, or suffering as the State begins rebuilding and recovering from Sandy; and WHEREAS, in the wake of Sandy, some property owners, particularly those on the barrier islands along the New Jersey coast, may be unable to access important papers, bank records, and other documents; and

WHEREAS, the effects of Sandy continue to disrupt transportation and communication, making it difficult for the citizens of the State to meet the normal deadlines for timely payment of real property taxes; and

WHEREAS, under N.J.S.A. 54:4-66(a) and 54:4-66.1(a), fourth-quarter property taxes are due November 1, 2012, for both calendar-year and state fiscal year municipalities; and

WHEREAS, under N.J.S.A. 54:4-67(a), local governments may fix the rate of interest to be charged for the nonpayment of taxes and may provide that no interest shall be charged if payment of any installment is made within the tenth calendar day following the date upon which the same became payable, thereby establishing a grace period running through November 11, 2012; and

WHEREAS, on October 27, 2012, in light of the dangers posed by Sandy, and pursuant to the authority provided under the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App. A:9-33, et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4, and all amendments and supplements thereto, I declared a State of Emergency; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of the State government to protect against the emergency created by Sandy; and

WHEREAS, in accordance with N.J.S.A. App. A:9-40, I declared that, due to the State of Emergency, no municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution that will or might in any way conflict with any of the provisions of my Executive Orders, or that will in any way interfere with or impede their achievement;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the statutes of this State, do hereby ORDER and DIRECT:

1. The grace period for payment of fourth-quarter property taxes for municipalities other than those municipalities with accelerated tax sales is extended to November 16, 2012.

2. Any municipal governing body may, by resolution, extend the grace period to a date no later than December 31, 2012.

3. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution that will or might in any way conflict with any of the provisions of this Executive Order, or that will in any way interfere with or impede its achievement.

4. This Order shall take effect immediately.

Dated November 9, 2012.

EXECUTIVE ORDER NO. 114

WHEREAS, beginning on October 28, 2012, and continuing through October 30, 2012, Hurricane Sandy struck the State of New Jersey; and

WHEREAS, Sandy unleashed widespread destruction across the State damaging homes, displacing communities, and devastating New Jersey's world-renowned beaches and shores; and

WHEREAS, the effects of Sandy, especially the significant power outages across New Jersey, disrupted the lives of residents and placed much of the State in immediate and serious harm; and

WHEREAS, on October 27, 2012, in light of the dangers posed by Sandy, and pursuant to the authority provided under the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App. A:9-33, et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4, and all amendments and supplements thereto, I declared a State of Emergency; and

WHEREAS, on November 2, 2012, in light of the finding of the Board of Public Utilities that there existed an energy supply shortage of a dimension which endangered the public health, safety, and welfare, I declared a limited state of energy emergency with regard to the supply of motor fuel in Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Monmouth, Passaic, Somerset, Sussex, Union, and Warren Counties; and

WHEREAS, through the efforts of all New Jersey residents, our State continues to recover and rebuild; and

WHEREAS, thanks to the efforts of first responders, private businesses, State and local governmental leaders, and all citizens of New Jersey, the orderly and

measured sale of motor fuel has returned to steady and reliable levels throughout the State;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Executive Order 108, signed on November 2, 2012 is rescinded.
2. This Order shall take effect at 6:00 a.m. on Tuesday, November 13, 2012.

Dated November 12, 2012.

EXECUTIVE ORDER NO. 115

WHEREAS, beginning on October 28, 2012, and continuing through October 30, 2012, Hurricane Sandy struck the State of New Jersey; and

WHEREAS, Sandy unleashed widespread destruction across the State, damaging homes, displacing communities, and devastating New Jersey's world-renowned beaches and shores; and

WHEREAS, the effects of Sandy, especially the significant power outages across New Jersey, disrupted the lives of residents, placed much of the State in immediate and serious harm, and disrupted the orderly sale of motor fuel; and

WHEREAS, the orderly and measured sale of motor fuel is necessary to ensure that all citizens of New Jersey have a steady and reliable source of power; and

WHEREAS, on October 27, 2012, in light of the dangers posed by Sandy, and pursuant to the authority provided under the Constitution and Statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App. A:9-33, et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4, and all amendments and supplements thereto, I declared a State of Emergency; and

WHEREAS, on November 3, 2012, I issued Executive Order No. 110, suspending restrictions in State law that place limitations on the source of fuel retailers are allowed to sell, by allowing any wholesaler or retail dealer of motor fuels to procure and sell motor fuel from any source for sale to the public, so long as the motor fuel meets all otherwise applicable standards and so long as the seller, at wholesale and retail, informs the purchaser, through written bills of lading at wholesale and dispenser labels at retail, that the fuel is not of the brand usually represented by the seller; and

WHEREAS, Executive Order No. 110 empowered the Director of the Division of Taxation, in the Department of Treasury, to take all appropriate steps to effectuate and enforce the Order; and

WHEREAS, through the efforts of all New Jersey residents, our State continues to recover and rebuild; and

WHEREAS, in order to continue the State's recovery and rebuilding efforts, it is critical to maintain steady and reliable motor fuel levels throughout the State;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Executive Order No. 110 is hereby extended and shall continue in full force and effect for seven (7) days.
2. This Order shall take effect immediately.

