LAWS = NEW JERSEY
2002

New Jersey State Library

ACTS

OF THE

First Annual Session

OF THE

Two Hundred and Tenth Legislature

OF THE

STATE OF NEW JERSEY

2002

New Jersey State Library

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

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[1]Died 9/26/02.
[2]Sworn in 10/28/02.
[3]Sworn to Congress 1/7/03.
[4]Died 10/9/02.
[5]Sworn in 11/18/02.

LAWS

ACTS

ENACTED BY THE

First Annual Session

OF THE

Two Hundred and Tenth Legislature

CHAPTER 1

AN ACT concerning the budget message to be transmitted by the Governor to the Legislature for the fiscal year ending June 30, 2003.

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

1. Notwithstanding the provisions of any other law to the contrary, the Governor shall transmit the budget message for the fiscal year ending June 30, 2003 to the Legislature on or before March 26, 2002.

2. This act shall take effect immediately.

Approved February 19, 2002.

CHAPTER 2

AN ACT concerning the calendar for the annual school budget and election and certain notification of nontenured personnel for the 2002-2003 school year.

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

1. Notwithstanding any other law to the contrary, the Commissioner of Education is authorized to make any adjustments to the school budget and election calendar and to the date for the notification of nontenured personnel pursuant to section 1 of P.L.1971, c.436 (C.18A:27-10) for the 2002-2003

school year, which are necessary to conform with the State aid notification date.

2. This act shall take effect immediately.

Approved March 5, 2002.

CHAPTER 3

AN ACT concerning the time for distribution of a portion of the State aid to be paid to certain municipalities from the "Energy Tax Receipts Property Tax Relief Fund," amending P.L.1997, c.167.

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

1. Section 2 of P.L.1997, c.167 (C.52:27D-439) is amended to read as follows:

C.52:27D-439 "Energy Tax Receipts Property Tax Relief Fund."

2. a. Commencing July 1, 1997 there is established the "Energy Tax Receipts Property Tax Relief Fund" as a special dedicated fund in the State Treasury into which there shall be credited annually, commencing in State fiscal year 1998, the sum of $740,000,000 or the amount determined pursuant to subsection e. of this section from the following: net payments under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) from sales and use of energy or utility services, net payments under the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.) from gas, electric, and gas and electric public utilities, whether municipal or otherwise, that were subject to tax pursuant to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to January 1, 1998, net payments under the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.) from telecommunications public utilities that were subject to tax pursuant to the provisions of P.L.1940, c.4 (C.54:30A-16 et seq.) as of April 1, 1997, net payments under P.L.1940, c.5 (C.54:30A-49 et seq.) from sewerage and water corporations, net payments under the "Transitional Energy Facility Assessment Act," P.L.1997, c.162 (C.54:30A-100 through C.54:30A-113), and such sums from the General Fund as may be necessary to provide that the annual amount credited to the fund shall equal $740,000,000 or the amount determined pursuant to subsection e. of this section.

b. Notwithstanding the provisions of P.L.1940, c.4 (C.54:30A-16 et seq.), P.L.1940, c.5 (C.54:30A-49 et seq.) and any other provision of law concerning the apportionment and distribution by the State of taxes paid by public utilities,

(1) There shall be paid during the State fiscal year 1998 and during each fiscal year thereafter from the "Energy Tax Receipts Property Tax Relief Fund" to the municipalities of the State the sum of $740,000,000 or the amount determined pursuant to subsection e. of this section.

(2) A portion of the $740,000,000 or the amount determined pursuant to subsection e. of this section shall be allocated in a manner that provides that each municipality shall receive an amount not less than the largest annual amount received or to be received by the municipality from:

(a) the distribution of $685,000,000 from the proceeds of the public utilities franchise and gross receipts taxes under P.L.1940, c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) in calendar year 1994, 1995 or 1996; or

(b) the distribution of $685,000,000 from the proceeds of the public utilities franchise and gross receipts taxes under P.L.1940, c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) or from taxes and assessments collected in replacement of such taxes as released by the Division of Local Government Services in the Department of Community Affairs as fiscal year 1998 estimated franchise and gross receipts taxes State aid distributions by municipality prior to the certification of apportionment of such funds by the Director of the Division of Taxation and the amounts required pursuant to subsection d. of this section.

(3) A portion of the $740,000,000 or the amount determined pursuant to subsection e. of this section shall be allocated in a manner that provides that each municipality shall receive an amount equal to the difference, if any, between the amount it received pursuant to paragraph (2) of this subsection and the sum of the amounts that the municipality received pursuant to the certification made in the 1997 calendar year released by the Division of Local Government Services in the Department of Community Affairs as the fiscal year 1998 estimated franchise and gross receipts taxes State aid distribution of $685,000,000 and the certification of the 1997 fiscal year distribution of $45,000,000.

(4) The portion of the $740,000,000 or the amount, not more than $755,000,000, determined pursuant to subsection e. of this section remaining after the allocations pursuant to paragraphs (2) and (3) of this subsection shall be distributed in proportion to the amounts distributed pursuant to paragraph (2) of this subsection.

c. (1) The funds distributed pursuant to paragraphs (2) and (4) of subsection b. of this section shall be distributed annually to municipalities on the following

schedule: July 15, 35% of the total amount due; August 1, 10% of the total amount due; September 1, 30% of the total amount due; October 1, 15% of the total amount due; November 1, 5% of the total amount due; and December 1, 5% of the total amount due.

(2) The funds distributed pursuant to paragraph (3) of subsection b. of this section, prior to January 1, 2002 for all municipalities, and distributed after January 1, 2002 for municipalities operating on a State fiscal year basis, shall be distributed annually to those municipalities on or before June 30. The funds distributed after January 1, 2002 pursuant to paragraph (3) of subsection b. of this section to calendar year municipalities shall be distributed annually on or before July 15.

d. The allocation set forth in paragraph (2) of subsection b. of this section shall be adjusted to increase each appropriate municipal distribution by the amount necessary to:

(1) make corrections to apportionment valuations or distribution values made by the Director of the Division of Taxation in the Department of the Treasury pursuant to R.S.54:30-2; and

(2) correct equitable distortions, as determined by the State Treasurer, resulting from the application of section 2 of P.L.1980, c.10 (C.54:30A-24.1) and section 4 of P.L.1980, c.11 (C.54:30A-61.1).

The director shall report to the Legislature, on or before July 15, 1997, the amount and distribution of the corrections pursuant to paragraphs (1) and (2) of this subsection.

e. The amount credited to the "Energy Tax Receipts Property Tax Relief Fund" shall be $745,000,000 for State fiscal year 1999, $750,000,000 for each of State fiscal years 2000 and 2001, $755,000,000 for State fiscal year 2002, and for each fiscal year thereafter the amount equal to the amount credited in the prior fiscal year multiplied by the sum of 1.0 and the index rate or zero, whichever is greater. As used in this section, "index rate" means the rate of annual percentage increase, rounded to the nearest half-percent, in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, computed and published quarterly by the United States Department of Commerce, Bureau of Economic Analysis, calculating the annual increase therein at the second calendar quarter which occurred in the next preceding State fiscal year. The Director of the Division of Local Government Services shall promulgate annually the index rate to apply in the next following State fiscal year which shall be the same as the index rate determined pursuant to section 4 of P.L.1983, c.49 (C.40A:4-45.1a). Any amount of aid distributed to a municipality in excess of the amount distributed to the municipality from the "Energy Tax Receipts Property Tax Relief Fund" during the State fiscal year 2002 shall be used solely and exclusively by each municipality for the

purpose of reducing the amount the municipality is required to raise by local property tax levy for municipal purposes.

f. Notwithstanding any other provision of this section or any other provision of law to the contrary, if any municipality paid a county for an amount for county purposes from the amount it received from its apportionment of taxes according to the limitations on the municipalities apportionment under section 4 of P.L.1980, c.11 (C.54:30A-61.1), the highest amount of that payment during calendar years 1994, 1995, and 1996 shall be paid annually directly to that county by the State Treasurer and be deducted from that municipality's distribution otherwise determined pursuant to paragraph (2) of subsection b. of this section.

2. This act shall take effect immediately.

Approved March 18, 2002.

CHAPTER 4

AN ACT providing for the transfer of funds by the New Jersey Housing and Mortgage Finance Agency to the State for housing and related purposes, supplementing P.L.1983, c.530 (C.55:14K-1 et seq.).

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

C.55:14K-5.3 Transfer of certain reserves to State for housing needs.

1. Notwithstanding the provisions of any law to the contrary, the New Jersey Housing and Mortgage Finance Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.) shall transfer, on or before the fifth day after enactment of this supplementary act, from unencumbered reserves in the funds of the agency, an amount not to exceed $25,000,000, as shall be determined by the State Treasurer, to the State Treasury for deposit in the State General Fund. The amount deposited in the State General Fund shall be available to pay for appropriations made from the General Fund for housing and related needs of New Jersey residents.

2. This act shall take effect immediately.

Approved March 18, 2002.

CHAPTER 5

AN ACT concerning the calculation of certain surcharges imposed pursuant to Title 34 of the Revised Statutes and amending R.S.34:15-94.

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

1. R.S.34:15-94 is amended to read as follows:

Annual surcharge for Second Injury Fund.

34:15-94. a. (Deleted by amendment, P.L.1999, c.408).

b. Commencing January 1, 1989 and on the first day of each year thereafter, the Commissioner of Labor shall levy an annual surcharge upon all policyholders and self-insured employers for the purpose of providing moneys to the Second Injury Fund. Each policyholder and self-insured employer shall be liable for payment of the annual surcharge in accordance with the provisions of this section and all regulations promulgated pursuant hereto. The annual surcharge levied under this section shall be applied to all workers' compensation and employer's liability insurance policies providing coverage on or after January 1, 1989 and, in the case of self-insured employers, to coverage provided on or after January 1, 1989. Notwithstanding any law to the contrary, the surcharge levied pursuant to this section shall not apply: to any reinsurance or retrocessional transaction; to the State or any political subdivision thereof which acts as a self-insured employer; or to any workers' compensation endorsement required pursuant to section 1 of P.L.1979, c.380 (C.17:36-5.29).

c. On or before July 31 of 1988 and of each year thereafter:

(1) Each insurer and self-insured employer shall submit to the Commissioner of Labor, in a form and manner prescribed by the Commissioner of Labor, a report of the total compensation payments made by the insurer or self-insured employer during the 12-month period ending on the immediately preceding June 30th;

(2) Each insurer shall submit to the Commissioner of Banking and Insurance, in a form and manner prescribed by the Commissioner of Banking and Insurance, a report of the total earned premiums collected by the insurer on all workers' compensation or employer's liability policies written on risks located in this State pursuant to the provisions of R.S.17:17-1 et seq., during the 12-month period ending on the immediately preceding June 30th;

(3) The Commissioner of Labor shall estimate the amount of special adjustment and supplemental benefits payable by each insurer writing workers' compensation or employer's liability insurance in the State and by each

self-insured employer pursuant to R.S.34:15-95 during the then current fiscal year;

(4) The Commissioner of Labor shall make a determination of the aggregate annual surcharge to be levied upon policyholders and self-insured employers during the next following calendar year, which shall be an amount equal to (a) 150%, in the case of any calendar year commencing prior to January 1, 2000, and (b) 125%, in the case of any calendar year commencing after December 31, 1999, of the compensation and benefits estimated by the Commissioner of Labor to be payable from the Second Injury Fund during the next following calendar year plus 100% of the amount estimated by the Commissioner of Labor to be necessary for the cost of administration of the Division of Workers' Compensation in the Department of Labor, less the estimated amount of net assets exceeding $5,000,000.00 which will remain in the Second Injury Fund on December 31st of the then current calendar year, and the Commissioner of Labor shall submit an informational copy to the Joint Budget Oversight Committee. For the purpose of determining the annual surcharge to be levied upon policyholders and self-insured employers as prescribed herein, any amount transferred from the Second Injury Fund to the General Fund pursuant to P.L.2002, c.12 shall be added back to the Second Injury Fund for computational purposes only;

(5) The Commissioner of Labor shall apportion the aggregate annual surcharge calculated pursuant to paragraph (4) of this subsection among policyholders as a group and self-insured employers as a separate group. Policyholders shall be liable to pay that portion of the aggregate annual surcharge that is equal to the proportion that the compensation payments made by all policyholders during the 12-month period ending on the immediately preceding June 30th bear to the total compensation payments made by all policyholders and self-insured employers during the 12-month period ending on the immediately preceding June 30th. Self-insured employers shall be liable to pay that portion of the aggregate annual surcharge that is equal to the proportion that the compensation payments made by all self-insured employers during the 12-month period ending on the immediately preceding June 30th bear to the total compensation payments made by all policyholders and self-insured employers during the 12-month period ending on the immediately preceding June 30th; and

(6) The Commissioner of Labor shall notify the Commissioner of Banking and Insurance of the aggregate annual surcharge amount applicable to policyholders during the next following calendar year.

d. On or before September 15 of 1988 and of each year thereafter:

(1) In consultation with the Commissioner of Labor, the Commissioner of Banking and Insurance shall determine the annual policyholder surcharge rate to be applied to each workers' compensation and employer's liability policy

during the next following calendar year, and shall notify insurers of the annual policyholder surcharge rate to be applied to policy premiums during the next following calendar year. The annual policyholder surcharge rate shall be established as a percentage, which shall be equal to the percentage relationship that the annual surcharge amount which is applicable to all policyholders bears to the total earned premiums for workers' compensation and employer's liability coverage written on risks located in this State for the 12-month period ending on the immediately preceding June 30th.

(2) The Commissioner of Labor shall notify each self-insured employer of the amount of the annual surcharge applicable to that self-insured employer during the next following calendar year. The net annual surcharge for each self-insured employer shall be established as a pro rata portion of the annual surcharge applicable to all self-insured employers, which shall be chargeable to the self-insured employer in the proportion that the self-insured employer's compensation payments during the 12-month period ending on the immediately preceding June 30th bear to the total compensation payments made by all self-insured employers during the 12-month period ending on the immediately preceding June 30th, less the estimated amount of special adjustment and supplemental benefits payable by that self-insured employer pursuant to R.S.34:15-95 during the then current fiscal year.

e. (1) Every insurer providing workers' compensation and employer's liability insurance shall collect from each of its policyholders, on behalf of the Commissioner of Labor and in accordance with subsections b., c. and d. of this section, an amount equal to the annual policyholder surcharge rate established by the Commissioner of Banking and Insurance pursuant to subsection d. of this section, multiplied by the amount of the policyholder's premium. The surcharge to be collected from the policyholder shall be stated separately on the policy or billing statement and be collected at the same time and in the same manner that the premium or other charges for the coverage are collected. On or before the 30th day after the end of the calendar quarter commencing January 1, 1989, and on or before the 30th day following the end of each calendar quarter thereafter, each insurer shall report to the Commissioner of Labor, on forms as the commissioner may require, the total amount of its workers' compensation and employer's liability insurance earned premiums for the preceding quarterly accounting period, and remit the surcharge collected from policyholders on those premiums, less special adjustment and supplemental benefits paid during the preceding calendar quarter by the insurer pursuant to the workers' compensation law, R.S.34:15-1 et seq. No insurer or its agent shall be entitled to any portion of any surcharge imposed pursuant to this section as a fee or commission for its collection nor shall that surcharge be subject to any taxes, licenses or fees.

(2) On or before the 30th day after the end of each calendar quarter commencing January 1, 1989, and on or before the 30th day following the end of each calendar quarter thereafter, each self-insured employer shall remit to the Commissioner of Labor an amount equal to one-fourth of the effective net annual surcharge as established for that self-insured employer during the then current calendar year pursuant to subsection d. of this section, less special adjustment and supplemental benefits paid during the preceding calendar quarter by the self-insured employer pursuant to the workers' compensation law, R.S.34:15-1 et seq.

f. The Commissioner of Labor shall promulgate within 180 days of the effective date of this act and in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations as may be necessary for the apportionment and collection of annual surcharges from policyholders and self-insured employers covered by this section.

g. The Commissioner of Banking and Insurance shall promulgate within 180 days of the effective date of this act and in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations as may be necessary for the collection, and provision to the Commissioner of Labor, of information with respect to earned premiums of insurers and the establishment of the annual surcharge rate for policyholders.

h. For each 30-day period or part thereof during which a policyholder, self-insured employer, or insurer fails to make a payment or transfer of payment as required by this section or regulations promulgated pursuant hereto, a penalty of one-half of one percent (0.5%) of the amount of delinquent payment or transfer of payment shall be assessed against the delinquent policyholder, self-insured employer or insurer. In no case of single failure, however, shall penalties assessed under this section exceed five percent (5.0%) of the amount of surcharge unpaid or untransferred. Penalties assessed under this subsection shall be collected in a civil action by a summary proceeding brought by the Commissioner of Labor pursuant to "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and shall be deposited by the commissioner in the Second Injury Fund.

i. For each 30-day period during which an insurer or self-insured employer fails to file a report as required by this section, the Commissioner of Labor shall assess a penalty of $100.00 against the insurer or self-insured employer and, upon collection thereof, shall deposit those moneys in the "uninsured employer's fund." As a result of any single failure, however, no such penalty shall exceed a total of $500.00. During the period of any such failure to file this report, the estimate by the Department of Labor of the amounts of such compensation payments or earned premiums shall be used for the purposes cited in the workers' compensation law, R.S.34:15-1 et seq.

j. The Commissioner of Labor may, with the authorization of and appropriation by the Legislature, transfer from the Second Injury Fund an amount necessary for the cost of administration of the Division of Workers' Compensation in the Department of Labor.

k. As used in this section, "policyholder" means a holder of a policy of workers' compensation or employer's liability insurance issued by an insurer. "Insurer" means a domestic, foreign or alien mutual association or stock company writing workers' compensation or employer's liability insurance on risks located in this State and subject to premium taxes pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.). "Self-insured employer" means an employer which self-insures for workers' compensation or employer's liability insurance pursuant to the provisions of R.S.34:15-77.

2. This act shall take effect immediately.

Approved March 18, 2002.

CHAPTER 6

AN ACT providing for a State tax amnesty period, supplementing Title 54 of the Revised Statutes and making an appropriation.

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

C.54:53-18 State tax amnesty period in 2002 established.

1. a. In addition to the powers of the Director of the Division of Taxation prescribed under the State Uniform Tax Procedure Law, R.S.54:48-1 et seq., and notwithstanding the provisions of any other laws to the contrary, the director shall establish a period not to exceed 60 days in duration, which period shall end no later than June 10, 2002, during which a taxpayer who has failed to pay any State tax on or before the day on which the tax is required to be paid may pay to the director on or before the last day of the period established by the director the amount of that tax, without any interest that may otherwise be due, without any costs of collection that may otherwise be due, and without the imposition of any civil or criminal penalties arising out of an obligation imposed under any State tax law. This section shall apply only to State tax liabilities for tax returns due on or after January 1, 1996 and prior to January 1, 2002 and shall not extend to any taxpayer who at the time of the payment is under criminal investigation or charge for any State tax matter, as certified by a county prosecutor or the Attorney General to the director.