Dated November 13, 2012.

EXECUTIVE ORDER NO. 116

WHEREAS, beginning on October 28, 2012, and continuing through October 30, 2012, Hurricane Sandy struck the State of New Jersey with high winds and torrential rains; and

WHEREAS, Sandy produced unprecedented severe weather conditions, including enormous storm surges, devastating winds, and widespread flooding; and

WHEREAS, Sandy destroyed entire communities across New Jersey, and left much of the State inaccessible; and

WHEREAS, the damage caused from Sandy, including fallen trees, downed power lines, damage to roadways, and unprecedented disruptions in electrical service, produced dangerous conditions throughout the State that continue to jeopardize public safety; and

WHEREAS, the effects of Sandy, especially the widespread power outages, have disrupted the orderly sale of motor fuel, making it difficult for the State's citizens to access adequate motor fuel; and

WHEREAS, the orderly and measured sale of motor fuel is necessary to ensure that all citizens of New Jersey have a steady and reliable source of power for both transportation purposes and for the maintenance of essential services within their homes; and

WHEREAS, on November 2, 2012, pursuant to N.J.S.A. 52:27F-17 and due to the existence of an energy supply shortage of a dimension that endangers the public health, safety, and welfare of New Jerseyans, I declared a limited state of energy emergency in twelve counties with regard to motor fuel; and

WHEREAS, on October 27, 2012, in light of the dangers posed by Sandy, and pursuant to the authority provided under the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App. A:9-33, et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4, and all amendments and supplements thereto, I declared a State of Emergency; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by Sandy; and

WHEREAS, the Federal Emergency Management Administration ("FEMA") and the State determined that it was necessary to increase the delivery of motor fuel to retail dealers and thereby mitigate the energy emergency in the State; and

WHEREAS, to facilitate the delivery of motor fuel to retail dealers in this time of emergency, FEMA and the State entered into an agreement pursuant to which FEMA, through the Defense Logistics Agency of the United States Department of Defense, delivered motor fuel to retail dealers in the State in need of supply;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Director of the Division of Taxation, in the Department of the Treasury, is directed to take all appropriate actions to effectuate the fuel agreement between FEMA and the State, including, but not limited to:

a. Implementing the provisions of the fuel agreement between FEMA and the State;

b. Requiring retail motor fuel dealer participants to maintain all appropriate records and documentation with respect to the fuel agreement;

c. Ensuring that retail motor fuel dealer participants submit timely payment for all motor fuel received pursuant to the fuel agreement;

d. Preventing any retail motor fuel dealer participants from being unjustly enriched via participation in the fuel agreement; and

e. Taking any other appropriate actions to ensure the efficient and effective administration of the fuel agreement.

2. This Order shall take effect immediately.

Dated November 16, 2012.

EXECUTIVE ORDER NO. 117

WHEREAS, beginning on October 28, 2012, and continuing through October 30, 2012, Hurricane Sandy struck the State of New Jersey; and

WHEREAS, Sandy unleashed widespread destruction across the State damaging homes, displacing communities, and devastating New Jersey's world-renowned beaches and shores; and

WHEREAS, the effects of Sandy, especially the significant power outages across New Jersey, disrupted the lives of residents and placed much of the State in immediate and serious harm; and

WHEREAS, on October 27, 2012, in light of the dangers posed by Sandy, and pursuant to the authority provided under the Constitution and statutes of the State

of New Jersey, particularly the provisions of N.J.S.A. App. A:9-33, et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4, and all amendments and supplements thereto, I declared a State of Emergency; and

WHEREAS, on November 3, 2012, in order to provide residents of New Jersey adequate access to retail supplies of clothing, building and lumber supply materials, home furnishings, and household appliances, among other items, I ordered that the restrictions on certain Sunday sales pursuant to N.J.S.A. 40A:64, et seq., be suspended; and

WHEREAS, through the efforts of all New Jersey residents, our State continues to recover and rebuild, returning access to essential retail goods to steady and reliable levels throughout the State; and

WHEREAS, on November 13, 2012, the County of Bergen, through its County Executive, petitioned that the restrictions on the sale of certain goods on Sunday pursuant to N.J.S.A. 40A:64, et seq., and similar rules, regulations, ordinances, and resolutions, be restored in Bergen County;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Executive Order No. 109, signed on November 3, 2012, is rescinded.
2. This Order shall take effect immediately.