Notwithstanding the provisions of any other law to the contrary, no taxpayer shall be entitled to a waiver of penalty, interest and cost of collection pursuant to this subsection unless full payment of the tax due is made in accordance with rules and procedures established by the director.

b. There shall be imposed a 5% penalty, which shall not be subject to waiver or abatement, in addition to all other penalties, interest, or costs of collection otherwise authorized by law, upon any State tax liabilities eligible to be satisfied during the period established pursuant to subsection a. of this section that are not satisfied during the amnesty period.

c. Notwithstanding the provisions of any other law to the contrary, if a taxpayer elects to participate in the program established pursuant to this section, as that election shall be evidenced by full payment pursuant to this section of a State tax liability to which this section applies pursuant to subsection a. of this section, then that election shall constitute an express and absolute relinquishment of all administrative and judicial rights of appeal that have not run or otherwise expired as of the date payment is made. The relinquishment of rights of appeal pursuant to this subsection shall apply with respect to all rights of appeal established pursuant to the State Uniform Tax Procedure Law, R.S.54:48-1 et seq., and the specific statutory provisions of any State tax. No tax payment made pursuant to this section shall be eligible for refund or credit, whether claimed by administrative protest or judicial appeal, except as may be permitted pursuant to R.S.54:49-16.

d. Notwithstanding the provisions of any other law to the contrary, no amnesty payment shall be accepted without the express approval of the director with respect to any State tax assessment which is the subject of any administrative or judicial appeal as of the effective date of this act.

2. There is appropriated to the Division of Taxation in the Department of the Treasury a sum not to exceed $7,000,000 from the proceeds collected pursuant to subsection a. of section 1 of this act to carry out and administer the tax amnesty program established pursuant to the provisions of that section.

3. This act shall take effect immediately.

Approved March 18, 2002.

CHAPTER 7

AN ACT authorizing the withdrawal of $50 million from the State disability benefits fund, authorizing certain other expenditures from the fund, and amending P.L.1948, c.110.

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

1. Section 23 of P.L.1948, c.110 (C.43:21-47) is amended to read as follows:

C.43:21-47 Withdrawal from federal treasury.

23. Withdrawal from Federal Treasury. (a) The State Treasurer is hereby authorized and directed to requisition and withdraw on or before December 31, 1948, the sum of $50,000,000.00 from the amount of worker contributions heretofore accumulated in the State unemployment compensation fund and deposited in and credited to the account of this State in the unemployment trust fund of the United States of America, established and maintained pursuant to section 904 of the Social Security Act, as amended (42 U.S.C. s.1104), and to deposit such sums in the State disability benefits fund, established under the "Temporary Disability Benefits Law." The State Treasurer is further authorized and empowered to make such requisitions or withdrawals in accordance with such regulations relating thereto as may be prescribed by the United States Secretary of the Treasury. No portion of the amount requisitioned or withdrawn from the Federal Treasury shall be expended for the purpose of administering the "Temporary Disability Benefits Law."

(b) The State Treasurer is hereby authorized and directed to requisition and withdraw within 90 days of this enactment, an additional sum of $50,000,000.00 from the amount of worker contributions heretofore accumulated in the State unemployment compensation fund and deposited in and credited to the account of this State in the unemployment trust fund of the United States of America, established and maintained pursuant to section 904 of the Social Security Act, as amended (42 U.S.C. s.1104), and to deposit such sums in the State disability benefits fund, established under the "Temporary Disability Benefits Law." The State Treasurer is further authorized and empowered to make such requisitions or withdrawals in accordance with such regulations relating thereto as may be prescribed by the United States Secretary of the Treasury. If the balance in the State disability benefits fund as of December 31 of any calendar year, increased by the contributions credited thereto on or before, or as of January 31 immediately thereafter is in excess of $75,000,000.00, the excess shall be withdrawn from the State disability benefits fund and deposited to the account of this State in the unemployment trust fund until the entire $50,000,000.00 requisitioned and withdrawn under this subsection (b) has been returned and deposited to the account of this State in the unemployment trust fund pursuant to the provisions of this subsection (b) and subsection (c) hereof. Such repayment to the unemployment trust fund shall be considered in determining contribution rates by employers to

the State disability benefits fund under R.S.43:21-7(e). No portion of the amount requisitioned or withdrawn from the Federal Treasury shall be expended for the purpose of administering the "Temporary Disability Benefits Law."

(c) The State Treasurer shall transfer from the State disability benefits fund to the clearing account of the unemployment compensation fund, as established under R.S.43:21-9, the sum of $25,000,000.00. Such transfer may be made at such times and in such installments as the State Treasurer may deem proper, except that the total sum shall have been transferred by no later than April 30, 1971. Amounts transferred to the clearing account of the unemployment compensation fund under this subsection shall be clear immediately and shall be deposited with the Secretary of the Treasury of the United States of America in accordance with the provisions of R.S.43:21-9(b).

(d) The State Treasurer is hereby authorized and directed to requisition and withdraw on or before December 31, 1985 a minimum of $50,000,000.00, at the discretion of the Commissioner of Labor, from the State disability benefits fund established under section 22 of P.L.1948, c.110 (C.43:21-46) and to deposit such sum in the clearing account of the State unemployment compensation fund established under R.S.43:21-9. The amount transferred under this subsection (d) shall be cleared immediately and shall be deposited with the Secretary of the Treasury of the United States of America, in accordance with the provisions of R.S.43:21-9(b).

(e) The State Treasurer is hereby authorized and directed to requisition and withdraw on or after July 1, 1992 an amount not greater than $25,000,000 from revenues received pursuant to paragraph (1) of subsection (e) of R.S.43:21-7, at the discretion of the Commissioner of Labor, from the State disability benefits fund established pursuant to section 22 of P.L.1948, c.110 (C.43:21-46) and to deposit that amount in the New Jersey Workforce Development Partnership Fund created pursuant to section 9 of P.L.1992, c.43 (C.34:15D-9).

(f) The State Treasurer, in consultation with the Commissioner of Labor, is hereby authorized and directed to requisition and withdraw on or after July 1, 1994 from revenues received pursuant to paragraph (1) of subsection (e) of R.S.43:21-7, an amount from the State disability benefits fund not greater than 25% of the balance in that fund as of June 30, 1994 and to deposit that amount in the clearing account of the unemployment compensation fund established under R.S.43:21-9. The amount transferred under this subsection (f) shall be cleared immediately and shall be deposited with the Secretary of the Treasury of the United States of America, in accordance with the provisions of R.S.43:21-9(b).

(g) To the extent that funds from the General Fund are also deposited into the clearing account subsequent to July 1, 1994 but before October 2, 1994, such amount shall be reimbursed to the General Fund from amounts

collected pursuant to R.S.43:21-7(d)(1)(G) and R.S.43:21-7(e) for quarterly periods ending on or after September 30, 1994.

(h) The amount transferred from the State disability benefits fund to the clearing account of the unemployment compensation fund under subsection (f) of this section plus any amount reimbursed to the General Fund in accordance with subsection (g) shall be repaid to the State disability benefits fund from general State revenues with interest at the rate earned by the investments made with moneys remaining in the State disability benefits fund. The repayment period shall not exceed ten years. The amount repaid each year shall be not less than one tenth of the total amount transferred from the State disability benefits fund to the clearing account of the unemployment compensation fund under subsection (f) of this section, plus not less than one tenth of the amount reimbursed to the General Fund in accordance with subsection (g), plus accrued interest. The State Treasurer shall, on or before the thirty-first day of January in 1995 and in each subsequent year determine what amount shall be repaid to the State disability benefits fund in the next commencing fiscal year, which amount shall be consistent with the provisions of this subsection (h). The Legislature shall appropriate that amount from the General Fund to the State disability benefits fund. For purposes of determining the balance in the State disability benefits fund as prescribed pursuant to subparagraph (1) of subparagraph (E) of paragraph (3) of subsection (e) of R.S.43:21-7, the amount transferred from the State disability benefits fund to the unemployment compensation fund pursuant to subsection (f) of this section and reimbursed to the General Fund pursuant to subsection (g) of this section less repayments or other reductions, plus accrued interest shall be included therein.

(i) The State Treasurer is hereby authorized and directed to requisition and withdraw on or after July 1, 1996 an amount not greater than $250,000,000 from the State disability benefits fund and to deposit that amount in the General Fund. For purposes of determining the balance in the State disability benefits fund as prescribed pursuant to subparagraph (1) of subparagraph (E) of paragraph (3) of subsection (e) of R.S.43:21-7, the amount transferred from the State disability benefits fund to the General Fund pursuant to this subsection (i) shall be included therein.

(j) To ensure that the provisions of subsection (i) of this section do not reduce or delay benefits payable pursuant to the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), whenever the amount in the State disability benefits fund is less than the amount required to pay the benefits provided under that law and the necessary costs of administering those benefits, the additional amount required to pay the benefits and the administrative costs shall be paid from the General Fund. The amounts paid from the General Fund for benefits and administrative costs pursuant to this subsection shall

be repaid to the General Fund from the State disability benefits fund at such time as the Treasurer determines that the repayment may be made without reducing or delaying benefits payable pursuant to the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.). The repayment to the General Fund from the State disability benefits fund pursuant to this subsection (j) shall not effect an increase in employee or employer contributions under subsection (d) or (e) of R.S.43:21-7.

(k) The State Treasurer is hereby authorized and directed to requisition and withdraw, in addition to the $33,000,000 appropriated from the State disability benefits fund pursuant to section 61 of P.L.2001, c.130 for transfer to the General Fund, before July 1, 2002 an amount not greater than $50,000,000 from the State disability benefits fund and to deposit that amount in the General Fund. For purposes of determining the balance in the State disability benefits fund as prescribed pursuant to subparagraph (1) of subparagraph (E) of paragraph (3) of subsection (e) of R.S.43:21-7, the amount transferred from the State disability benefits fund to the General Fund pursuant to this subsection (k) shall be regarded as being included in the State disability benefits fund.

(l) The State Treasurer is authorized to utilize funds from the State disability benefits fund to purchase insurance, excess insurance or reinsurance for the fund and to enter into whatever contracts are needed to ensure that the provisions of subsection (k) of this section do not reduce or delay benefits payable pursuant to the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).

2. This act shall take effect immediately.

Approved March 18, 2002.

CHAPTER 8

AN ACT concerning hospital charity care funding.

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

1. a. It is also the purpose of P.L.1972, c.29 (C.26:2I-1 et seq.) to further ensure that health care facilities in this State are able to deliver health care-related services to all the residents thereof, including the indigent, and, therefore, to provide funding for hospital charity care.

b. Notwithstanding any provision of law to the contrary, no later than five days after the date of enactment of P.L.2002, c.8, an amount not to exceed

$16,500,000 of the unencumbered reserves of the New Jersey Health Care Facilities Financing Authority shall be transferred from the authority to the State Treasurer for deposit into the General Fund, to be used to pay for up to $16,500,000 of the existing State Fiscal Year 2002 General Fund appropriation for charity care subsidy payments to hospitals.

2. This act shall take effect immediately and shall expire on June 30, 2002

Approved March 18, 2002.

CHAPTER 9

AN ACT concerning the employment of teachers from foreign countries, amending N.J.S.18A:26-1 and N.J.S.18A:26-8.1, and supplementing chapter 27 of Title 18A of the New Jersey Statutes.

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

1. N.J.S.18A:26-1 is amended to read as follows:

Citizenship requirement for teachers, exceptions.

18A:26-1. Every permanent teaching staff member employed in any of the free public schools for nine months or more, in any year shall be a citizen of the United States, except that any citizen of any other country, who has declared his intention of becoming a United States citizen and to whom there has been issued a teaching certificate in accordance with law, may be employed as a teacher so long as he holds a valid teacher's certificate and a teacher of foreign languages who has been a resident of the United States for less than 10 years and who is not a citizen of the United States may be employed in such capacity.

The requirement of citizenship shall not be construed to apply to a teacher from a foreign country who is enrolled with an approved international agency which operates a teacher placement program or teacher exchange program.

2. N.J.S.18A:26-8.1 is amended to read as follows:

Issuance of teacher's certificate to noncitizen.

18A:26-8.1. a. The State Board of Examiners may, with the approval of the commissioner, issue a teacher's certificate to teach in the public schools to any citizen of any other country who has declared his intention of becoming

a United States citizen and who is otherwise qualified, but any such certificate may be revoked by the State Board of Examiners if the board is satisfied that the holder thereof has abandoned his efforts to become a United States citizen, or has become disqualified for citizenship, or shall not have become a United States citizen, within five years of the date of its issuance.

b. A declaration of intention to become a United States citizen shall not be required of a teacher from a foreign country who is enrolled with an approved international agency which operates a teacher placement program or teacher exchange program in order for the teacher to obtain any necessary certification to teach in the public schools.

C.18A:27-2.2 Employment of teachers from foreign countries under certain conditions.

3. a. A board of education may employ a teacher from a foreign country who is enrolled with an approved international agency which operates a teacher placement program in a subject area in which the State Board of Education has determined there is a contemporaneous critical shortage of certified teachers. Prior to the employment of a teacher from a teacher placement program in a subject area of critical shortage, the board of education shall first make a good faith effort to employ a State certified teacher and shall document its inability to hire an appropriately certified teacher with the Department of Education.

b. A board of education may employ a teacher from a foreign country who is enrolled with an approved international agency which operates a teacher exchange program, permitting a teacher from a foreign country to directly substitute for the services of a permanently employed State certified teacher.

C.18A:27-2.3 Authorization for employment of teachers from foreign countries, requirements for certification.

4. a. A teacher from a foreign country shall be authorized to teach in the United States under an international teacher placement program or a teacher exchange program as authorized by any federal law, and shall be certified in accordance with the provisions of subsection b. of this section to teach for a period of no more than three years.

b. In order for a teacher from a foreign country to be certified under this section, the teacher shall:

(1) meet the eligibility requirements for a provisional instructional certificate or possess equivalent qualifications as determined by the State Board of Education; and

(2) demonstrate the ability to speak, read and write the English language fluently, in accordance with criteria established by the State Board of Education.

c. A teacher from a foreign country employed pursuant to this act shall be deemed to be an employee of the public school district, and as such shall

be eligible to become a member of the bargaining unit defined in the applicable agreement with the public school district.

5. This act shall take effect immediately.

Approved March 19, 2002.

CHAPTER 10

AN ACT concerning charter school facilities and amending P.L.1995, c.426.

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

1. Section 10 of P.L.1995, c.426 (C.18A:36A-10) is amended to read as follows:

C.18A:36A-10 Location of charter school.

10. A charter school may be located in part of an existing public school building, in space provided on a public work site, in a public building, or any other suitable location. The facility shall be exempt from public school facility regulations except those pertaining to the health or safety of the pupils. A charter school shall not construct a facility with public funds other than federal funds.

2. This act shall take effect immediately.

Approved March 19, 2002.

CHAPTER 11

AN ACT concerning health care benefits for qualified retirees and their dependents of the Teachers' Pension and Annuity Fund and the Public Employees' Retirement System, and amending P.L.1987, c.385 and P.L.1990, c.6.

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

1. Section 2 of P.L.1987, c.385 (C.18A:66-18.1) is amended to read as follows:

C.18A:66-18.1 Payment of pension adjustment benefits; health care benefits.

2. a. Pension adjustment benefits for members and beneficiaries of the Teachers' Pension and Annuity Fund as provided by the "Pension Adjustment Act," P.L.1958, c.143 (C.43:3B-1 et seq.), shall be paid by the retirement system and shall be funded as employer obligations by the same method provided by law for the funding of employer obligations for the basic retirement benefits provided by the retirement system.

b. Health care benefits for qualified retirees and their dependents as provided by section 3 of P.L.1987, c.384 (C.52:14-17.32f) shall be funded and paid by the retirement system through a separate fund or trust of the retirement system in accordance with the requirements of the federal Internal Revenue Code. Beginning with the actuarial valuation period ending March 31, 1994, the actuary of the retirement system shall annually compute a contribution to fund these health care benefits which shall be the amount necessary to pay the anticipated premiums or periodic charges for the benefits for the following valuation period and to provide that the balance in the fund as of the end of the following valuation period shall be increased by 1/2 of 1% of the salary of the active members for the valuation period, except that contributions to increase the balance in the fund shall not be made in State fiscal years 2002 and 2003. Beginning with the actuarial valuation period ending June 30, 2002, the contribution shall be computed to provide that the balance in the fund shall be increased by 3/5 of 1% of the salary of the active members for the valuation period. Any monies in a separate fund or trust maintained by the retirement system to pay for health care benefits for qualified retirees and their dependents as provided in this section may be used in State fiscal year 2002 to pay the premiums or periodic charges for the benefits. If the assets in the fund are insufficient to pay the premiums or periodic charges for the benefits, they shall be paid directly by the State. Nothing hereinabove shall alter health care benefits for qualified retirees and their dependents or relieve the State from its acknowledged obligation to fund the benefits.

2. Section 2 of P.L.1990, c.6 (C.43:15A-24.1) is amended to read as follows:

C.43:15A-24.1 Payment of pension adjustment benefits; health benefits.

2. a. Pension adjustment benefits for members and beneficiaries of the Public Employees' Retirement System provided by the "Pension Adjustment Act," P.L.1958, c.143 (C.43:3B-1 et seq.), shall be paid by the retirement system and shall be funded as employer obligations by the same method provided by law for the funding of employer obligations for the basic retirement benefits provided by the retirement system. Normal and accrued liability contributions for pension adjustment benefits for active employees of employers other than

the State shall be determined for the 1992 valuation year and shall be phased in so that the level of recognition of the full normal and accrued liability contributions for the State and other employers shall be 20% for valuation year 1992 and 24% for valuation year 1993, and shall be increased by 2.24% for each valuation year thereafter until the full normal and accrued liability contributions are fully recognized.

b. Health care benefits for retired State employees and their dependents for which the State is required to pay the premiums or periodic charges under the "New Jersey State Health Benefits Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.), shall be funded and paid by the retirement system through a separate fund or trust of the retirement system in accordance with the requirements of the federal Internal Revenue Code. Beginning with the actuarial valuation period ending March 31, 1994, the actuary of the retirement system shall annually compute a contribution to fund these health care benefits which shall be the amount necessary to pay the anticipated premiums or periodic charges for the benefits for the following valuation period and to provide that the balance in the fund as of the end of the following valuation period shall be increased by 1/2 of 1% of the salary of the active members for the valuation period, except that contributions to increase the balance in the fund shall not be made in State fiscal years 2002 and 2003. Beginning with the actuarial valuation period ending June 30, 2002, the contribution shall be computed to provide that the balance in the fund shall be increased by 3/5 of 1% of the salary of the active members for the valuation period. Any monies in a separate fund or trust maintained by the retirement system to pay for health care benefits for qualified retirees and their dependents as provided in this section may be used in State fiscal year 2002 to pay the premiums or periodic charges for the benefits. If the assets in the fund are insufficient to pay the premiums or periodic charges for the benefits, they shall be paid directly by the State. Nothing hereinabove shall alter health care benefits for qualified retirees and their dependents or relieve the State from its acknowledged obligation to fund the benefits.

3. This act shall take effect immediately.

Approved March 26, 2002.

CHAPTER 12

AN ACT to amend "An Act making appropriations for the support of the State Government and the several public purposes for the fiscal year

ending June 30, 2002 and regulating the disbursement thereof," approved June 29, 2001 (P.L.2001, c.130).

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

1. The following items in section 1 of P.L.2001, c.130, the fiscal year 2002 annual appropriations act, are amended to read as follows:

78 DEPARTMENT OF TRANSPORTATION
60 Transportation Programs
61 State and Local Highway Facilities
CAPITAL CONSTRUCTION

60-6200 Trust Fund Authority $685,000,000
Total Capital Construction Appropriation,
State and Local Highway Facilities $685,000,000
Capital Projects:
Transportation Trust Fund
Account ..... ($685,000,000)

The sum provided hereinabove for the Transportation Trust Fund Account shall first be provided from revenues received from motor fuel taxes, the petroleum products gross receipts tax, and the sales and use tax pursuant to Article VIII, Section II, paragraph 4 of the State Constitution, together with such additional sums pursuant to P.L.1984, c.73 (C.27:1B-1 et al.) and R.S.54:39-27 as amended, as may be necessary to satisfy all fiscal year 2002 debt service, bond reserve requirements, and other fiscal obligations of the New Jersey Transportation Trust Fund Authority.

Department of Transportation, Total State
Appropriation $1,208,200,000

Notwithstanding any other law to the contrary, of the amounts appropriated hereinabove for the Department of Transportation from the General Fund, $24,500,000 thereof shall be paid from funds received or receivable from the various transportation-oriented authorities pursuant to contracts between the authorities and the State as are determined to be eligible for such funding pursuant to such contracts, as shall be determined by the Director of the Division of Budget and Accounting.

DEBT SERVICE
42 DEPARTMENT OF ENVIRONMENTAL PROTECTION
40 Community Development and Environmental Management
46 Environmental Planning and Administration

99-4800 Interest on Bonds	$14,025,000
Total Debt Service Appropriation, Department of Environmental Protection	$74,686,000
Special Purpose:	
Interest:	
Total Debt Service Appropriation, Department of Environmental Protection	$74,686,000
Total Appropriation, Debt Service	$462,494,000

Notwithstanding the provision of any law, rule or regulation to the contrary, such sums as may be needed for the payment of interest due from the issuance of any bonds authorized under the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, are appropriated and shall first be charged to the earnings from investments of such bond proceeds and repayments of loans from the applicable bond fund or funds established under that act to fund a reserve for the payment of interest due on the bonds authorized under that bond act, and monies are appropriated from such bond fund or funds for the purpose of paying interest on the bonds issued pursuant to that bond act. The amount appropriated herein is allocated to the projects heretofore approved by the Legislature pursuant to that bond act.

Notwithstanding the provision of any law, rule or regulation to the contrary, such sums as may be needed for the payment of interest due from the issuance of any bonds authorized under the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, and the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, are appropriated and shall first be charged to the earnings from investments of such bond proceeds and repayments of loans from the applicable bond fund or funds established under those acts, and monies are appropriated from such bond funds for the purpose of paying interest on the bonds issued pursuant to those bond acts. The amounts appropriated herein are allocated to the projects heretofore approved by the Legislature pursuant to those bond acts.

Total Appropriation, All State Funds $22,864,810,000

2. Notwithstanding the provisions of P.L.1996, c.62 (C.55:19-20 et al.) or any other law to the contrary, within five days after enactment of this act an amount as shall be determined by the State Treasurer, not to exceed $18,500,000, of unobligated funds of the New Jersey Redevelopment Authority is transferred to the General Fund as State revenue.

3. Notwithstanding the provisions of any law to the contrary, any surplus balance remaining in the New Jersey Insurance Development Fund after any financial obligations of the fund are satisfied, as shall be determined by the Director of the Division of Budget and Accounting, is appropriated for transfer to the General Fund as State revenue.

4. Notwithstanding the provisions of any law to the contrary, $8,900,000 appropriated from the Tobacco Settlement Fund to the New Jersey Insolvent Health Maintenance Organization Assistance Fund is appropriated for transfer to the General Fund as a State revenue for health care purposes.

5. Notwithstanding the provisions of any law to the contrary, $17,423,000 of the federal Social Services Block Grant (SSBG) funds are available to transfer from the Division of Family Development to the Division of Youth and Family Services in the Department of Human Services.

6. Notwithstanding the provisions of any law to the contrary, there is appropriated $20,000,000 from the Second Injury Fund for transfer to the General Fund as State revenue.

7. Pursuant to subsection b. of section 7 of P.L.1990, c.44 (C.52:9H-20), there are appropriated the balances in the Surplus Revenue Fund for transfer to the General Fund as State revenue.

8. Notwithstanding the provisions of any law to the contrary, the University of Medicine and Dentistry of New Jersey established pursuant to section 3 of P.L.1970, c.102 (C.18A:64G-3 et seq.) shall transfer, on or before the fifth day after enactment of this act, from unencumbered reserves in the University of Medicine and Dentistry of New Jersey - Self-Insurance Reserve Fund, an amount not to exceed $25,000,000, as shall be determined by the State Treasurer, to the State Treasury for deposit in the State General Fund.

9. This act shall take effect immediately.

Approved March 26, 2002.

CHAPTER 13

AN ACT concerning the provision and funding of services and benefits for certain persons and revising parts of the statutory law.

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

1. Section 8 of P.L.1992, c.160 (C.26:2H-18.58) is amended to read as follows:

C.26:2H-18.58 Health Care Subsidy Fund.

8. There is established the Health Care Subsidy Fund in the Department of Health and Senior Services.

a. The fund shall be comprised of revenues from employee and employer contributions made pursuant to section 29 of P.L.1992, c.160 (C.43:21-7b), revenues from the hospital assessment made pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62), revenues pursuant to section 11 of P.L.1996, c.28 (C.26:2H-18.58c), revenues from interest and penalties collected pursuant to this act and revenues from such other sources as the Legislature shall determine. Interest earned on the monies in the fund shall be credited to the fund. The fund shall be a nonlapsing fund dedicated for use by the State to: (1) distribute charity care and other uncompensated care disproportionate share payments to hospitals, and other eligible providers pursuant to section 8 of P.L.1996, c.28 (C.26:2H-18.59f), provide subsidies for the Health Access New Jersey program established pursuant to section 15 of P.L.1992, c.160 (C.26:2H-18.65), and provide funding for children's health care coverage pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.); (2) assist hospitals and other health care facilities in the underwriting of innovative and necessary health care services; and (3) provide for the payment in State fiscal year 2002 of appropriate Medicaid expenses, subject to the approval of the Director of the Division of Budget and Accounting.

b. The fund shall be administered by a person appointed by the commissioner.

The administrator of the fund is responsible for overseeing and coordinating the collection and reimbursement of fund monies. The administrator is responsible for promptly informing the commissioner if monies are not or are not reasonably expected to be collected or disbursed.

c. The commissioner shall adopt rules and regulations to ensure the

integrity of the fund, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. The administrator shall establish separate accounts for the charity care component of the disproportionate share hospital subsidy, other uncompensated care component of the disproportionate share hospital subsidy, hospital and other health care initiatives funding and the payments for subsidies for insurance premiums to provide care in disproportionate share hospitals, known as the Health Access New Jersey subsidy account, respectively.

e. In the event that the charity care component of the disproportionate share hospital subsidy account has a surplus in a given year after payments are distributed pursuant to the methodology established in section 13 of P.L.1995, c.133 (C.26:2H-18.59b) and section 7 of P.L.1996, c.28 (C.26:2H-18.59e) and within the limitations provided in subsection e. of section 9 of P.L.1992, c.160 (C.26:2H-18.59), the surplus monies in calendar years 2002 and 2003 shall lapse to the unemployment compensation fund established pursuant to R.S.43:21-9, and each year thereafter shall lapse to the charity care component of the disproportionate share hospital subsidy account for distribution in subsequent years.

2. R.S.43:21-4 is amended to read as follows:

Benefit eligibility conditions.

43:21-4. Benefit eligibility conditions. An unemployed individual shall be eligible to receive benefits with respect to any week only if:

(a) The individual has filed a claim at an unemployment insurance claims office and thereafter continues to report at an employment service office or unemployment insurance claims office, as directed by the division in accordance with such regulations as the division may prescribe, except that the division may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs, and as to such other types of cases or situations with respect to which the division finds that compliance with such requirements would be oppressive, or would be inconsistent with the purpose of this act; provided that no such regulation shall conflict with subsection (a) of R.S.43:21-3.

(b) The individual has made a claim for benefits in accordance with the provisions of subsection (a) of R.S.43:21-6.

(c) (1) The individual is able to work, and is available for work, and has demonstrated to be actively seeking work, except as hereinafter provided in this subsection or in subsection (f) of this section.

(2) The director may modify the requirement of actively seeking work if such modification of this requirement is warranted by economic conditions.

(3) No individual, who is otherwise eligible, shall be deemed ineligible, or unavailable for work, because the individual is on vacation, without pay, during said week, if said vacation is not the result of the individual's own action as distinguished from any collective action of a collective bargaining agent or other action beyond the individual's control.

(4) (A) Subject to such limitations and conditions as the division may prescribe, an individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible because the individual is attending a training program approved for the individual by the division to enhance the individual's employment opportunities or because the individual failed or refused to accept work while attending such program.

(B) For the purpose of this paragraph (4), any training program shall be regarded as approved by the division for the individual if the program and the individual meet the following requirements:

(i) The training is for a labor demand occupation and is likely to enhance the individual's marketable skills and earning power;

(ii) The training is provided by a competent and reliable private or public entity approved by the Commissioner of Labor pursuant to the provisions of section 8 of the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-8);

(iii) The individual can reasonably be expected to complete the program, either during or after the period of benefits;

(iv) The training does not include on the job training or other training under which the individual is paid by an employer for work performed by the individual during the time that the individual receives benefits; and

(v) The individual enrolls in vocational training, remedial education or a combination of both on a full-time basis.

(C) If the requirements of subparagraph (B) of this paragraph (4) are met, the division shall not withhold approval of the training program for the individual for any of the following reasons:

(i) The training includes remedial basic skills education necessary for the individual to successfully complete the vocational component of the training;

(ii) The training is provided in connection with a program under which the individual may obtain a college degree, including a post-graduate degree;

(iii) The length of the training period under the program; or

(iv) The lack of a prior guarantee of employment upon completion of the training.

(D) For the purpose of this paragraph (4), "labor demand occupation" means an occupation for which there is or is likely to be an excess of demand over supply for adequately trained workers, including, but not

limited to, an occupation designated as a labor demand occupation by the New Jersey Occupational Information Coordinating Committee pursuant to the provisions of subsection h. of section 1 of P.L.1987, c.457 (C.34:1A-76) or section 12 of P.L.1992, c.43 (C.34:1A-78).

(5) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely by reason of the individual's attendance before a court in response to a summons for service on a jury.

(6) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely by reason of the individual's attendance at the funeral of an immediate family member, provided that the duration of the attendance does not extend beyond a two-day period.

For purposes of this paragraph, "immediate family member" includes any of the following individuals: father, mother, mother-in-law, father-in-law, grandmother, grandfather, grandchild, spouse, child, foster child, sister or brother of the unemployed individual and any relatives of the unemployed individual residing in the unemployed individual's household.

(7) No individual, who is otherwise eligible, shall be deemed ineligible or unavailable for work with respect to any week because, during that week, the individual fails or refuses to accept work while the individual is participating on a full-time basis in self-employment assistance activities authorized by the division, whether or not the individual is receiving a self-employment allowance during that week.

(8) Any individual who is determined to be likely to exhaust regular benefits and need reemployment services based on information obtained by the worker profiling system shall not be eligible to receive benefits if the individual fails to participate in available reemployment services to which the individual is referred by the division or in similar services, unless the division determines that:

(A) The individual has completed the reemployment services; or

(B) There is justifiable cause for the failure to participate, which shall include participation in employment and training, self-employment assistance activities or other activities authorized by the division to assist reemployment or enhance the marketable skills and earning power of the individual and which shall include any other circumstance indicated pursuant to this section in which an individual is not required to be available for and actively seeking work to receive benefits.

(d) With respect to any benefit year commencing before January 1, 2002, the individual has been totally or partially unemployed for a waiting period of one week in the benefit year which includes that week. When benefits become payable with respect to the third consecutive week next following the waiting period, the individual shall be eligible to receive

benefits as appropriate with respect to the waiting period. No week shall be counted as a week of unemployment for the purposes of this subsection:

(1) If benefits have been paid, or are payable with respect thereto; provided that the requirements of this paragraph shall be waived with respect to any benefits paid or payable for a waiting period as provided in this subsection;

(2) If it has constituted a waiting period week under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.);

(3) Unless the individual fulfills the requirements of subsections (a) and (c) of this section;

(4) If with respect thereto, claimant was disqualified for benefits in accordance with the provisions of subsection (d) of R.S.43:21-5.

The waiting period provided by this subsection shall not apply to benefit years commencing on or after January 1, 2002. An individual whose total benefit amount was reduced by the application of the waiting period to a claim which occurred on or after January 1, 2002 and before the effective date of P.L.2002, c.13, shall be permitted to file a claim for the additional benefits attributable to the waiting period in the form and manner prescribed by the division, but not later than the 180th day following the effective date of P.L.2002, c.13 unless the division determines that there is good cause for a later filing.

(e) (1) (Deleted by amendment, P.L.2001, c.17).

(2) With respect to benefit years commencing on or after January 1, 1996 and before January 7, 2001, except as otherwise provided in paragraph (3) of this subsection, the individual has, during his base year as defined in subsection (c) of R.S.43:21-19:

(A) Established at least 20 base weeks as defined in paragraph (2) of subsection (t) of R.S.43:21-19; or

(B) If the individual has not met the requirements of subparagraph (A) of this paragraph (2), earned remuneration not less than an amount 12 times the Statewide average weekly remuneration paid to workers, as determined under R.S.43:21-3(c), which amount shall be adjusted to the next higher multiple of $100.00 if not already a multiple thereof; or

(C) If the individual has not met the requirements of subparagraph (A) or (B) of this paragraph (2), earned remuneration not less than an amount 1,000 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 $100.00 if not already a multiple thereof.

(3) With respect to benefit years commencing before January 7, 2001, notwithstanding the provisions of paragraph (2) of this subsection, an

unemployed individual claiming benefits on the basis of service performed in the production and harvesting of agricultural crops shall, subject to the limitations of subsection (i) of R.S.43:21-19, be eligible to receive benefits if during his base year, as defined in subsection (c) of R.S.43:21-19, the individual:

(A) Has established at least 20 base weeks as defined in paragraph (2) of subsection (t) of R.S.43:21-19; or

(B) Has earned 12 times the Statewide average weekly remuneration paid to workers, as determined under R.S.43:21-3(c), raised to the next higher multiple of $100.00 if not already a multiple thereof, or more; or

(C) Has performed at least 770 hours of service in the production and harvesting of agricultural crops.

(4) With respect to benefit years commencing on or after January 7, 2001, except as otherwise provided in paragraph (5) of this subsection, the individual has, during his base year as defined in subsection (c) of R.S.43:21-19:

(A) Established at least 20 base weeks as defined in paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

(B) If the individual has not met the requirements of subparagraph (A) of this paragraph (4), earned remuneration not less than an amount 1,000 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 $100 if not already a multiple thereof.

(5) With respect to benefit years commencing on or after January 7, 2001, notwithstanding the provisions of paragraph (4) of this subsection, an unemployed individual claiming benefits on the basis of service performed in the production and harvesting of agricultural crops shall, subject to the limitations of subsection (i) of R.S.43:21-19, be eligible to receive benefits if during his base year, as defined in subsection (c) of R.S.43:21-19, the individual:

(A) Has established at least 20 base weeks as defined in paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

(B) Has earned remuneration not less than an amount 1,000 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 $100 if not already a multiple thereof; or

(C) Has performed at least 770 hours of service in the production and harvesting of agricultural crops.

(6) The individual applying for benefits in any successive benefit year has earned at least six times his previous weekly benefit amount and has had

four weeks of employment since the beginning of the immediately preceding benefit year. This provision shall be in addition to the earnings requirements specified in paragraph (2), (3), (4) or (5) of this subsection, as applicable.

(f) (1) The individual has suffered any accident or sickness not compensable under the workers' compensation law, R.S.34:15-1 et seq. and resulting in the individual's total disability to perform any work for remuneration, and would be eligible to receive benefits under this chapter (R.S.43:21-1 et seq.) (without regard to the maximum amount of benefits payable during any benefit year) except for the inability to work and has furnished notice and proof of claim to the division, in accordance with its rules and regulations, and payment is not precluded by the provisions of R.S.43:21-3(d); provided, however, that benefits paid under this subsection (f) shall be computed on the basis of only those base year wages earned by the claimant as a "covered individual," as defined in R.S.43:21-27(b); provided further that no benefits shall be payable under this subsection to any individual:

(A) For any period during which such individual is not under the care of a legally licensed physician, dentist, optometrist, podiatrist, practicing psychologist or chiropractor;

(B) (Deleted by amendment, P.L.1980, c.90.)

(C) For any period of disability due to willfully or intentionally self-inflicted injury, or to injuries sustained in the perpetration by the individual of a crime of the first, second or third degree;

(D) For any week with respect to which or a part of which the individual has received or is seeking benefits under any unemployment compensation or disability benefits law of any other state or of the United States; provided that if the appropriate agency of such other state or the United States finally determines that the individual is not entitled to such benefits, this disqualification shall not apply;

(E) For any week with respect to which or part of which the individual has received or is seeking disability benefits under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.);

(F) For any period of disability commencing while such individual is a "covered individual," as defined in subsection (b) of section 3 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-27).

(2) Benefit payments under this subsection (f) shall be charged to and paid from the State disability benefits fund established by the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), and shall not be charged to any employer account in computing any employer's experience rate for contributions payable under this chapter.

(g) Benefits based on service in employment defined in subparagraphs (B) and (C) of R.S.43:21-19(i)(1) shall be payable in the same amount and on the terms and subject to the same conditions as benefits payable on the basis of other service subject to the "unemployment compensation law"; except that, notwithstanding any other provisions of the "unemployment compensation law":

(1) With respect to service performed after December 31, 1977, in an instructional research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

(2) With respect to weeks of unemployment beginning after September 3, 1982, on the basis of service performed in any other capacity for an educational institution, benefits shall not be paid on the basis of such services to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that if benefits are denied to any individual under this paragraph (2) and the individual was not offered an opportunity to perform these services for the educational institution for the second of any academic years or terms, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this clause;

(3) With respect to those services described in paragraphs (1) and (2) above, benefits shall not be paid on the basis of such services to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such period or holiday recess;

(4) With respect to any services described in paragraphs (1) and (2) above, benefits shall not be paid as specified in paragraphs (1), (2), and (3) above to any individual who performed those services in an educational

institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing those services to one or more educational institutions.

(h) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sports seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

(i) (1) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time the services were performed and was lawfully present for the purpose of performing the services or otherwise was permanently residing in the United States under color of law at the time the services were performed (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and Nationality Act (8 U.S.C. s.1101 et seq.)); provided that any modifications of the provisions of section 3304(a)(14) of the Federal Unemployment Tax Act (26 U.S.C. s.3304 (a)(14)), as provided by Pub.L.94-566, which specify other conditions or other effective dates than stated herein for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under State law as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, shall be deemed applicable under the provisions of this section.

(2) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(3) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of alien status shall be made except upon a preponderance of the evidence.

(j) Notwithstanding any other provision of this chapter, the director may, to the extent that it may be deemed efficient and economical, provide for consolidated administration by one or more representatives or deputies of claims made pursuant to subsection (f) of this section with those made pursuant to Article III (State plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).

3. R.S.43:21-7 is amended to read as follows:

Contributions.

43:21-7. Contributions. Employers other than governmental entities, whose benefit financing provisions are set forth in section 4 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations liable for payment in lieu of contributions on the basis set forth in section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the unemployment compensation fund, contributions as set forth in subsections (a), (b) and (c) hereof, and the provisions of subsections (d) and (e) shall be applicable to all employers, consistent with the provisions of the "unemployment compensation law" and the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).

(a) Payment.

(1) Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this chapter (R.S.43:21-1 et seq.), with respect to having individuals in his employ during that calendar year, at the rates and on the basis hereinafter set forth. Such contributions shall become due and be paid by each employer to the controller for the fund, in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to $0.005 or more, in which case it shall be increased to $0.01.