Dated November 16, 2012.

EXECUTIVE ORDER NO. 118

WHEREAS, United States Marine Corporal Christopher M. Monahan Jr. was a resident of Island Heights, New Jersey; and

WHEREAS, Corporal Monahan graduated from Central Regional High School in Bayville in 2005 and enlisted in the United States Marine Corps in 2006; and

WHEREAS, Corporal Monahan was assigned to Combat Logistics Battalion 2, Combat Logistics Regiment 2, 2nd Marine Logistics Group, II Marine Expeditionary Force, Camp Lejeune, North Carolina; and

WHEREAS, Corporal Monahan was an honorable and courageous young man who loved his country and the Marine Corps; and

WHEREAS, Corporal Monahan tragically lost his life while supporting Operation Enduring Freedom; and

WHEREAS, Corporal Monahan was a dedicated Marine as well as a loving husband, father, son, and brother, whose memory lives in the hearts of his family, friends, and fellow Marines; and

WHEREAS, Corporal Monahan's heroism, patriotism, and service to his country and his fellow Marines make it appropriate and fitting for the State of New Jer-

sey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Thursday, December 6, 2012, in recognition and mourning of a brave and loyal American hero, United States Marine Corporal Christopher M. Monahan Jr.

2. This Order shall take effect immediately.

Dated December 3, 2012.

EXECUTIVE ORDER NO. 119

WHEREAS, on December 14, 2012, a senseless and devastating act of violence was committed at an elementary school in Newtown, Connecticut; and

WHEREAS, this horrific act victimized innocent children, their families, friends, and loved ones; and

WHEREAS, it is with profound sadness that we mourn the loss of all the victims of this needless violence; and

WHEREAS, it is appropriate to recognize the victims, to honor their memories, and to mark their passing;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Tuesday, December 18, 2012, in recognition and mourning of the passing of the victims in Newtown, Connecticut.

2. This Order shall take effect immediately.

Dated December 14, 2012.

EXECUTIVE ORDER NO. 120

WHEREAS, beginning on October 28, 2012, and continuing through October 30, 2012, Hurricane Sandy struck the State of New Jersey; and

WHEREAS, Sandy unleashed widespread destruction across the State, damaging homes, displacing communities, and devastating New Jersey's world-renowned beaches and shores; and

WHEREAS, the effects of Sandy, especially the significant power outages across New Jersey, disrupted the lives of residents and placed much of the State in immediate and serious harm; and

WHEREAS, on October 27, 2012, in light of the dangers posed by Sandy, and pursuant to the authority provided under the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App. A:9-33, et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4, and all amendments and supplements thereto, I declared a State of Emergency; and

WHEREAS, on October 31, 2012, in light of a finding by the Commissioner of the Department of Environmental Protection that emergency measures were necessary to prevent a water shortage, I declared a state of water emergency to exist throughout the State; and

WHEREAS, through the efforts of all New Jersey residents, our State continues to recover and rebuild; and

WHEREAS, coordinated water management efforts, including water conservation efforts and compliance with water use restrictions, exercised by water suppliers, State and local governments, private businesses, and all citizens of New Jersey, reduced water demands, allowed for the preservation of available supplies, and substantially improved the condition of the State's water supply;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Executive Order No. 106, signed on October 31, 2012, is rescinded.
2. This Order shall take effect immediately.

Dated December 19, 2012.

EXECUTIVE ORDER NO. 121

WHEREAS, United States Army Staff Sergeant Zoltan Dobovich, of Riegelsville, Pennsylvania, was a member of an air crew reported missing in Europe in 1946; and

WHEREAS, Staff Sergeant Dobovich enlisted in the United States Army in 1943; and

WHEREAS, Staff Sergeant Dobovich was last accounted for on November 1, 1946, when an air crew of eight members departed Italy on a course to England but never arrived at their destination; and

WHEREAS, Staff Sergeant Dobovich and the rest of the air crew were not found after an extensive search of their aircraft's flight plan; and
WHEREAS, Staff Sergeant Dobovich's remains have been identified and returned to his family in New Jersey for burial with full military honors; and
WHEREAS, Staff Sergeant Dobovich was a courageous soldier who loved his family, friends, and fellow soldiers; and
WHEREAS, Staff Sergeant Dobovich was, in turn, loved by his family, friends, and fellow soldiers, who take great pride in his commitment, heroism, and achievements; and
WHEREAS, United States Army Staff Sergeant Zoltan Dobovich made the ultimate sacrifice, giving his life while serving his country; and
WHEREAS, it is appropriate and fitting to mark his passing, honor his memory, and remember his family as they mourn their loss;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Thursday, December 27, 2012, in recognition of the life and in mourning of the passing of United States Army Staff Sergeant Zoltan Dobovich.
2. This Order shall take effect immediately.