(b) Rate of contributions. Each employer shall pay the following contributions:

(1) For the calendar year 1947, and each calendar year thereafter, 2 7/10% of wages paid by him during each such calendar year, except as otherwise prescribed by subsection (c) of this section.

(2) The "wages" of any individual, with respect to any one employer, as the term is used in this subsection (b) and in subsections (c), (d) and (e) of this section 7, shall include the first $4,800.00 paid during calendar year 1975, for services performed either within or without this State; provided that no contribution shall be required by this State with respect to services performed in another state if such other state imposes contribution liability with respect thereto. If an employer (hereinafter referred to as a successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the

trade or business of such predecessors, then, for the purpose of determining whether the successor employer has paid wages with respect to employment equal to the first $4,800.00 paid during calendar year 1975, any wages paid to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer.

(3) For calendar years beginning on and after January 1, 1976, the "wages" of any individual, as defined in the preceding paragraph (2) of this subsection (b), shall be established and promulgated by the Commissioner of Labor on or before September 1 of the preceding year and shall be 28 times the Statewide average weekly remuneration paid to workers by employers, as determined under R.S.43:21-3(c), raised to the next higher multiple of $100.00 if not already a multiple thereof, provided that if the amount of wages so determined for a calendar year is less than the amount similarly determined for the preceding year, the greater amount will be used; provided, further, that if the amount of such wages so determined does not equal or exceed the amount of wages as defined in subsection (b) of section 3306 of the Federal Unemployment Tax Act, Chapter 23 of the Internal Revenue Code of 1986 (26 U.S.C.s.3306(b)), the wages as determined in this paragraph in any calendar year shall be raised to equal the amount established under the Federal Unemployment Tax Act for that calendar year.

(c) Future rates based on benefit experience.

(1) A separate account for each employer shall be maintained and this shall be credited with all the contributions which he has paid on his own behalf on or before January 31 of any calendar year with respect to employment occurring in the preceding calendar year; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday, an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this chapter (R.S.43:21-1 et seq.) shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him into the fund either on his own behalf or on behalf of such individuals. Benefits paid with respect to benefit years commencing on and after January 1, 1953, to any individual on or before December 31 of any calendar year with respect to unemployment in such calendar year and in preceding calendar years shall be charged against the account or accounts of the employer or employers in whose employment such individual established base weeks constituting the basis of such benefits, except that, with respect to benefit years commencing after January 4, 1998, an employer's account shall not be charged for benefits paid to a claimant if the claimant's employment by that employer was ended in any way which, pursuant to subsection (a), (b), (c), (f), (g) or

(h) of R.S.43:21-5, would have disqualified the claimant for benefits if the claimant had applied for benefits at the time when that employment ended. Benefits paid under a given benefit determination shall be charged against the account of the employer to whom such determination relates. When each benefit payment is made, either a copy of the benefit check or other form of notification shall be promptly sent to the employer against whose account the benefits are to be charged. Such copy or notification shall identify the employer against whose account the amount of such payment is being charged, shall show at least the name and social security account number of the claimant and shall specify the period of unemployment to which said check applies. If the total amount of benefits paid to a claimant and charged to the account of the appropriate employer exceeds 50% of the total base year, base week wages paid to the claimant by that employer, then such employer shall have canceled from his account such excess benefit charges as specified above.

Each employer shall be furnished an annual summary statement of benefits charged to his account.

(2) Regulations may be prescribed for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(3) No employer's rate shall be lower than 5.4% unless assignment of such lower rate is consistent with the conditions applicable to additional credit allowance for such year under section 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C.s.3303(a)(1)), any other provision of this section to the contrary notwithstanding.

(4) Employer Reserve Ratio. (A) Each employer's rate shall be 2 8/10%, except as otherwise provided in the following provisions. No employer's rate for the 12 months commencing July 1 of any calendar year shall be other than 2 8/10%, unless as of the preceding January 31 such employer shall have paid contributions with respect to wages paid in each of the three calendar years immediately preceding such year, in which case such employer's rate for the 12 months commencing July 1 of any calendar year shall be determined on the basis of his record up to the beginning of such calendar year. If, at the beginning of such calendar year, the total of all his contributions, paid on his own behalf, for all past years exceeds the total benefits charged to his account for all such years, his contribution rate shall be:

(1) 2 5/10%, if such excess equals or exceeds 4%, but less than 5%, of his average annual payroll (as defined in paragraph (2), subsection (a) of R.S.43:21-19);

(2) 2 2/10%, if such excess equals or exceeds 5%, but is less than 6%, of his average annual payroll;

(3) 1 9/10%, if such excess equals or exceeds 6%, but is less than 7%, of his average annual payroll;

(4) 1 6/10%, if such excess equals or exceeds 7%, but is less than 8%, of his average annual payroll;

(5) 1 3/10%, if such excess equals or exceeds 8%, but is less than 9%, of his average annual payroll;

(6) 1%, if such excess equals or exceeds 9%, but is less than 10%, of his average annual payroll;

(7) 7/10 of 1%, if such excess equals or exceeds 10%, but is less than 11%, of his average annual payroll;

(8) 4/10 of 1%, if such excess equals or exceeds 11% of his average annual payroll.

(B) If the total of an employer's contributions, paid on his own behalf, for all past periods for the purposes of this paragraph (4), is less than the total benefits charged against his account during the same period, his rate shall be:

(1) 4%, if such excess is less than 10% of his average annual payroll;

(2) 4 3/10%, if such excess equals or exceeds 10%, but is less than 20%, of his average annual payroll;

(3) 4 6/10%, if such excess equals or exceeds 20% of his average annual payroll.

(C) Specially assigned rates. If no contributions were paid on wages for employment in any calendar year used in determining the average annual payroll of an employer eligible for an assigned rate under this paragraph (4), the employer's rate shall be specially assigned as follows:

(i) if the reserve balance in its account is positive, its assigned rate shall be the highest rate in effect for positive balance accounts for that period, or 5.4%, whichever is higher, and (ii) if the reserve balance in its account is negative, its assigned rate shall be the highest rate in effect for deficit accounts for that period.

(D) The contribution rates prescribed by subparagraphs (A) and (B) of this paragraph (4) shall be increased or decreased in accordance with the provisions of paragraph (5) of this subsection (c) for experience rating periods through June 30, 1986.

(5) (A) Unemployment Trust Fund Reserve Ratio. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 4% but is less than 7% of the total taxable wages reported to the

controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by 3/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3) or (4) of this subsection. If on March 31 of any calendar year the balance of the unemployment trust fund exceeds 2 1/2% but is less than 4% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3) or (4) of this subsection.

If on March 31 of any calendar year the balance of the unemployment trust fund is less than 2 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer (1) eligible for a contribution rate calculation based upon benefit experience, shall be increased by (i) 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3), (4)(A) or (4)(B) of this subsection, and (ii) an additional amount equal to 20% of the total rate established herein, provided, however, that the final contribution rate for each employer shall be computed to the nearest multiple of 1/10% if not already a multiple thereof; (2) not eligible for a contribution rate calculation based upon benefit experience, shall be increased by 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (4) of this subsection. For the period commencing July 1, 1984 and ending June 30, 1986, the contribution rate for each employer liable to pay contributions under R.S.43:21-7 shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(B) If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 10% but is less than 12 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 12 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding

calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by 6/10 of 1% if his account for all past periods reflects an excess of contributions paid over total benefits charged of 3% or more of his average annual payroll, otherwise by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%.

(C) The "balance" in the unemployment trust fund, as the term is used in subparagraphs (A) and (B) above, shall not include moneys credited to the State's account under section 903 of the Social Security Act, as amended (42 U.S.C.s.1103), during any period in which such moneys are appropriated for the payment of expenses incurred in the administration of the "unemployment compensation law."

(D) Prior to July 1 of each calendar year the controller shall determine the Unemployment Trust Reserve Ratio, which shall be calculated by dividing the balance of the unemployment trust fund as of the prior March 31 by total taxable wages reported to the controller by all employers as of March 31 with respect to their employment during the last calendar year.

(E) (i) (Deleted by amendment, P.L.1997, c.263).

(ii) (Deleted by amendment, P.L.2001, c.152).

(iii) With respect to experience rating years beginning on or after July 1, 1998 and before July 1, 2002, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column headed by the Unemployment Trust Fund Reserve Ratio as of the applicable calculation date and on the line with the Employer Reserve Ratio, as defined in paragraph 4 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following table:

EXPERIENCE RATING TAX TABLE

Fund Reserve Ratio[1]

Employer Reserve Ratio[2]	4.50% and Over A	3.50% to 4.49% B	3.00% to 3.49% C	2.50% to 2.99% D	2.49% and Under E
Positive Reserve Ratio:					
17% and over	0.3	0.4	0.5	0.6	1.2
16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2

10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
Deficit Reserve Ratio:					
-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
-9.00% to-11.99%	3.5	4.5	5.3	5.9	6.4
-12.00%to-14.99%	3.6	4.6	5.4	6.0	6.5
-15.00%to-19.99%	3.6	4.6	5.5	6.1	6.6
-20.00%to-24.99%	3.7	4.7	5.6	6.2	6.7
-25.00%to-29.99%	3.7	4.8	5.6	6.3	6.8
-30.00%to-34.99%	3.8	4.8	5.7	6.3	6.9
-35.00% and under	5.4	5.4	5.8	6.4	7.0
New Employer Rate	2.8	2.8	2.8	3.1	3.4

[1]Fund balance as of March 31 as a percentage of taxable wages in the prior calendar year.

[2]Employer Reserve Ratio (Contributions minus benefits as a percentage of employer's taxable wages).

(iv) With respect to experience rating years beginning on or after July 1, 2002, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column headed by the Unemployment Trust Fund Reserve Ratio as of the applicable calculation date and on the line with the Employer Reserve Ratio, as defined in paragraph 4 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following table:

EXPERIENCE RATING TAX TABLE
Fund Reserve Ratio[1]

Employer Reserve Ratio[2]	3.50% and Over A	3.00% to 3.49% B	2.50% to 2.99% C	2.00% to 2.49% D	1.99% and Under E
Positive Reserve Ratio:					
17% and over	0.3	0.4	0.5	0.6	1.2
16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2

14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
Deficit Reserve Ratio:					
-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
-9.00% to-11.99%	3.5	4.5	5.3	5.9	6.4
-12.00%to-14.99%	3.6	4.6	5.4	6.0	6.5
-15.00%to-19.99%	3.6	4.6	5.5	6.1	6.6
-20.00%to-24.99%	3.7	4.7	5.6	6.2	6.7
-25.00%to-29.99%	3.7	4.8	5.6	6.3	6.8
-30.00%to-34.99%	3.8	4.8	5.7	6.3	6.9
-35.00% and under	5.4	5.4	5.8	6.4	7.0
New Employer Rate	2.8	2.8	2.8	3.1	3.4

[1]Fund balance as of March 31 as a percentage of taxable wages in the prior calendar year.

[2] Employer Reserve Ratio (Contributions minus benefits as a percentage of employer's taxable wages).

(F)(i) (Deleted by amendment, P.L.1997, c.263).

(ii) With respect to experience rating years beginning on or after July 1, 1997, if the fund reserve ratio, based on the fund balance as of the prior March 31, is less than 1.00%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(G) On or after January 1, 1993, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by 0.1%, except that, during any experience rating year starting before January 1, 1998 in which the fund reserve ratio is equal to or greater than 7.00% or during any experience rating year starting on or after January 1, 1998, in which the fund reserve ratio is equal to or greater

than 3.5%, there shall be no decrease pursuant to this subparagraph (G) in the contribution of any employer who has a deficit reserve ratio of negative 35.00% or under.

(H) On or after January 1, 1993 until December 31, 1993, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 52.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

On or after January 1, 1994 until December 31, 1995, except as provided pursuant to subparagraph (I) of this paragraph (5), notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 36.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

On or after April 1, 1996 until December 31, 1996, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 25.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who

has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

On or after January 1, 1997 until December 31, 1997, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 10.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

On and after January 1, 1998 until December 31, 2000 and on or after January 1, 2002 until June 30, 2003, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased each calendar year by a factor, as set out below, computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%:

From January 1, 1998 until December 31, 1998, a factor of 12%;

From January 1, 1999 until December 31, 1999, a factor of 10%;

From January 1, 2000 until December 31, 2000, a factor of 7%.

From January 1, 2002 until June 30, 2002, a factor of 36%;

From July 1, 2002 until June 30, 2003, a factor of 15%.

The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

(I) If the fund reserve ratio decreases to a level of less than 4.00% on March 31 of calendar year 1994 or calendar year 1995, the provisions of subparagraph (H) of this paragraph (5) shall cease to be in effect as of July 1 of that calendar year.

If, upon calculating the unemployment compensation fund reserve ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31, 1997, March 31, 1998 or March 31, 1999, the controller finds that the fund reserve ratio has decreased to a level of less than 3.00%, the Commissioner of Labor shall notify the State Treasurer of this fact and of the dollar amount necessary to bring the fund reserve ratio up to a level of 3.00%. The State Treasurer shall, prior to March 31, 1997, March 31, 1998 or March 31, 1999, as applicable, transfer from the General Fund to the unemployment compensation fund, revenues in the amount specified by the commissioner and which, upon deposit in the unemployment compensation fund, shall result, upon recalculation, in a fund reserve ratio used to determine employer contributions beginning July 1, 1997, July 1, 1998, July 1, 1999, as applicable, of at least 3.00%.

If, upon calculating the unemployment compensation fund reserve ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31, 2000, the controller finds that the fund reserve ratio has decreased to a level of less than 3.00%, the Commissioner of Labor shall notify the State Treasurer of this fact and of he dollar amount necessary to bring the fund reserve ratio up to a level of 3.00%. The State Treasurer shall, prior to March 31, 2000, transfer from the General Fund to the unemployment compensation fund, revenues in the amount specified by the commissioner and which, upon deposit in the unemployment compensation fund, shall result, upon recalculation, in a fund reserve ratio used to determine employer contributions beginning July 1, 2000 of at least 3.00%.

(J) On or after July 1, 2001, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by 0.0175%, except that, during any experience rating year starting on or after July 1, 2001, in which the fund reserve ratio is equal to or greater than 3.5%, there shall be no decrease pursuant to this subparagraph (J) in the contribution of any employer who has a deficit reserve ratio of negative 35.00% or under. The amount of the reduction in the employer contributions stipulated by this subparagraph (J) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraphs (G) and (H) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (J) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

(6) Additional contributions.

Notwithstanding any other provision of law, any employer who has been assigned a contribution rate pursuant to subsection (c) of this section

for the year commencing July 1, 1948, and for any year commencing July 1 thereafter, may voluntarily make payment of additional contributions, and upon such payment shall receive a recomputation of the experience rate applicable to such employer, including in the calculation the additional contribution so made. Any such additional contribution shall be made during the 30-day period following the date of the mailing to the employer of the notice of his contribution rate as prescribed in this section, unless, for good cause, the time for payment has been extended by the controller for not to exceed an additional 60 days; provided that in no event may such payments which are made later than 120 days after the beginning of the year for which such rates are effective be considered in determining the experience rate for the year in which the payment is made. Any employer receiving any extended period of time within which to make such additional payment and failing to make such payment timely shall be, in addition to the required amount of additional payment, a penalty of 5% thereof or $5.00, whichever is greater, not to exceed $50.00. Any adjustment under this subsection shall be made only in the form of credits against accrued or future contributions.

(7) Transfers.

(A) Upon the transfer of the organization, trade or business, or substantially all the assets of an employer to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, the controller shall transfer the employment experience of the predecessor employer to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer, pursuant to regulation, if it is determined that the employment experience of the predecessor employer with respect to the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. Unless the predecessor employer was owned or controlled (by legally enforceable means or otherwise), directly or indirectly, by the successor in interest, or the predecessor employer and the successor in interest were owned or controlled (by legally enforceable means or otherwise), directly or indirectly, by the same interest or interests, the transfer of the employment experience of the predecessor shall not be effective if such successor in interest, within four months of the date of such transfer of the organization, trade, assets or business, or thereafter upon good cause shown, files a written notice protesting the transfer of the employment experience of the predecessor employer.

(B) An employer who transfers part of his or its organization, trade, assets or business to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, may jointly make application with

such successor in interest for transfer of that portion of the employment experience of the predecessor employer relating to the portion of the organization, trade, assets or business transferred to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer. The transfer of employment experience may be allowed pursuant to regulation only if it is found that the employment experience of the predecessor employer with respect to the portion of the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. Credit shall be given to the successor in interest only for the years during which contributions were paid by the predecessor employer with respect to that part of the organization, trade, assets or business transferred.

(C) A transfer of the employment experience in whole or in part having become final, the predecessor employer thereafter shall not be entitled to consideration for an adjusted rate based upon his or its experience or the part thereof, as the case may be, which has thus been transferred. A successor in interest to whom employment experience or a part thereof is transferred pursuant to this subsection shall, as of the date of the transfer of the organization, trade, assets or business, or part thereof, immediately become an employer if not theretofore an employer subject to this chapter (R.S.43:21-1 et seq.).

(d) Contributions of workers to the unemployment compensation fund and the State disability benefits fund.

(1) (A) For periods after January 1, 1975, each worker shall contribute to the fund 1% of his wages with respect to his employment with an employer, which occurs on and after January 1, 1975, after such employer has satisfied the condition set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer; provided, however, that such contributions shall be at the rate of 1/2 of 1% of wages paid with respect to employment while the worker is in the employ of the State of New Jersey, or any governmental entity or instrumentality which is an employer as defined under R.S.43:21-19(h)(5), or is covered by an approved private plan under the "Temporary Disability Benefits Law" or while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31).

(B) Effective January 1, 1978 there shall be no contributions by workers in the employ of any governmental or nongovernmental employer electing or required to make payments in lieu of contributions unless the employer is covered by the State plan under the "Temporary Disability Benefits Law" (C.43:21-37 et seq.), and in that case contributions shall be at the rate of 1/2 of 1%, except that commencing July 1, 1986, workers in the employ of any

nongovernmental employer electing or required to make payments in lieu of contributions shall be required to make contributions to the fund at the same rate prescribed for workers of other nongovernmental employers.

(C) (i) Notwithstanding the above provisions of this paragraph (1), during the period starting July 1, 1986 and ending December 31, 1992, each worker shall contribute to the fund 1.125% of wages paid with respect to his employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under R.S.43:21-19(h)(6), regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection R.S.43:21-19(h) with respect to becoming an employer. Contributions, however, shall be at the rate of 0.625% while the worker is covered by an approved private plan under the "Temporary Disability Benefits Law" while the worker is exempt under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that such contributions shall be at the rate of 0.625% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions and which is covered by the State plan under the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is covered for disability benefits by an approved private plan of the employer, the contributions to the fund shall be 0.125%.

(ii) (Deleted by amendment, P.L.1995, c.422.)

(D) Notwithstanding any other provisions of this paragraph (1), during the period starting January 1, 1993 and ending June 30, 1994, each worker shall contribute to the unemployment compensation fund 0.5% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer. No contributions, however, shall be made by the worker while the worker is covered by an approved private plan under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.) or while the worker is exempt under section 7 of P.L.1948, c.110 (C.43:21-31) or any other

provision of that law; provided that the contributions shall be at the rate of 0.50% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions and which is covered by the State plan under the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is covered for disability benefits by an approved private plan of the employer, no contributions shall be made to the fund.

Each worker shall, starting on January 1, 1996 and ending March 31, 1996, contribute to the unemployment compensation fund 0.60% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 1998 and ending December 31, 1998, contribute to the unemployment compensation fund 0.10% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 1999 until December 31, 1999, contribute to the unemployment compensation fund 0.15% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer,

including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 2000 until December 31, 2001, contribute to the unemployment compensation fund 0.20% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 2002 until June 30, 2003, contribute to the unemployment compensation fund 0.1825% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or a nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.0825% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on and after July 1, 2003, contribute to the unemployment compensation fund 0.3825% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a

nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.0825% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

(E) Each employer shall, notwithstanding any provision of law in this State to the contrary, withhold in trust the amount of his workers' contributions from their wages at the time such wages are paid, shall show such deduction on his payroll records, shall furnish such evidence thereof to his workers as the division or controller may prescribe, and shall transmit all such contributions, in addition to his own contributions, to the office of the controller in such manner and at such times as may be prescribed. If any employer fails to deduct the contributions of any of his workers at the time their wages are paid, or fails to make a deduction therefor at the time wages are paid for the next succeeding payroll period, he alone shall thereafter be liable for such contributions, and for the purpose of R.S.43:21-14, such contributions shall be treated as employer's contributions required from him.

(F) As used in this chapter (R.S.43:21-1 et seq.), except when the context clearly requires otherwise, the term "contributions" shall include the contributions of workers pursuant to this section.

(G) Each worker shall, starting on July 1, 1994, contribute to the State disability benefits fund an amount equal to 0.50% of wages paid with respect to the worker's employment with a government employer electing or required to pay contributions to the State disability benefits fund or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, unless the employer is covered by an approved private disability plan or is exempt from the provisions of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.) under section 7 of that law (C.43:21-31) or any other provision of that law.

(2) (A) (Deleted by amendment, P.L.1984, c.24.)

(B) (Deleted by amendment, P.L.1984, c.24.)

(C) (Deleted by amendment, P.L.1994, c.112.)

(D) (Deleted by amendment, P.L.1994, c.112.)

(E) (i) (Deleted by amendment, P.L.1994, c.112.)

(ii) (Deleted by amendment, P.L.1996, c.28.)

(iii) (Deleted by amendment, P.L.1994, c.112.)

(3) If an employee receives wages from more than one employer during any calendar year, and either the sum of his contributions deposited in and credited to the State disability benefits fund plus the amount of his contributions, if any, required towards the costs of benefits under one or more approved private plans under the provisions of section 9 of the "Temporary Disability Benefits Law" (C.43:21-33) and deducted from his wages, or the sum of such latter contributions, if the employee is covered during such calendar year only by two or more private plans, exceeds an amount equal to 1/2 of 1% of the "wages" determined in accordance with the provisions of R.S.43:21-7(b)(3) during the calendar years beginning on or after January 1, 1976, the employee shall be entitled to a refund of the excess if he makes a claim to the controller within two years after the end of the calendar year in which the wages are received with respect to which the refund is claimed and establishes his right to such refund. Such refund shall be made by the controller from the State disability benefits fund. No interest shall be allowed or paid with respect to any such refund. The controller shall, in accordance with prescribed regulations, determine the portion of the aggregate amount of such refunds made during any calendar year which is applicable to private plans for which deductions were made under section 9 of the "Temporary Disability Benefits Law," such determination to be based upon the ratio of the amount of such wages exempt from contributions to such fund, as provided in subparagraph (B) of paragraph (1) of this subsection with respect to coverage under private plans, to the total wages so exempt plus the amount of such wages subject to contributions to the disability benefits fund, as provided in subparagraph (G) of paragraph (1) of this subsection. The controller shall, in accordance with prescribed regulations, prorate the amount so determined among the applicable private plans in the proportion that the wages covered by each plan bear to the total private plan wages involved in such refunds, and shall assess against and recover from the employer, or the insurer if the insurer has indemnified the employer with respect thereto, the amount so prorated. The provisions of R.S.43:21-14 with respect to collection of employer contributions shall apply to such assessments. The amount so recovered by the controller shall be paid into the State disability benefits fund.

(4) If an individual does not receive any wages from the employing unit which for the purposes of this chapter (R.S.43:21-1 et seq.) is treated as his employer, or receives his wages from some other employing unit, such employer shall nevertheless be liable for such individual's contributions in the first instance; and after payment thereof such employer may deduct the amount of such contributions from any sums payable by him to such employing unit, or may recover the amount of such contributions from such employing unit, or, in the absence of such an employing unit, from such

individual, in a civil action; provided proceedings therefor are instituted within three months after the date on which such contributions are payable. General rules shall be prescribed whereby such an employing unit may recover the amount of such contributions from such individuals in the same manner as if it were the employer.

(5) Every employer who has elected to become an employer subject to this chapter (R.S.43:21-1 et seq.), or to cease to be an employer subject to this chapter (R.S.43:21-1 et seq.), pursuant to the provisions of R.S.43:21-8, shall post and maintain printed notices of such election on his premises, of such design, in such numbers, and at such places as the director may determine to be necessary to give notice thereof to persons in his service.

(6) Contributions by workers, payable to the controller as herein provided, shall be exempt from garnishment, attachment, execution, or any other remedy for the collection of debts.

(e) Contributions by employers to State disability benefits fund.

(1) Except as hereinafter provided, each employer shall, in addition to the contributions required by subsections (a), (b), and (c) of this section, contribute 1/2 of 1% of the wages paid by such employer to workers with respect to employment unless he is not a covered employer as defined in section 3 of the "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that the rate for the State of New Jersey shall be 1/10 of 1% for the calendar year 1980 and for the first six months of 1981. Prior to July 1, 1981 and prior to July 1 each year thereafter, the controller shall review the experience accumulated in the account of the State of New Jersey and establish a rate for the next following fiscal year which, in combination with worker contributions, will produce sufficient revenue to keep the account in balance; except that the rate so established shall not be less than 1/10 of 1%. Such contributions shall become due and be paid by the employer to the controller for the State disability benefits fund as established by law, in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ. In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to $0.005 or more, in which case it shall be increased to $0.01.

(2) During the continuance of coverage of a worker by an approved private plan of disability benefits under the "Temporary Disability Benefits Law," the employer shall be exempt from the contributions required by subparagraph (1) above with respect to wages paid to such worker.

(3) (A) The rates of contribution as specified in subparagraph (1) above shall be subject to modification as provided herein with respect to employer contributions due on and after July 1, 1951.

(B) A separate disability benefits account shall be maintained for each employer required to contribute to the State disability benefits fund and such account shall be credited with contributions deposited in and credited to such fund with respect to employment occurring on and after January 1, 1949. Each employer's account shall be credited with all contributions paid on or before January 31 of any calendar year on his own behalf and on behalf of individuals in his service with respect to employment occurring in preceding calendar years; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this act shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him to the fund either on his own behalf or on behalf of such individuals. Benefits paid to any covered individual in accordance with Article III of the "Temporary Disability Benefits Law" on or before December 31 of any calendar year with respect to disability in such calendar year and in preceding calendar years shall be charged against the account of the employer by whom such individual was employed at the commencement of such disability or by whom he was last employed, if out of employment.

(C) The controller may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(D) Prior to July 1 of each calendar year, the controller shall make a preliminary determination of the rate of contribution for the 12 months commencing on such July 1 for each employer subject to the contribution requirements of this subsection (e).

(1) Such preliminary rate shall be 1/2 of 1% unless on the preceding January 31 of such year such employer shall have been a covered employer who has paid contributions to the State disability benefits fund with respect to employment in the three calendar years immediately preceding such year.

(2) If the minimum requirements in (1) above have been fulfilled and the credited contributions exceed the benefits charged by more than $500.00, such preliminary rate shall be as follows:

(i) 2/10 of 1% if such excess over $500.00 exceeds 1% but is less than 1 1/4% of his average annual payroll (as defined in this chapter (R.S.43:21-1 et seq.));

(ii) 15/100 of 1% if such excess over $500.00 equals or exceeds 1 1/4% but is less than 1 1/2% of his average annual payroll;

(iii) 1/10 of 1% if such excess over $500.00 equals or exceeds 1 1/2% of his average annual payroll.

(3) If the minimum requirements in (1) above have been fulfilled and the contributions credited exceed the benefits charged but by not more than $500.00 plus 1% of his average annual payroll, or if the benefits charged exceed the contributions credited but by not more than $500.00, the preliminary rate shall be 1/4 of 1%.

(4) If the minimum requirements in (1) above have been fulfilled and the benefits charged exceed the contributions credited by more than $500.00, such preliminary rate shall be as follows:

(i) 35/100 of 1% if such excess over $500.00 is less than 1/4 of 1% of his average annual payroll;

(ii) 45/100 of 1% if such excess over $500.00 equals or exceeds 1/4 of 1% but is less than 1/2 of 1% of his average annual payroll;

(iii) 55/100 of 1% if such excess over $500.00 equals or exceeds 1/2 of 1% but is less than 3/4 of 1% of his average annual payroll;

(iv) 65/100 of 1% if such excess over $500.00 equals or exceeds 3/4 of 1% but is less than 1% of his average annual payroll;

(v) 75/100 of 1% if such excess over $500.00 equals or exceeds 1% of his average annual payroll.

(5) Determination of the preliminary rate as specified in (2), (3) and (4) above shall be subject, however, to the condition that it shall in no event be decreased by more than 1/10 of 1% of wages or increased by more than 2/10 of 1% of wages from the preliminary rate determined for the preceding year in accordance with (1), (2), (3) or (4), whichever shall have been applicable.

(E) (1) Prior to July 1 of each calendar year the controller shall determine the amount of the State disability benefits fund as of December 31 of the preceding calendar year, increased by the contributions paid thereto during January of the current calendar year with respect to employment occurring in the preceding calendar year. If such amount exceeds the net amount withdrawn from the unemployment trust fund pursuant to section 23 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47) plus the amount at the end of such preceding calendar year of the unemployment disability account (as defined in section 22 of said law (C.43:21-46)), such excess shall be expressed as a percentage of the wages on which contributions were paid to the State disability benefits fund on or before January 31 with respect to employment in the preceding calendar year.

(2) The controller shall then make a final determination of the rates of contribution for the 12 months commencing July 1 of such year for

employers whose preliminary rates are determined as provided in (D) hereof, as follows:

(i) If the percentage determined in accordance with paragraph (E)(1) of this subsection equals or exceeds 1 1/4%, the final employer rates shall be the preliminary rates determined as provided in (D) hereof, except that if the employer's preliminary rate is determined as provided in (D)(2) or (D)(3) hereof, the final employer rate shall be the preliminary employer rate decreased by such percentage of excess taken to the nearest 5/100 of 1%, but in no case shall such final rate be less than 1/10 of 1%.

(ii) If the percentage determined in accordance with paragraph (E)(1) of this subsection equals or exceeds 3/4 of 1% and is less than 1 1/4 of 1%, the final employer rates shall be the preliminary employer rates.

(iii) If the percentage determined in accordance with paragraph (E)(1) of this subsection is less than 3/4 of 1%, but in excess of 1/4 of 1%, the final employer rates shall be the preliminary employer rates determined as provided in (D) hereof increased by the difference between 3/4 of 1% and such percentage taken to the nearest 5/100 of 1%; provided, however, that no such final rate shall be more than 1/4 of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(2) hereof, more than 1/2 of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(1) and (D)(3) hereof, nor more than 3/4 of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(4) hereof.

(iv) If the amount of the State disability benefits fund determined as provided in paragraph (E)(1) of this subsection is equal to or less than 1/4 of 1%, then the final rate shall be 2/5 of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(2) hereof, 7/10 of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(1) and (D)(3) hereof, and 1.1% in the case of an employer whose preliminary rate is determined as provided in (D)(4) hereof. Notwithstanding any other provision of law or any determination made by the controller with respect to any 12-month period commencing on July 1, 1970, the final rates for all employers for the period beginning January 1, 1971, shall be as set forth herein.

4. Section 29 of P.L.1992, c.160 (C.43:21-7b) is amended to read as follows:

C.43:21-7b Contributions to Health Care Subsidy Fund.

29. a. Beginning January 1, 1993 until December 31, 1995, except as provided pursuant to subsection b. of this section, each employee shall, in such a manner and at such times as determined by the commissioner,

contribute to the fund an amount equal to 0.6% of the employee's taxable wages.

Beginning April 1, 1996 through December 31, 1996, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.6% of the employee's taxable wages, except that the total amount contributed to the fund when combined with the employee's contribution made pursuant to R.S.43:31-7(d)(1)(D) for the period January 1, 1996 through March 31, 1996, shall not exceed 0.6% of the employee's taxable wages for the 1996 calendar year.

Beginning January 1, 1997 through December 31, 1997, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.5% of the employee's taxable wages.

Beginning on January 1, 1998 until December 31, 1998, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.30% of the employee's taxable wages.

Beginning on January 1, 1999 until December 31, 1999, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.25% of the employee's taxable wages.

Beginning on January 1, 2000 until June 30, 2003, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.20% of the employee's taxable wages.

Also beginning on January 1, 1993 until December 31, 1995 and beginning April 1, 1996 until December 31, 1997, each employer shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to the amount that the employer's contribution to the unemployment compensation fund is decreased pursuant to subparagraph (H) of paragraph (5) of subsection (c) of R.S.43:21-7.

Also beginning on January 1, 1998 until December 31, 2000, and beginning on January 1, 2002 and ending June 30, 2003, each employer shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to the amount that the employer's contribution to the unemployment compensation fund is decreased pursuant to subparagraph (H) of paragraph (5) of subsection (c) of R.S.43:21-7.

b. If the unemployment compensation fund reserve ratio, as determined pursuant to paragraph (5) of subsection (c) of R.S.43:21-7, decreases to a level of less than 4.00% on March 31 of calendar year 1994 or calendar

year 1995, the provisions of subsection a. of this section shall cease to be in effect as of July 1 of that calendar year and each employer who would be subject to making the contributions pursuant to subsection a. of this section if that subsection were in effect shall, beginning on July 1 of that calendar year, contribute to the fund an amount equal to 0.62% of the total wages paid by the employer and shall continue to contribute that amount until December 31, 1995.

c. If the total amount of contributions to the fund pursuant to this section during the calendar year 1993 exceeds $600 million, all contributions which exceed $600 million shall be deposited in the unemployment compensation fund. If the total amount of contributions to the fund pursuant to this section during calendar year 1994 or calendar year 1995 exceeds $500 million, all contributions which exceed $500 million shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 1996 or 1997 exceeds $330 million, all contributions which exceed $330 million in calendar year 1996 or 1997 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 1998 exceeds $288 million, all contributions which exceed $288 million in the calendar year 1998 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 1999 exceeds $233.9 million, all contributions which exceed $233.9 million in the calendar year 1999 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 2000 exceeds $178.6 million, all contributions which exceed $178.6 million in the calendar year 2000 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 2001 exceeds $94.9 million, all contributions which exceed $94.9 million in the calendar year 2001 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the period beginning January 1, 2002 and ending June 30, 2002 exceeds $391.5 million, all contributions which exceed $391.5 million in the period beginning January 1, 2002 and ending June 30, 2002 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the fiscal year 2003 exceeds $325 million, all contributions which exceed $325 million in the fiscal year 2003 shall be deposited in the unemployment compensation fund.

d. All necessary administrative costs related to the collection of contributions pursuant to this section shall be paid from the contributions.

5. Section 32 of P.L.1992, c.160 (C.43:21-7e) is amended to read as follows:

C.43:21-7e Entitlement to refund or tax credit.

32. a. If an employee receives wages from more than one employer during any calendar year, and the sum of the employee's contributions deposited in the fund exceeds an amount equal to 0.6% of the wages determined in accordance with the provisions of paragraph (3) of subsection (b) of R.S.43:21-7 during calendar year 1993, calendar year 1994 or calendar year 1995, the employee shall be entitled to a refund of the excess if a claim establishing the employee's right to the refund is made within two years after the end of the respective calendar year in which the wages are received and are the subject of the claim. The commissioner shall refund any overpayment from the fund without interest.

If an employee receives wages from more than one employer during the calendar year 1996 and the sum of the employee's contributions deposited in the unemployment compensation fund during the period January 1, 1996 through March 31, 1996 and the employee's contributions deposited in the health care subsidy fund during the period April 1, 1996 through December 31, 1996 exceeds an amount equal to 0.6% of the wages determined in accordance with the provisions of paragraph (3) of subsection (b) of R.S.43:21-7 which wages are received during the period January 1, 1996 through December 31, 1996, the employee shall be entitled to a refund of the excess if a claim establishing the employee's right to the refund is made within two years after the end of the respective calendar year in which the wages are received and are the subject of the claim. The commissioner shall refund any overpayment without interest from the unemployment compensation fund or the health care subsidy fund, or both, as appropriate.

If an employee receives wages from more than one employer during the calendar year 1997, and the sum of the employee's contributions deposited in the fund exceeds an amount equal to 0.5% of the wages determined in accordance with the provisions of paragraph (3) of subsection (b) of R.S.43:21-7 during calendar year 1997, the employee shall be entitled to a refund of the excess if a claim establishing the employee's right to the refund is made within two years after the end of the respective calendar year in which the wages are received and are the subject of the claim. The commissioner shall refund any overpayment from the fund without interest.

If an employee receives wages from more than one employer during the calendar year 1998, 1999, 2000 or 2001 and the sum of the employee's contributions deposited in the unemployment compensation fund and the employee's contributions deposited in the health care subsidy fund during the calendar year 1998, 1999, 2000 or 2001 exceeds an amount equal to

0.4% of the wages determined in accordance with the provisions of paragraph (3) of subsection (b) of R.S.43:21-7 which wages are received during the respective calendar year, the employee shall be entitled to a refund of the excess if a claim establishing the employee's right to the refund is made within two years after the end of the respective calendar year in which the wages are received and are the subject of the claim. The commissioner shall refund any overpayment without interest from the unemployment compensation fund or the health care subsidy fund, or both, as appropriate.

If an employee receives wages from more than one employer during the calendar year 2002 or any subsequent calendar year, and the sum of the employee's contributions deposited in the unemployment compensation fund and the employee's contributions deposited in the health care subsidy fund during the calendar year 2002 or the subsequent year exceeds an amount equal to 0.3825% of the wages determined in accordance with the provisions of paragraph (3) of subsection (b) of R.S.43:21-7 which wages are received during the respective calendar year, the employee shall be entitled to a refund of the excess if a claim establishing the employee's right to the refund is made within two years after the end of the respective calendar year in which the wages are received and are the subject of the claim. The commissioner shall refund any overpayment without interest from the unemployment compensation fund or the health care subsidy fund, or both, as appropriate.

b. Any employee who is a taxpayer and entitled, pursuant to the provisions of subsection a. of this section, to a refund of contributions deducted during a tax year from his wages shall, in lieu of the refund, be entitled to a credit in the full amount thereof against the tax otherwise due on his New Jersey gross income for that tax year if he submits his claim for the credit and accompanies that claim with evidence of his right to the credit in the manner provided by regulation by the Director of the Division of Taxation. In any case in which the amount, or any portion thereof, of any credit allowed hereunder results in or increases an excess of income tax payment over income tax liability, the amount of the new or increased excess shall be considered an overpayment and shall be refunded to the taxpayer in the manner provided by subsection (a) of N.J.S.54A:9-7.

6. Section 4 of P.L.1971, c.346 (C.43:21-7.3) is amended to read as follows:

C.43:21-7.3 Governmental entities.