Dated December 19, 2012.

EXECUTIVE ORDER NO. 122

WHEREAS, the families and loved ones of the victims, the wounded, the Town of Newtown, and the State of Connecticut continue to suffer from the horrific acts of violence that occurred at Sandy Hook Elementary School on Friday, December 14, 2012; and
WHEREAS, the lives of twenty innocent children and six dedicated educators were lost in that tragedy; and
WHEREAS, the tremendous acts of bravery by Sandy Hook Elementary School staff and first responders unquestionably saved many young lives; and
WHEREAS, all of Connecticut's people, and indeed the people of the State of New Jersey and the world, mourn the immeasurable losses suffered by the families and loved ones of the fallen; and
WHEREAS, in times of struggle, neighbors, friends, family members, and fellow citizens unite as a community to ensure that faith, hope, and love remain the foundation of our nation;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. All citizens of New Jersey shall reflect with a moment of silence at 9:30 A.M. on Friday, December 21, 2012, in honor of each life that was taken far too soon at Sandy Hook Elementary School.
2. This Order shall take effect immediately.

Dated, December 20, 2012.

EXECUTIVE ORDER NO. 123

WHEREAS, United States Army General H. Norman Schwarzkopf was a dedicated leader, legendary commander, and military hero who led coalition forces during Operation Desert Storm; and

WHEREAS, General Schwarzkopf was born in Trenton, New Jersey on August 22, 1934, and was raised in Lawrenceville, New Jersey; and

WHEREAS, General Schwarzkopf and his wife had three children, who were raised in Englishtown, New Jersey; and

WHEREAS, General Schwarzkopf attended Valley Forge Military Academy, the United States Military Academy, the University of Southern California, and the United States Army War College; and

WHEREAS, General Schwarzkopf passed away in Tampa, Florida on December 27, 2012, at the age of 78; and

WHEREAS, General Schwarzkopf's service to our great nation was immeasurable and included two tours of duty in Vietnam, first as a United States adviser to South Vietnamese paratroops and later as a battalion commander in the Army's Americal Division; and

WHEREAS, General Schwarzkopf earned three Silver Stars for valor, a Bronze Star, a Purple Heart, and three Distinguished Service Medals for his service in Vietnam; and

WHEREAS, General Schwarzkopf commanded the international coalition led by the United States that drove Saddam Hussein's forces out of Kuwait in 1991; and

WHEREAS, General Schwarzkopf retired from the Army in 1992, and later wrote a best-selling autobiography, "It Doesn't Take A Hero"; and

WHEREAS, General Schwarzkopf was knighted by Queen Elizabeth II and honored with decorations from France, Britain, Belgium, Kuwait, Saudi Arabia, United Arab Emirates, Qatar, and Bahrain; and

WHEREAS, throughout his life, General Schwarzkopf enriched the lives of people throughout New Jersey, the United States of America, and the world; and

WHEREAS, it is with deep sadness that we mourn the loss of General Schwarzkopf and extend our sincere sympathy to his family and fellow soldiers; and

WHEREAS, it is appropriate to recognize the achievements and contributions, to honor the memory, and to mark the passing of General Schwarzkopf;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Wednesday, January 2, 2013, in recognition and mourning of the passing of United States Army General H. Norman Schwarzkopf.

2. This Order shall take effect immediately.

Dated December 28, 2012.

AMENDMENT ADOPTED IN 2012 TO THE 1947 CONSTITUTION

AMENDMENT ADOPTED IN 2012 TO THE 1947 CONSTITUTION

ARTICLE VI, SECTION VI, PARAGRAPH 6

Amend Article VI, Section VI, paragraph 6 to read as follows:

6. The Justices of the Supreme Court and the Judges of the Superior Court shall receive for their services such salaries as may be provided by law, which shall not be diminished during the term of their appointment, except for deductions from such salaries for contributions, established by law from time to time, for pensions as provided for under paragraphs 3 and 5 of Section VI of this Article, health benefits, and other, similar benefits. They shall not, while in office, engage in the practice of law or other gainful pursuit.

Approved November 6, 2012.
Effective December 6, 2012.

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Plans, specifications, bid proposal documents, addressing issue of soil contamination; required, C.40A:11-23.1a, amends C.40A:11-23.1, Ch.73.
State, local public contracts with persons, entities engaging in certain investment activities with Iran; prohibited, C.52:32-55 et al., Ch.25.

PUBLIC UTILITIES
BPU, sale of certain real property, issuance of decision within 180 days of receipt of petition; required, C.48:2-23.2, amends C.48:2-23.1, Ch.64.
CATV companies, provision of advanced notification of price decreasing or addition of channel offerings; requirement eliminated, C.48:5A-11.11, Ch.54.
Solar renewable energy programs, certain; revised, net metering of electricity consumption by certain entities; provided, amends C.48:3-51 et al., Ch.24.

RACING
Sales and use tax for purchase of certain materials for construction of off-track wagering facilities, certain, grant program to provide one-time rebate; established, Ch.40.

REAL PROPERTY
BPU, sale of certain real property, issuance of decision within 180 days of receipt of petition; required, C.48:2-23.2, amends C.48:2-23.1, Ch.64.
Military and Veterans' Affairs, Department, sale of surplus property, certain; authorized, Ch.77.
Permits, certain, expiration date; extended, amends C.40:55D-136.2 et seq., Ch.48.

SCHOOLS
Bullying prevention, anti-bullying training programs, implementation by school district; permitted, C.18A:37-32.1, amends C.18A:37-15 et al., Ch.1.
Clinical nursing services providers for medically fragile students, standards of practice; established, amends C.18A:40-3.2 et seq., Ch.5.

SCHOOLS (continued)
Department of Education, program to address shortage of mathematics, science teachers; established, C.18A:26-2.11 et seq., Ch.11.
"Janet's Law," public, nonpublic schools to have automated external defibrillators, emergency action plan for responding to sudden cardiac events; required, C.18A:40-41a et seq., Ch.51.
School elections moved to November, certain school districts; permitted, certain budget approval regulations; eliminated, C.19:60-1.2, amends C.18A:7F-5 et al., Ch.78.
Students residing in domestic violence shelter, transitional facility, certain circumstances, payment of educational costs by State; required, C.18A:7B-12.2, amends C.18A:7B-12 et seq., Ch.80.
"Tabitha's Law," communication between parents, guardian and school relative to absence; required, C.18A:36-25.4 et seq., Ch.74.
"Teacher Effectiveness and Accountability for the Children of New Jersey (TEACHNJ) Act," C.18A:6-117 et al., amends N.J.S.18A:6-9 et al., repeals C.52:14B-10.1, Ch.26.
"VETeach Pilot Program"; established, C.18A:6-116, Ch.2.

STATE GOVERNMENT
Alex DeCroce's Law, rights of crime victims; enhanced, C.52:4B-36.1 et seq., amends C.52:4B-36, Ch.27.
Department of Children and Families; reorganized, C.52:27D-43.9a et al., amends C.2A:4A-43 et al., Ch.16.
Department of Health and Senior Services; reorganized, renamed as Department of Health, C.26:1A-2.1 et al., amends C.2A:62A-1.3 et al., repeals C.26:1A-15.3 et al., Ch.17.
"Honor and Remember Flag," designation as an official State flag; provided, C.52:3-13, Ch.66.
New Jersey Sports and Exposition Authority, transferred from Department of Community Affairs to Department of State, C.5:10-4.1, amends C.5:10-4 et seq., Ch.15.
Organ and tissue donation, information distributed by State Treasurer; required, "Donate Life Month," April; designated, C.52:14-15g et al., repeals C.36:2-51, Ch.4.
Surplus real properties, certain, located in Woodbridge Township, sale; authorized, Ch.39.

TAXATION
Environmental remediation compliance, deposit of property tax refunds for certain industrial sites, C.58:10B-3.2, amends C.54:3-27.2 et al., Ch.19.
Sales and use tax for purchase of certain materials for construction of off-track wagering facilities, certain, grant program to provide one-time rebate; established, Ch.40.

TAXATION (continued)
Tax credits issued under Urban Transit Hub Tax Credit program; expanded, amends C.34:1B-209 et al., Ch.35.

TRANSPORTATION
"New Jersey Transportation Trust Fund Authority Act"; revised, amends C.27:1B-3 et al., Ch.13.

WORKERS' COMPENSATION
Compensation claimants, charging for medical expenses; banned, Division of Workers' Compensation, sole jurisdiction over work-related medical claims; provided, amends R.S.34:15-15, Ch.67.