4. (a) Notwithstanding any other provisions of the "unemployment compensation law" for the payment of contributions, benefits paid to

individuals based upon wages earned in the employ of any governmental entity or instrumentality which is an employer defined under R.S.43:21-19(h)(5) shall, to the extent that such benefits are chargeable to the account of such governmental entity or instrumentality in accordance with the provisions of R.S.43:21-1 et seq., be financed by payments in lieu of contributions.

(b) Any governmental entity or instrumentality may, as an alternative to financing benefits by payments in lieu of contributions, elect to pay contributions beginning with the date on which its subjectivity begins by filing written notice of its election with the department no later than 120 days after such subjectivity begins, provided that such election shall be effective for at least two full calendar years; or it may elect to pay contributions for a period of not less than two calendar years beginning January 1 of any year if written notice of such election is filed with the department not later than February 1 of such year; provided, further, that such governmental entity or instrumentality shall remain liable for payments in lieu of contributions with respect to all benefits paid based on base year wages earned in the employ of such entity or instrumentality in the period during which it financed its benefits by payments in lieu of contributions.

(c) Any governmental entity or instrumentality may terminate its election to pay contributions as of January 1 of any year by filing written notice not later than February 1 of any year with respect to which termination is to become effective. It may not revert to a contributions method of financing for at least two full calendar years after such termination.

(d) Any governmental entity or instrumentality electing the option for contributions financing shall report and pay contributions in accordance with the provisions of R.S.43:21-7 except that, notwithstanding the provisions of that section, the contribution rate for such governmental entity or instrumentality shall be 1% for the entire calendar year 1978 and the contribution rate for any subsequent calendar years shall be the rate established for governmental entities or instrumentalities under subsection (e) of this section.

(e) On or before September 1 of each year, the Commissioner of Labor shall review the composite benefit cost experience of all governmental entities and instrumentalities electing to pay contributions and, on the basis of that experience, establish the contribution rate for the next following calendar year which can be expected to yield sufficient revenue in combination with worker contributions to equal or exceed the projected costs for that calendar year.

(f) Any covered governmental entity or instrumentality electing to pay contributions shall each year appropriate, out of its general funds, moneys to pay the projected costs of benefits at the rate determined under subsection

(e) of this section. These funds shall be held in a trust fund maintained by the governmental entity for this purpose. Any surplus remaining in this trust fund may be retained in reserve for payment of benefit costs for subsequent years either by contributions or payments in lieu of contributions.

(g) Any governmental entity or instrumentality electing to finance benefit costs with payments in lieu of contributions shall pay into the fund an amount equal to all benefit costs for which it is liable pursuant to the provisions of the "unemployment compensation law." Each subject governmental entity or instrumentality shall require payments from its workers in the same manner and amount as prescribed under R.S.43:21-7(d) for governmental entities and instrumentalities financing their benefit costs with contributions. No such payment shall be used for a purpose other than to meet the benefits liability of such governmental entity or instrumentality. In addition, each subject governmental entity or instrumentality shall appropriate out of its general funds sufficient moneys which, in addition to any worker payments it requires, are necessary to pay its annual benefit costs estimated on the basis of its past benefit cost experience; provided that for its first year of coverage, its benefit costs shall be deemed to require an appropriation equal to 1% of the projected total of its taxable wages for the year. These appropriated moneys and worker payments shall be held in a trust fund maintained by the governmental entity or instrumentality for this purpose. Any surplus remaining in this trust fund shall be retained in reserve for payment of benefit costs in subsequent years. If a governmental entity or instrumentality requires its workers to make payments as authorized herein, such workers shall not be subject to the contributions required in R.S.43:21-7(d).

(h) Notwithstanding the provisions of the above subsection (g), commencing July 1, 1986 worker contributions to the unemployment trust fund with respect to wages paid by any governmental entity or instrumentality electing or required to make payments in lieu of contributions, including the State of New Jersey, shall be made in accordance with the provisions of R.S.43:21-7(d)(1)(C) or R.S.43:21-7(d)(1)(D), as applicable, and, in addition, each governmental entity or instrumentality electing or required to make payments in lieu of contributions shall, except during the period starting January 1, 1993 and ending December 31, 1995 and the period starting April 1, 1996 and ending December 31, 1998, require payments from its workers at the following rates of wages paid, which amounts are to be held in the trust fund maintained by the governmental entity or instrumentality for payment of benefit costs: for the calendar year 1999, 0.05%; for each calendar year 2000 to 2002, and the period from January 1, 2003 to June 30, 2003, 0.10%; and each calendar year thereafter, 0.30%.

C.43:21-24.26 Definitions relative to Emergency Unemployment Benefits Program.

7. For the purposes of the Emergency Unemployment Benefits Program and as used in sections 7 through 11 of P.L.2002, c.13 (C.43:21-24.26 through C.43:21-24.30):

"Emergency unemployment benefits" means benefits financed entirely by the State and paid to exhaustees pursuant to sections 7 through 11 of P.L.2002, c.13 (C.43:21-24.26 through C.43:21-24.30).

"Emergency unemployment benefit period" means a period not within an extended benefit period, which:

a. Begins on December 30, 2001, and

b. Ends on March 9, 2002 or at the conclusion of the calendar week in which total expenditures of emergency unemployment benefits chargeable to the unemployment compensation fund Statewide first exceed $100 million, if the conclusion of that week occurs before March 9, 2002.

No emergency unemployment benefits shall be paid to any individual with respect to periods of unemployment after March 9, 2002.

"Eligibility period" of an exhaustee means the period consisting of the weeks in the exhaustee's benefit year which begin in an emergency unemployment benefit period and, if that benefit year ends in the emergency unemployment benefit period, any weeks thereafter which begin in the period.

"Exhaustee" means an individual who exhausted all of the regular benefits that were available to the individual pursuant to the "unemployment compensation law," R.S.43:21-1 et seq., (including benefits payable to federal civilian employees and ex-service persons or payable under the combined wage program) after November 24, 2001 and before December 30, 2001, or during any calendar week of the emergency unemployment benefit period. No individual who exhausted all of the available regular benefits prior to November 25, 2001 shall be eligible for emergency unemployment benefits.

C.43:21-24.27 Emergency unemployment benefits.

8. During an emergency unemployment benefit period, an exhaustee who otherwise continues to meet the eligibility requirements for regular benefits pursuant to the provisions of the "unemployment compensation law," R.S.43:21-1 et seq., and who is not eligible for any other unemployment benefits, including benefits provided for by any federal law extending benefits beyond those provided for as regular benefits or extended benefits, may receive weekly emergency unemployment benefits for weeks subsequent to December 29, 2001 in an amount equal to the weekly benefit amount of the exhaustee's most recent regular unemployment benefit claim subject to the provisions of the "unemployment compensation law," R.S.43:21-1 et seq. The maximum emergency unemployment benefits an

individual may receive pursuant to sections 7 through 11 of P.L.2002, c.13 (C.43:21-24.26 through C.43:21-24.30) is 10 times the weekly benefit amount that was payable to the individual pursuant to the "unemployment compensation law," R.S.43:21-1 et seq., (including benefits payable to federal civilian employees and ex-service persons or payable under the combined wage program) in the individual's applicable benefit year.

C.43:21-24.28 Charging of employer's account for emergency unemployment benefits.

9. No employer's account shall be charged for emergency unemployment benefits paid to an unemployed individual pursuant to sections 7 through 11 of P.L.2002, c.13 (C.43:21-24.26 through C.43:21-24.30), except for the account of an out-of-State employer who is liable for charges under the Combined Wage Program. However, nothing in this section shall be construed to relieve employers electing to make payments in lieu of contributions pursuant to section 3 or 4 of P.L.1971, c.346 (C.43:21-7.2 or C.43:21-7.3) from reimbursing the unemployment benefits paid to an unemployed individual pursuant to sections 7 through 11 of P.L.2002, c.13 (C.43:21-24.26 through C.43:21-24.30).

Emergency unemployment benefits paid to federal civilian employees shall be charged to the appropriate federal account. Emergency unemployment benefits paid to ex-service persons shall be charged to the General Fund.

C.43:21-24.29 Payment of emergency unemployment benefits.

10. Emergency unemployment benefits may be paid pursuant to the provisions of sections 7 through 11 of P.L.2002, c.13 (C.43:21-24.26 through C.43:21-24.30) only with respect to weeks not within an extended benefit period, and not within a period covered by any federal law allowing the filing of new claims extending benefits beyond those provided for as regular or extended benefits.

C.43:21-24.30 Administrative actions to ensure payment to eligible individuals.

11. The division shall use appropriate administrative means to insure that emergency unemployment benefits are paid only to individuals who meet the requirements of sections 7 through 11 of P.L.2002, c.13 (C.43:21-24.26 through C.43:21-24.30). These administrative actions may include, but shall not be limited to, matching the claimant's social security number against available wage records to insure that no earnings were reported for that claimant by employers under R.S.43:21-14 for periods in which emergency unemployment benefits were paid.

12. This act shall take effect immediately.

Approved March 26, 2002.

CHAPTER 14

AN ACT concerning gift certificates and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

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

C.56:8-110 Gift certificate validity, terms defined.

1. a. A gift certificate issued by a retail merchandise establishment shall be valid until presented in exchange for that merchandise, or shall have any and all conditions and limitations: (1) disclosed to the purchaser of the gift certificate at the time of purchase and (2) conspicuously printed on the gift certificate.

b. As used in this act, "gift certificate" means a written promise given in exchange for payment to provide merchandise in a specified amount or of equal value to the bearer of the certificate.

As used in this act, "merchandise" means and includes any objects, wares, goods, commodities, services or anything offered, directly or indirectly, to the public for sale.

As used in this act, "retail merchandise establishment" means any place of business where merchandise is exposed or offered for sale at retail to members of the consuming public.

C.56:8-111 Rules, regulations.

2. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety 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 act.

C.56:8-112 Violations deemed unlawful practice.

3. It is an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) to violate the provisions of this act.

4. This act shall take effect on the first day of the fourth month following enactment, except that section 2 shall take effect immediately.

Approved April 9, 2002.

CHAPTER 15

AN ACT concerning liens for local improvements and amending various sections of statutory law.

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

1. Section 53 of P.L.1968, c.404 (C.13:17-53) is amended to read as follows:

C.13:17-53 Lien of assessment; confirmation of amount.

53. Every assessment for any improvement together with interest thereon and all costs and charges connected therewith shall be upon authorization of the assessment by ordinance or resolution a first lien on the land described in the assessment, paramount to all prior or subsequent alienations and descents of such land or encumbrances thereon, shall constitute a lien in the same manner as taxes and assessments for State purposes notwithstanding any mistake in the name or names of any owner or owners, or any omission to name any owner or owners who are unknown, and notwithstanding any lack of form therein, or in any proceeding which does not impair the substantial rights of the owner or owners or person or persons having a lien upon or interest in any such land. Confirmation of the amount of the assessment by the commission or by the court shall be considered as determining the amount of the existing lien and not as establishing the lien. All assessments for improvements shall be presumed to have been regularly assessed and confirmed and every assessment or proceeding preliminary thereto shall be presumed to have been regularly made or conducted until the contrary be shown.

2. R.S.40:56-33 is amended to read as follows:

Assessment as continuous lien; informalities not to invalidate proceedings.

40:56-33. Except as provided in article 4 of this chapter (s. 40:56-58 et seq.) as to cities of the first class, every assessment for local improvements together with interest thereon and all costs and charges connected therewith, shall upon the effective date of the ordinance or resolution authorizing the assessment be a continuous first lien upon the real estate described in the assessment, paramount to all prior or subsequent alienations and descents of such real estate or encumbrances thereon, except subsequent taxes or assessments, notwithstanding any mistake in the name or names of any owner or owners, or any omission to name any owner or owners who are unknown, and notwithstanding any lack of form therein, or in any other proceeding which does not impair the substantial rights of the owner or owners or other person or persons having a lien upon or interest in any such real estate. Confirmation of the amount of the assessment by the governing body or by the court shall be considered as determining the amount of the existing lien and not as establishing the lien. All assessments for local

improvements shall be presumed to have been regularly assessed and confirmed and every assessment or proceeding preliminary thereto shall be presumed to have been regularly made or conducted until the contrary be shown.

3. R.S.40:56-44 is amended to read as follows:

Benefits exceeding award and vice versa; excess a lien.

40:56-44. Whenever, by the report and map of the officer or board charged with the duty of making assessments for benefits for local improvements in the municipality as confirmed by the governing body, it shall appear that an award has been made to any person for property taken or damages sustained and that such person is also assessed for benefits received on account of the same improvement, then if the assessment equal or exceed the award, no payment shall be made on account of such award. If the award exceed the assessment only so much of the award as is in excess shall be paid, and the resolution of the governing body confirming the award shall be framed accordingly.

When the amount to be assessed shall be finally determined, as provided in section 40:56-43 of this title such amount shall be set off against the amount of the award unpaid and if the amount of the award unpaid be in excess, the assessment shall be canceled and such excess only shall be paid to the person to whom the award is made; and if the amount of the assessment be in excess, the award unpaid shall be canceled and such excess only shall remain a lien upon the property assessed. The rest of the award or assessment, as the case may be, shall be canceled.

4. R.S.40:56-54 is amended to read as follows:

Appeals from assessments and awards of incidental damages; procedure.

40:56-54. Except as provided in article four of this chapter (s. 40:56-58 et seq.) as to cities of the first class, the owner of any property assessed for benefits or awarded damages incidental to the improvements as distinguished from damages for real estate to be taken under this chapter, may within thirty days after confirmation of such assessment or award appeal from the same to the Superior Court by serving written notice of such appeal within such thirty days upon the tax collector and a duplicate upon the clerk of the governing body, either personally or by leaving the same at his office or place of abode. The appeal shall be determined by a trial and, upon the demand of any party thereto, with a jury. The determination shall be by order or judgment subject to the provisions of section 40:56-57 of this Title.

The court shall determine whether or not the assessment or award of damages appealed from is a just and fair assessment or award, and if not

shall make an order correcting the same or if the assessment or award is sustained shall so order.

The determination of the court as to all such appeals in the case of any one improvement shall be embodied in the same order or judgment, and a certified copy thereof shall be served upon the tax collector and the clerk of the municipality.

The appeal procedure set forth in this section shall not affect the validity and commencement of a lien against land that has been assessed for benefits, but shall be considered to affect only the amount of the lien.

5. R.S.40:56-55 is amended to read as follows:

Correction without appeal.

40:56-55. Except as provided in article four of this chapter (s. 40:56-58 et seq.) as to cities of the first class the tax collector shall, upon receiving the certified copy of such order or judgment, note in his books any corrections or changes made thereby and report the same to the chief financial officer of the municipality. The governing body even after confirming any assessment may upon due proof by affidavit of any manifest error order by resolution the correction of such error in any assessment for benefits from which no appeal has been taken, and upon the adoption of such resolution the tax collector shall note and report such correction in the same manner.

The correction procedure set forth in this section shall not affect the validity and commencement of a lien against land that has been assessed for benefits, but shall be considered to affect only the amount of the lien.

6. R.S.40:56-56 is amended to read as follows:

Appeal from award in condemnation proceedings; notice.

40:56-56. Except as provided in article four of this chapter (s. 40:56-58 et seq.) as to cities of the first class, the owner of any real estate or interest therein taken for any improvement mentioned in this chapter may appeal to the Superior Court from the award of damages made for the taking of such property as distinguished from the award for damages incidental to this improvement. The appeal shall be taken within thirty days after confirmation of the assessment or award appealed from by serving a written notice thereof within said thirty days upon the clerk or the chief executive officer of the municipality, either personally, or by leaving the same at his office or place of abode.

An appeal taken pursuant to this section shall not affect the validity and commencement of a lien against land that has been assessed for benefits, but shall be considered to affect only the amount of the lien.

7. R.S.40:56-62 is amended to read as follows:

Assessments and awards certified to Superior Court; confirmation of report.

40:56-62. Upon the making of any assessments for benefits and awards for incidental damages, the officer or board charged with the duty of making the same, shall apply to the Superior Court for confirmation. The application shall be accompanied by a report in writing signed by said officer or, if made by a board, by at least a majority of their number, and also accompanied by a map showing the real estate taken, damaged or benefited by the improvement, and for which damages or benefits have been assessed.

The court shall either confirm the report, or refer it to the officer or board for revision or correction, and the officer or board shall return to the court the same corrected and revised, or a new report, without unnecessary delay. On being returned it shall be confirmed or again referred by the court in manner aforesaid, as right and justice shall require and so, from time to time, until report shall be made or returned which the court shall confirm. The same report, when so confirmed, shall be final and conclusive, upon the city of the first class and upon the owners of the real estate affected thereby. The court shall thereupon cause a certified copy of the final report and the order or judgment confirming it, to be transmitted to and filed with the tax collecting officer of the city.

The confirmation procedure set forth in this section shall not affect the validity and commencement of a lien against land that has been assessed for benefits, but shall be considered to affect only the amount of the lien.

8. R.S.40:56-64 is amended to read as follows:

Assessments a lien.

40:56-64. Every assessment for local improvements of any kind, together with interest thereon and all costs and charges connected therewith, shall upon the effective date of the ordinance or resolution authorizing the assessment be a first lien upon the real estate described in the assessment, paramount to all prior or subsequent alienations and descents thereof or encumbrances thereon, except subsequent taxes or assessments, notwithstanding any mistake in the name of the owner or any omission to name any owner who is unknown, and notwithstanding any lack of form therein or in any other proceeding which does not impair the substantial rights of the owner or other person having a lien upon or interest in any such real estate. Confirmation of the assessment by the Superior Court shall not affect the validity and commencement of a lien against land that has been assessed for benefits, but shall be considered to affect only the amount of the lien. All assessments for local improvements shall be presumed to have been regularly assessed and confirmed, and every assessment or proceeding

preliminary thereto shall be presumed to have been regularly made or conducted until the contrary be shown.

9. Section 8 of P.L.1996, c.73 (C.40A:12A-56) is amended to read as follows:

C.40A:12A-56 Provision for tax abatement, payments in lieu of taxes; special assessments.

8. a. A municipality that has created a landfill reclamation improvement district pursuant to section 3 of P.L.1995, c.173 (C.40A:12A-52) may provide for tax abatement within that district and for payments in lieu of taxes in accordance with the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.); provided, however, that the provisions of section 12 of P.L.1991, c.431 (C.40A:20-12) establishing a minimum or maximum annual service charge and requiring staged increases in annual service charges over the term of the exemption period, and of section 13 of P.L.1991, c.431 (C.40A:20-13) permitting the relinquishment of status under that act, shall not apply to landfill reclamation improvement district projects.

b. In addition to, or in lieu of, the tax abatement provided for in subsection a. of this section, the municipality may provide by ordinance for one or more special assessments within the landfill reclamation improvement district in accordance with chapter 56 of title 40 of the Revised Statutes, R.S.40:56-1 et seq., provided, however, that the provisions of R.S.40:56-35 shall be applied so that if any installment of a special assessment shall remain unpaid for 30 days after the time at which it shall become due, the municipality may provide, by ordinance, either that: (1) the whole assessment or balance due thereon shall become and be immediately due; or, (2) any subsequent installments which would not yet have become due except for the default shall be considered as not in default and that the lien for the installments not yet due shall continue; and provided, further, that the ordinance may require that the assessments be payable in yearly installments, with legal interest thereon, over a period of years up to but in no event exceeding the period of years for which the bonds were issued, or for 30 years, whichever shall be less. In levying a special assessment on the lands or improvements, or both, located in the district, the municipality may provide that the amount of the special assessment shall be a specific amount, not to exceed the cost of the improvements, paid with respect to property located in the district. That specific amount shall, to the extent accepted by the owner of the property benefitted, be deemed the conferred benefit, in lieu of the amount being determined by the procedures otherwise applicable to determining the actual benefit conferred on the property. Special assessments levied pursuant to an ordinance adopted under this subsection shall constitute a municipal lien under R.S.40:56-33.

c. Upon adoption, a copy of the ordinance shall be filed for public inspection in the office of the municipal clerk, and there shall be published in a newspaper, published or circulating in the municipality, a notice stating the fact and the date of adoption and the place where the ordinance is filed and a summary of the contents of the ordinance. The notice shall state that any action or proceeding of any kind or nature in any court questioning the validity or proper authorization of the ordinance or the actions authorized to be taken as set forth in the ordinance shall be commenced within 20 days after the publication of the notice. If no action or proceeding questioning the validity of the ordinance providing for tax abatement, special assessments or other actions authorized by the ordinance shall be commenced or instituted within 20 days after the publication of the notice, the county and the school district and all other municipalities within the county and all residents and taxpayers and owners of property therein shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court questioning the validity or enforceability of the ordinance or the validity or enforceability of acts authorized under the ordinance, and the ordinance and acts authorized by the ordinance shall be conclusively deemed to be valid and enforceable in accordance with their terms and tenor.

10. Section 3 of P.L.2001, c.310 (C.40A:12A-66) is amended to read as follows:

C.40A:12A-66 Tax abatement within redevelopment area; special assessments.

3. a. A municipality that has designated a redevelopment area may provide for tax abatement within that redevelopment area and for payments in lieu of taxes in accordance with the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.) and P.L.1991, c.441 (C.40A:21-1 et seq.); provided, however, that the provisions of section 12 of P.L.1991, c.431 (C.40A:20-12) establishing a minimum or maximum annual service charge and requiring staged increases in annual service charges over the term of the exemption period, and of section 13 of P.L.1991, c.431 (C.40A:20-13) permitting the relinquishment of status under that act, shall not apply to redevelopment projects financed with bonds.

b. In addition to, or in lieu of, the tax abatement provided for in subsection a. of this section, the municipality may provide by ordinance for one or more special assessments within the redevelopment area in accordance with chapter 56 of Title 40 of the Revised Statutes, R.S.40:56-1 et seq., provided, however, that the provisions of R.S.40:56-35 shall be applied so that if any installment of a special assessment shall remain unpaid for 30 days after the time at which it shall become due, the municipality may

provide, by ordinance, either that: (1) the whole assessment or balance due thereon shall become and be immediately due; or, (2) any subsequent installments which would not yet have become due except for the default shall be considered as not in default and that the lien for the installments not yet due shall continue; and provided, further, that the ordinance may require that the assessments be payable in quarterly, semi-annual or yearly installments, with legal interest thereon, over a period of years up to but in no event exceeding the period of years for which the bonds were issued, or for 30 years, whichever shall be less. In levying a special assessment on the lands or improvements, or both, located in the redevelopment area, the municipality may provide that the amount of the special assessment shall be a specific amount, not to exceed the cost of the improvements, paid with respect to property located in the redevelopment area. That specific amount shall, to the extent accepted by the owner of the property benefitted, be deemed the conferred benefit, in lieu of the amount being determined by the procedures otherwise applicable to determining the actual benefit conferred on the property. Special assessments levied pursuant to an ordinance adopted under this subsection shall constitute a municipal lien under R.S.40:56-33.

c. Upon adoption, a copy of the ordinance shall be filed for public inspection in the office of the municipal clerk, and there shall be published in a newspaper, published or circulating in the municipality, a notice stating the fact and the date of adoption and the place where the ordinance is filed and a summary of the contents of the ordinance. The notice shall state that any action or proceeding of any kind or nature in any court questioning the validity or proper authorization of the ordinance or the actions authorized to be taken as set forth in the ordinance shall be commenced within 20 days after the publication of the notice. If no action or proceeding questioning the validity of the ordinance providing for tax abatement, special assessments or other actions authorized by the ordinance shall be commenced or instituted within 20 days after the publication of the notice, the county and the school district and all other municipalities within the county and all residents and taxpayers and owners of property therein shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court questioning the validity or enforceability of the ordinance or the validity or enforceability of acts authorized under the ordinance, and the ordinance and acts authorized by the ordinance shall be conclusively deemed to be valid and enforceable in accordance with their terms and tenor.

11. R.S.54:5-7 is amended to read as follows:

Assessments for municipal improvements, continuous liens.

54:5-7. All assessments for benefits for municipal improvements, including, but not limited to local improvements pursuant to R.S.40:56-21, shall be a continuous lien on the land on which they are assessed on and after the date fixed in the laws, or the effective date of the ordinance or resolution, as the case may be, authorizing the assessment, or if no date is so fixed, then on and after the date on which they are payable. The lien shall be considered a statutory lien for all purposes, including the federal bankruptcy code, regardless of whether or not the amount of the assessment has been determined at the time that the lien attaches to the land. A confirmation hearing process to determine the amount of an assessment, such as is set forth in R.S.40:56-21, shall not affect the commencement or validity of a lien under this section. All subsequent interest, penalties and costs of collection which thereafter accrue shall be added to and be a part of the initial lien.

12. Section 5 of P.L.1933, c.428 (C.App.A:3-5) is amended to read as follows:

C.App.A:3-5 Financing projects; municipal bonds authorized; special assessments as liens.

5. Any municipality may authorize and issue to the federal government its negotiable bonds for the financing of a public works project, part of the cost of which is to be specially assessed on property specially benefited, before such project has been completed or such special assessment has been confirmed; in such case, the governing body shall estimate by resolution the part of the cost which will be specially assessed and the bonds issued to finance such part shall mature in annual installments, the first of which shall become due not more than three years and the last of which shall become due not more than fifteen years from the date of the bonds. Special assessments levied pursuant to an ordinance or resolution adopted under this subsection shall constitute a continuing municipal lien under R.S.40:56-33.

13. This act shall take effect immediately and shall be retroactive in its application to all assessments for local improvements authorized after January 1, 1996.

Approved April 9, 2002.

CHAPTER 16

AN ACT concerning applications for food stamp benefits and supplementing Title 44 of the Revised Statutes.

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

C.44:10-81.1 Food stamp application form, ordinary, concise language required.

1. a. The Commissioner of Human Services shall review and, to the maximum extent permissible under federal law, streamline the application form for participation in the federal food stamp program authorized by Title XIII of the "Food and Agriculture Act of 1977," Pub.L.95-113 (7 U.S.C.s.2011 et seq.), and the New Jersey Supplementary Food Stamp Program established pursuant to P.L.1998, c.32 (C.44:10-79 et seq.), which is currently used by persons who are not applying for other public assistance, so that the appropriate form, including all instructions and information relating to the application procedure, eligibility determination, and accompanying information that is required to be furnished by the applicant, contains ordinary and concise language.

b. In performing the review, the commissioner shall examine food stamp applications used by other states which utilize their food stamp applications for one or more programs.

2. This act shall take effect immediately.

Approved April 15, 2002.

CHAPTER 17

AN ACT concerning mortgage guaranty insurance and amending P.L.1968, c.248.

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

1. Section 2 of P.L.1968, c.248 (C.17:46A-2) is amended to read as follows:

C.17:46A-2 Definitions.

2. Definitions. The definitions set forth in this section shall govern the construction of the terms used in this act.

(a) "Mortgage guaranty insurance" means (1) insurance against financial loss by reason of nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate, provided the improvement on

such real estate is a residential building or a condominium unit or buildings designed for occupancy by not more than four families;

(2) Insurance against financial loss by reason of nonpayment of principal, interest or other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust or other instrument constituting a lien or charge on real estate, provided the improvement on such real estate is a building or buildings designed for occupancy by five or more families or designed to be occupied for industrial or commercial purposes;

(3) Insurance against financial loss by reason of nonpayment of rent or other sums agreed to be paid under the terms of a written lease for the possession, use or occupancy of real estate, provided the improvement on such real estate is a building or buildings designed to be occupied for industrial or commercial purposes.

(b) "Authorized real estate security" means a note, bond or other evidence of indebtedness not exceeding 100 percent of the fair market value of the real estate, secured by a mortgage, deed of trust, or other instrument constituting a first lien or charge on real estate; provided:

(1) The real estate loan secured in such manner is one which a bank, savings and loan association, or an insurance company, which is supervised and regulated by a department of this State or an agency of the federal government, is authorized to make.

(2) The improvement on such real estate is a building or buildings designed for occupancy as specified by subsections (a)(1) and (a)(2) of this section.

(3) The lien on such real estate may be subject and subordinate to the following:

(i) The lien of any public bond, assessment, or tax, when no installment, call or payment of or under such bond, assessment or tax is delinquent.

(ii) Outstanding mineral, oil or timber rights, rights-of-way, easements or rights-of-way or support, sewer rights, building restrictions or other restrictions or covenants, conditions or regulations of use, or outstanding leases upon such real property under which rents or profits are reserved to the owner thereof.

(c) "Contingency reserve" means an additional premium reserve established for the protection of policyholders against the effect of adverse economic cycles.

(d) "Policyholders' surplus" means the aggregate of capital, surplus and contingency reserve.

2. This act shall take effect immediately.

Approved April 23, 2002.

CHAPTER 18

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, 2002 and regulating the disbursement thereof," approved June 29, 2001 (P.L.2001, c.130).

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

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

46 DEPARTMENT OF HEALTH AND SENIOR SERVICES
20 Physical and Mental Health
21 Health Services

03-4230 Public Health Protection Services		$27,242,400
Special Purpose:		
Expansion of Bioterrorism Response	($27,242,400)	

The amounts hereinabove may be utilized by the Department of Health and Senior Services for administrative expenses and for grants-in-aid in accordance with the provisions of a State Plan to be submitted to and approved by the federal Department of Health and Human Services. A copy of the State Plan shall be provided to the Chairs of the Senate Budget and Appropriations Committee and the Assembly Appropriations, Budget and Homeland Security and State Preparedness Committees.

2. This act shall take effect immediately.

Approved April 24, 2002.

CHAPTER 19

AN ACT authorizing all municipalities to lease certain real estate to certain organizations and amending P.L.1966, c.238.

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

1. Section 1 of P.L.1966, c.238 (C.40:60-51.12) is amended to read as follows:

C.40:60-51.12 Leasing of municipal real estate to nonprofit entities.

1. The governing body of any municipality may lease any real estate owned or controlled by it or any interest therein when, and to the extent that, it is not required for municipal purposes, to any not-for-profit corporation or not-for-profit association while it is used for the purposes of such organization in promoting the health, safety, morals and general welfare of the community and not for commercial business, trade, or manufacturing purposes, without costs or at a nominal rental.

2. This act shall take effect immediately.

Approved April 30, 2002.

CHAPTER 20

AN ACT concerning veterinary licensure examinations and amending R.S.45:16-7.

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

1. R.S.45:16-7 is amended to read as follows:

Application for examination; fee; qualifications of applicants.

45:16-7. A person desiring to commence the practice of veterinary medicine, surgery and dentistry in this State shall deliver to the secretary of the board a fee to be determined by the board for filing the application for examination and a fee to be determined by the board for the examination, together with satisfactory proof that the applicant is a qualified veterinary graduate as defined in this act or who shall provide a certification acceptable to the board that the applicant will be awarded a degree in veterinary

medicine at graduation during the academic year from the college or university the applicant attends. No applicant, however, shall be licensed prior to graduation from a veterinary college or university.

2. This act shall take effect immediately.

Approved April 30, 2002.

CHAPTER 21

AN ACT concerning the eligibility of certain standardbred horses for the Sire Stakes Program and amending P.L.1971, c.85.

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

1. Section 1 of P.L.1971, c.85 (C.5:5-91) is amended to read as follows:

C.5:5-91 Establishment of sire stakes program.

1. There is hereby established in the State of New Jersey a Sire Stakes Program for standardbred horses that are the product of a registered New Jersey stallion, registered with the Standardbred Breeders' and Owners' Association of New Jersey as such and listed in their registry books.

Those horses eligible to race under said Sire Stakes Program shall be any foal of any registered New Jersey stallion standing at a New Jersey breeding farm and either owned by a resident of the State of New Jersey or leased by a resident thereof for a period of not less than 10 years to stand the full season on a New Jersey breeding farm. A copy of any such lease shall be filed with the United States Trotting Association, the Standardbred Breeders' and Owners' Association of New Jersey and the New Jersey Racing Commission.

Said Sire Stakes Program shall be administered by a board of trustees consisting of five members, four appointed by the Governor, two of whom shall be members of the Standardbred Breeders' and Owners' Association of New Jersey, two representatives of racing interests generally, and the Secretary of Agriculture, ex officio. Of members first appointed, the term of office of one appointee member of the Standardbred Breeders' and Owners' Association shall be two years, the other appointee member of such association shall be one year, the term of office of one appointee representing racing interests generally shall be for two years and the other appointee representing racing interests generally shall be for a term of one year. Thereafter, appointments shall be for terms of two years. No member of the

board of trustees shall be compensated for his services, however, reasonable travel and other expenses incurred in connection with duties as members of the board may be reimbursed.

The board of trustees is authorized to do all that is necessary for the proper administration of the said Sire Stakes Program and shall prepare, issue and promulgate rules and regulations providing for

a. Classes and divisions of races, eligibility of horses and owners therefor and prizes and awards to be awarded.

b. Nominating, sustaining and entry fees on horses and races.

c. Such temporary programs including eligibility of horses, breeding, and other matters as may be necessary to make the Sire Stakes Program operable as soon as possible.

d. Registration and certification of New Jersey stallions, mares bred to such stallions and foals produced thereby.

e. Such other matters as the board determines to be necessary and appropriate for the proper administration and implementation of the Sire Stakes Program.

The funds for the Sire Stakes Program pursuant to section 46 of P.L.1940, c.17, or any other law, and the nominating, sustaining and entry fees provided for herein shall be administered by the New Jersey Department of Agriculture by deposit in a trust account entitled Sire Stakes Fund. All disbursements therefrom for the payment of purses and awards, cost of administration, reimbursement of expenses of members of the board of trustees and any other appropriate expenses shall be made by the Secretary of Agriculture or his designee. A report shall be prepared and filed annually by the secretary with the Racing Commission setting forth an itemization of all deposits to and expenditures from said fund.

Sire stake races shall be run at all licensed harness tracks in the State of New Jersey. Said races and purses and awards awarded therefor shall be pursuant to the rules and regulations of the board of trustees hereunder, the New Jersey Racing Commission and the United States Trotting Association.

2. This act shall take effect immediately and shall be retroactive to January 1, 2002.

Approved April 30, 2002.

CHAPTER 22

AN ACT concerning municipal and county budgets and supplementing P.L.1976, c.68 (C.40A:4-45.1 et seq.).

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

1. A local unit may adopt a resolution declaring a special emergency and authorizing appropriations for the purpose of funding obligations to satisfy accumulated deficits of employee group insurance programs. No such resolution shall be effective unless and until it is approved by the Director of the Division of Local Government Services in the Department of Community Affairs. The special emergency may be funded over three years pursuant to the provisions of either section 3 of P.L.1961, c.22 (C.40A:4-55.3) or section 4 of P.L.1961, c.22 (C.40A:4-55.4), as appropriate. The special emergency appropriations shall be treated as exceptions to the limitations on expenditures pursuant to section 3 of P.L.1976, c.68 (C.40A:4-45.3) or section 4 of P.L.1976, c.68 (C.40A:4-45.4), as appropriate. No resolution for the purpose of this section shall be adopted after June 30, 2004.

2. This act shall take effect immediately.

Approved May 23, 2002.

CHAPTER 23

AN ACT concerning retirement benefits for certain State employees and employees of State autonomous authorities.

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

1. For the purposes of this act, P.L.2002, c.23:

"State employee" means a full-time employee, eligible to participate in the New Jersey State Health Benefits Program (hereinafter referred to as SHBP), of the State of New Jersey, or Rutgers, The State University, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, or a State college or university. It shall not include an employee of an authority, board, commission, corporation, or other agency or instrumentality, other than Rutgers, The State University, authorized to participate in the Public Employees' Retirement System (hereinafter referred to as PERS) under section 73 of P.L.1954, c.84 (C.43:15A-73) or P.L.1990, c.25 (C.43:15A-73.2 et seq.), or an employee of a public agency or organization as defined in section 71 of P.L.1954, c.84

(C.43:15A-71), or a person participating in PERS under the provisions of P.L.1972, c.167 (C.43:15A-135 et seq.), P.L.2001, c. 259 (C.43:15A-142 et seq.), P.L.2001, c.366 (C.43:15A-155 et seq.) or P.L.1953, c.202 (C.32:23-1 et seq.).

"Employee of a State autonomous authority" means a full-time employee, eligible to participate in the health care benefits program of the employer, of a public authority, board, commission, corporation or other agency or instrumentality of the State allocated in but not of a principal department of State government pursuant to Article V, Section IV, paragraph 1 of the New Jersey Constitution who is not a State employee as defined in this act, and when the authority has elected in accordance with section 14 of this act to provide the benefits under this act.

2. a. A State employee who is at least 50 years of age and has at least 25 years of service credit under PERS or the Teachers' Pension and Annuity Fund (hereinafter referred to as TPAF), or of service with public employers in this State participating in the Alternate Benefit Program (hereinafter referred to as ABP) for which contributions were made by the employee under the program before the effective date of retirement, other than a veteran who retires on a veteran's retirement, shall receive an additional three years of service credit under PERS or TPAF, or an amount equal to 60% of the employee's base annual salary at the time of retirement from the employer for members of ABP.

b. An employee who is at least 55 years of age and has at least 25 years of service credit and retires on a veteran's retirement under PERS or TPAF shall receive an additional pension under the retirement system in the amount of 3/55 of the compensation upon which the retirement allowance is based.

c. A full-time employee of the Rutgers University Cooperative Extension Service who is at least 50 years of age and has at least 25 years of service credit based upon service credited in the federal Civil Service Retirement System (hereinafter referred to as CSRS) or the Federal Employees Retirement System (hereinafter referred to as FERS) earned as a result of full-time employment at Rutgers University alone, or in combination with service credit under PERS or qualifying service under ABP, and retires under the federal CSRS or the FERS within the time period set forth in section 10 of this act, shall receive the benefits provided by this section. If the employee is a member of the federal CSRS or the FERS, the employee shall receive an amount equal to 60% of the employee's base annual salary at the time of retirement from the employer.

d. The amount payable to retirees under ABP and the federal retirement systems shall be paid in two equal installments with the first

installment due not later than the thirtieth day after the effective date of retirement, and the second due not later than the same calendar day in the following calendar year. The payments shall be made to the employee's retirement annuity contract under the ABP up to the maximum contribution allowable under section 415 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.415. Any payment amount in excess of the section 415 contribution limit shall be contributed to a contract on behalf of the employee that meets the requirements of subsection (b) of section 403 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.403, to the extent that the payment may be contributed on a before-tax basis under the maximum limits allowed under the Internal Revenue Code of 1986. Payment amounts in excess of the section 403(b) limit shall be paid directly to the employee.

e. The additional retirement benefit provided under this section is applicable only to the full-time State employment from which an eligible employee retires to receive the benefit and the compensation for that employment.

3. a. For a State employee who is at least 60 years of age and has at least 20, but less than 25, years of service credit under PERS or TPAF, or of service with public employers in this State participating in the ABP for which contributions were made by the employee under the program before the effective date of retirement, the retirement system for members of PERS or TPAF, or the State for ABP members, shall pay the premium or periodic charges for benefits provided to the retired State employee and the employee's dependents, but not including survivors, under the "New Jersey State Health Benefits Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.), in the same manner provided for State payment of premiums or periodic charges for a retired State employee with 25 or more years of service credit under section 6 of P.L.1996, c.8 (C.52:14-17.28b) for PERS and ABP members, and in the same manner provided for State payment of premiums or periodic charges for a qualified retiree from TPAF under section 3 of P.L.1987, c.384 (C.52:14-17.32f) for TPAF members.

b. A full-time employee of the Rutgers University Cooperative Extension Service who meets the age and service requirements based upon service credited in the federal CSRS or the FERS earned as a result of full-time employment at Rutgers University alone, or in combination with service credit under PERS or qualifying service under ABP, and retires under the federal CSRS or the FERS within the time period set forth in section 10 of this act, shall receive the benefits provided in this section. The State shall pay the premium or periodic charges for the benefits if the employee is a member of the federal CSRS or the FERS.

4. a. A State employee who is at least 60 years of age and has at least 10, but less than 20, years of service credit under PERS or TPAF, or of service with public employers in this State participating in the ABP for which contributions were made by the employee under the program before the effective date of retirement, shall receive an additional pension under PERS or TPAF, or payment from the employer for members of ABP, of $500 a month in each of the 24 months following the date of retirement.

b. A full-time employee of the Rutgers University Cooperative Extension Service who meets the age and service requirements based upon service credited in the federal CSRS or the FERS earned as a result of full-time employment at Rutgers University alone, or in combination with service credit under PERS or qualifying service under ABP, and retires under the federal CSRS or the FERS within the time period set forth in section 10 of this act, shall receive the benefits provided by this section.

c. The amount payable to retirees under ABP and the federal retirement systems shall be made to the employee's retirement annuity contract under the ABP up to the maximum contribution allowable under section 415 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.415. Any payment amount in excess of the section 415 contribution limit shall be contributed to a contract on behalf of the employee that meets the requirements of subsection (b) of section 403 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.403, to the extent that the payment may be contributed on a before-tax basis under the maximum limits allowed under the Internal Revenue Code of 1986. Payment amounts in excess of the section 403(b) limit shall be paid directly to the employee.

5. An employee of a State autonomous authority who is at least 50 years of age and has at least 25 years of service credit under PERS shall receive an additional three years of service credit under PERS. An employee who is at least 55 years of age and has at least 25 years of service credit and retires on a veteran's retirement under PERS shall receive an additional pension under the retirement system in the amount of 3/55 of the compensation upon which the retirement allowance is based.

6. When a State autonomous authority provides paid health care benefits for retirees, an employee of that authority who is at least 60 years of age and has at least 20, but less than 25, years of service credit under PERS, shall receive paid health care benefits on the same basis provided for other retirees of the authority who have at least 25 years of service credit. When the employee of the authority meets the age and service criteria above but would already qualify under the authority's program for retiree health care benefits, the employee shall receive the benefit provided in section 7 of

this act. For a State autonomous authority that does not provide paid health care benefits for retirees, an employee who meets the age and service criteria above shall receive the benefit provided in section 7 of this act.

7. An employee of a State autonomous authority who is at least 60 years of age and has at least 10, but less than 20, years of service credit under PERS shall receive an additional pension under PERS of $500 a month in each of the 24 months following the date of retirement.

8. The actuaries for PERS and TPAF shall determine the liabilities of the retirement systems for the additional service credit or pension provided under this act and for the early retirement of employees in accordance with the tables of actuarial assumptions adopted by the boards of trustees of the retirement systems. These liabilities shall be added to the accrued liabilities of the State and the State autonomous authorities under the retirement systems and shall be funded as provided under section 24 of P.L.1954, c.84 (C.43:15A-24), section 2 of P.L.1990, c.6 (C.43:15A-24.1), N.J.S.18A:66-18, and section 2 of P.L.1987, c.385 (C.18A:66-18.1), respectively.

9. The cost of the cash payments to members of ABP, the federal CSRS and the FERS under this act shall be funded by the employer from annual appropriations to the employer in the State appropriations act or supplements thereto, or from funds otherwise available for payment of operating expenditures.

10. To receive the benefits provided by this act, an eligible State employee shall retire on or after February 1, 2002, but no later than July 1, 2002, and an eligible employee of a State autonomous authority shall retire on or after July 1, 2002, but not later than September 1, 2002 if the authority fiscal year during which this act, P.L.2002, c.23, shall take effect ends on or before June 30, 2002. If the authority fiscal year during which this act shall take effect ends after June 30, 2002, an eligible employee shall retire no earlier than two months before the end of that fiscal year, but not later than the first day of the calendar month after the close of that fiscal year

11. A State employee or an employee of a State autonomous authority who receives a benefit under this act shall forfeit all tenure rights.

12. When the needs of State government, a State college or university or a State autonomous authority require the services of an employee who elects to retire and receive a benefit under this act, a State department, with the approval of the State Treasurer, a State college or university, with the

approval of the president of the college or university, or a State autonomous authority, with the approval of the governing body of the authority, may delay, with the consent of the employee, the effective retirement date of the employee until the first day of any calendar month after July 1, 2002, but not later than July 1, 2003 for State employees, and September 1, 2003 for employees of State autonomous authorities. The effective retirement date of an employee of the Legislative Branch or Judicial Branch of the State government who elects to retire and receive a benefit under this act may be similarly delayed with the consent of the employee and with the approval of the Senate President in the case of an employee of the Senate, the Speaker of the General Assembly in the case of an employee of the General Assembly, the Executive Director of the Office of Legislative Services in the case of an employee of the Office of Legislative Services, and the Chief Justice of the Supreme Court in the case of an employee of the Judicial Branch. A delay in the effective retirement date of an employee shall not extend the time period set forth in section 10 of this act within which an employee shall qualify for a benefit under this act.

For a member of PERS or TPAF whose effective retirement date is delayed under this section and who dies before the retirement becomes effective, the retirement shall be effective as of the first day of the month after the date of death of the member.

13. The Director of the Division of Pensions and Benefits may promulgate rules and regulations that the director deems necessary for the effective implementation of this act.

14. A State autonomous authority may elect to provide the benefits under this act by adoption of a resolution by its governing body and filing a certified copy of the resolution with the Director of the Division of Pensions and Benefits on or before July 1, 2002, or before the end of its fiscal year if the authority has a fiscal year ending other than on June 30, 2002. The authority shall submit to the director any information necessary to provide the benefits or to determine the liability for the benefits as provided in section 8 of this act.

15. The Division of Pensions and Benefits shall report in writing to the Joint Budget Oversight Committee beginning on July 15, 2003, and annually thereafter on or before July 15, through 2008, on the results of the additional retirement benefits provided by this act. The report shall provide an analysis of the impact of this act in order to document the aggregate costs incurred and aggregate savings realized by the State as a result of this act.

16. For a State autonomous authority with employees under a retirement system or pension plan other than PERS, the authority shall provide benefits to employees who meet the eligibility requirements for benefits pursuant to this act and the benefits so provided shall be comparable to the benefits provided under this act to the fullest extent possible.

17. This act shall take effect immediately.

Approved May 30, 2002.

CHAPTER 24

AN ACT concerning certain dogs, and amending P.L.1989, c.307.

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

1. Section 7 of P.L.1989, c.307 (C.4:19-23) is amended to read as follows:

C.4:19-23 Dog declared potentially dangerous; conditions.

7. a. The municipal court shall declare a dog to be potentially dangerous if it finds by clear and convincing evidence that the dog:

(1) caused bodily injury as defined in N.J.S.2C:11-1(a) to a person during an unprovoked attack, and poses a serious threat of bodily injury or death to a person, or

(2) severely injured or killed another domestic animal, and

(a) poses a threat of serious bodily injury or death to a person; or

(b) poses a threat of death to another domestic animal, or

(3) has been trained, tormented, badgered, baited or encouraged to engage in unprovoked attacks upon persons or domestic animals.

b. A dog shall not be declared potentially dangerous for:

(1) causing bodily injury as defined in N.J.S.2C:11-1(a) to a person if the dog was provoked, or

(2) severely injuring or killing a domestic animal if the domestic animal was the aggressor.

For the purposes of paragraph (1) of this subsection, the municipality shall bear the burden of proof to demonstrate that the dog was not provoked.

2. This act shall take effect immediately.

Approved June 11, 2002.

CHAPTER 25

AN ACT concerning assisted living and supplementing Titles 26 and 53 of the Revised Statutes.

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

C.26:2H-7.15 Definitions relative to assisted living.

1. As used in this act:

"Assisted living" means a coordinated array of supportive personal and health services, available 24 hours per day, which promote resident self-direction and participation in decisions that emphasize independence, individuality, privacy, dignity and homelike surroundings to residents who have been assessed to need these services, including residents who require formal long-term care.

"Assisted living program" means the provision of or arrangement for meals and assisted living services, when needed, to the residents of publicly subsidized housing, which because of any federal, State or local housing laws, rules, regulation or requirements cannot become licensed as an assisted living residence.

"Assisted living residence" means a facility licensed by the Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed, for four or more adult persons unrelated to the proprietor. Apartment units shall offer, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

"Commissioner" means the Commissioner of Health and Senior Services.

C.26:2H-7.16 Evaluation of applicant prior to approval of certificate of need.

2. Prior to approval of a certificate of need pursuant to section 7 of P.L.1971, c.136 (C.26:2H-7) for an assisted living residence or program, the commissioner shall evaluate the background of an applicant for a certificate of need to ensure, at a minimum, that the applicant is:

a. of good moral character;

b. economically capable of constructing or expanding, as appropriate, and maintaining an assisted living residence or program, as applicable;

c. capable of successfully providing assisted living services that meet or surpass the licensing standards for assisted living residences or programs, as applicable, as set by the commissioner;

d. capable of demonstrating an acceptable track record, if appropriate, of the applicant's past and current compliance with State licensure require-

ments, applicable federal requirements and State certificate of need requirements pursuant to section 7 of P.L.1971, c.136 (C.26:2H-7); and

e. capable of demonstrating an acceptable track record of the applicant's past and current compliance with State licensure or applicable federal or State requirements for, and the financial success of, any health care-related or other business activity that involves construction, operation or management of the activity.

C.26:2H-7.17 Issuance of assisted living administrator certification; criminal history record check.

3. a. The commissioner shall not issue an assisted living administrator certification, except on a conditional basis as provided for in subsection d. of section 4 of this act, unless the commissioner first determines, consistent with the requirements of this act, that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police in the Department of Law and Public Safety, which would disqualify that person from being certified.

b. An assisted living administrator certified by the department prior to the effective date of this act, upon whom a criminal history record background check has not been conducted pursuant to this act, shall be required to undergo that criminal history record background check as a condition of renewal of certification following the effective date of this act.

c. An assisted living administrator, who is a licensed nursing home administrator and has undergone a criminal history record background check as a result of having obtained a nursing home administrator's license, shall not be required to undergo a criminal history record background check pursuant to this act.

d. A person shall be disqualified from certification if that person's criminal history record background check reveals a record of conviction of any of the following crimes and offenses:

(1) In New Jersey, any crime or disorderly persons offense:

(a) involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:11-1 et seq., N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq. or N.J.S.2C:15-1 et seq.; or

(b) against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et seq.; or

(c) involving theft as set forth in chapter 20 of Title 2C of the New Jersey Statutes; or

(d) involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.2C:35-10.

(2) In any other state or jurisdiction, of conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in paragraph (1) of this subsection.

e. Notwithstanding the provisions of subsection a. of this section, no person shall be disqualified from certification on the basis of any conviction disclosed by a criminal history record background check performed pursuant to this act if the person has affirmatively demonstrated to the commissioner clear and convincing evidence of the person's rehabilitation. In determining whether a person has affirmatively demonstrated rehabilitation, the following factors shall be considered:

(1) the nature and responsibility of the position which the convicted person would hold, has held or currently holds, as the case may be;

(2) the nature and seriousness of the offense;

(3) the circumstances under which the offense occurred;

(4) the date of the offense;

(5) the age of the person when the offense was committed;

(6) whether the offense was an isolated or repeated incident;

(7) any social conditions which may have contributed to the offense; and

(8) any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the person under their supervision.

f. If a person subject to the provisions of this act refuses to consent to, or cooperate in, the securing of a criminal history record background check, the commissioner shall, as applicable:

(1) not issue an assisted living administrator certification and shall notify the applicant, and the applicant's employer, if the applicant is conditionally employed as provided in subsection d. of section 4 of this act or the applicant's prospective employer, if known, of that denial; or

(2) revoke the person's current assisted living administrator certification and notify the person, and the person's employer, if known, of that revocation.

C.26:2H-7.18 Information provided for criminal history record background check; procedure.

4. a. An applicant for certification or a certified assisted living administrator, who is required to undergo a criminal history record background check pursuant to section 3 of this act, shall submit to the commissioner that individual's name, address and fingerprints taken on standard fingerprint cards by a State or municipal law enforcement agency. The commissioner is authorized to exchange fingerprint data with and receive criminal history

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record information from the Federal Bureau of Investigation and the Division of State Police in the Department of Law and Public Safety for use in making the determinations required by this act.

b. Upon receipt of the criminal history record information for a person from the Federal Bureau of Investigation or the Division of State Police, the commissioner shall immediately notify, in writing, the applicant, and the applicant's employer, if the applicant is conditionally employed as provided in subsection d. of this section, or the applicant's prospective employer, if known, or a certified assisted living administrator who is required to undergo a criminal history record background check pursuant to section 3 of this act and that person's employer, as applicable, of the person's qualification or disqualification for certification under this act. If the person is disqualified, the conviction or convictions which constitute the basis for the disqualification shall be identified in the notice to the person, but shall not be identified in the notice to the person's employer or prospective employer.

c. The person who is the subject of the background check shall have 30 days from the date of the written notice of disqualification to petition the commissioner for a hearing on the accuracy of the person's criminal history record information or to establish the person's rehabilitation under subsection e. of section 3 of this act. The commissioner shall notify the person's employer or prospective employer of the person's petition for a hearing within five days following the receipt of the petition from the person. Upon the issuance of a final decision upon a petition to the commissioner pursuant to this subsection, the commissioner shall notify the person and the person's employer or prospective employer as to whether the person remains disqualified from certification under this act.

d. (1) An applicant for certification may be issued conditional certification and may be employed as an assisted living administrator conditionally for a period not to exceed 60 days, pending completion of a criminal history record background check required under this act by the Division of State Police based upon an examination of its own files, in accordance with section 7 of P.L.2002, c.25 (C.53:1-20.9c), and for an additional period not to exceed 60 days pending completion of a criminal history record background check by federal authorities as arranged for by the Division of State Police pursuant to section 7 of P.L.2002, c.25 (C.53:1-20.9c), if the person submits to the commissioner a sworn statement attesting that the person has not been convicted of any crime or disorderly persons offense as described in section 3 of this act. A person who submits a false sworn statement shall be disqualified from certification, and shall not have an opportunity to establish rehabilitation pursuant to subsection e. of section 3 of this act.

(2) A conditionally employed person or an employed certified assisted living administrator, who disputes the accuracy of the criminal history record information and who files a petition requesting a hearing pursuant to subsection c. of this section, may remain employed until the commissioner rules on the person's petition but, pending the commissioner's ruling, the person shall not have unsupervised contact with residents at the assisted living residence or program.

e. (1) A licensed assisted living residence or program, as applicable, that has received an application from or conditionally employs an applicant for assisted living administrator or employs a certified assisted living administrator, and:

(a) receives notice from the commissioner that the applicant or certified assisted living administrator has been determined by the commissioner to be disqualified from certification as an assisted living administrator pursuant to this act; or

(b) terminates its employment of a conditionally employed applicant for assisted living administrator or a certified assisted living administrator because the person was disqualified from employment at the assisted living residence or program on the basis of a conviction of a crime or disorderly persons offense as described in section 3 of this act after commencing employment at the assisted living residence or program;

shall be immune from liability for disclosing that disqualification or termination in good faith to another licensed health care facility or other entity that is qualified by statute or regulation to employ the person as a certified administrator.

(2) A licensed health care facility or other entity which discloses information pursuant to paragraph (1) of this subsection shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the health care facility or other entity acted with actual malice toward the person who is the subject of the information.

f. (1) An assisted living residence or program, as applicable, upon receiving notice from the commissioner that a person employed by it as an assisted living administrator, including a conditionally employed person, has been convicted of a crime or disorderly persons offense as described in section 3 of this act after commencing employment at the assisted living residence or program, shall:

(a) immediately terminate the person's employment as an assisted living administrator; and

(b) report information about the termination to the commissioner in a manner prescribed by the commissioner, who shall thereupon deem the person to be disqualified from certification as an assisted living administrator, subject to the provisions of subsection c. of this section.

(2) An assisted living residence or program shall be immune from liability for any actions taken in good faith pursuant to paragraph (1) of this subsection and shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the assisted living residence or program acted with actual malice toward the employee.

C.26:2H-7.19 Applicant to assume cost of criminal history record background check.

5. The applicant for certification as an assisted living administrator or a certified assisted living administrator, as the case may be, shall assume the cost of the criminal history record background check conducted pursuant to this act.

C.26:2H-7.20 Fine for false sworn statement.

6. A person submitting a false sworn statement pursuant to section 4 of this act shall be subject to a fine of not more than $1,000, which may be assessed by the commissioner.

C.53:1-20.9c Authorization for exchange of fingerprint data, information on assisted living administrators.

7. a. The Commissioner of Health and Senior Services is authorized to exchange fingerprint data with, and to receive information from, the Division of State Police in the Department of Law and Public Safety and the Federal Bureau of Investigation.

b. The Division of State Police shall promptly notify the Department of Health and Senior Services in the event an applicant for certification as an assisted living administrator or a certified assisted living administrator, who was the subject of a criminal history record background check conducted pursuant to subsection a. of this section, is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of such notification, the department shall make a determination regarding the employment of the applicant or administrator.

C.26:2H-7.21 Rules, regulations.

8. The Commissioner of Health and Senior Services, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) shall adopt rules and regulations to effectuate the purposes of this act.

9. This act shall take effect on the 90th day after the date of enactment, except that the commissioner may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved June 12, 2002.

CHAPTER 26

AN ACT creating the "September 11th, 2001 Anti-Terrorism Act" and revising various parts of the statutory law.

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

C.2C:38-1 Short title.

1. Sections 1 through 5 of this act shall be known and may be cited as the "September 11th, 2001 Anti-Terrorism Act."

C.2C:38-2 Crime of terrorism; definitions.

2. a. A person is guilty of the crime of terrorism if he commits or attempts, conspires or threatens to commit any crime enumerated in subsection c. of this section with the purpose:

(1) to promote an act of terror; or

(2) to terrorize five or more persons; or

(3) to influence the policy or affect the conduct of government by terror; or

(4) to cause by an act of terror the impairment or interruption of public communications, public transportation, public or private buildings, common carriers, public utilities or other public services.

b. Terrorism is a crime of the first degree.

(1) Notwithstanding any other provision of law to the contrary, any person convicted under this section shall be sentenced to a term of 30 years, during which the person shall not be eligible for parole, or to a specific term of years which shall be between 30 years and life imprisonment, of which the person shall serve not less than 30 years before being eligible for parole.

(2) If a violation of this section results in death, the person shall be sentenced to a term of life imprisonment, during which time the person shall not be eligible for parole.

c. The crimes encompassed by this section are: murder pursuant to N.J.S.2C:11-3; aggravated manslaughter or manslaughter pursuant to N.J.S.2C:11-4; vehicular homicide pursuant to N.J.S.2C:11-5; aggravated assault pursuant to subsection b. of N.J.S.2C:12-1; disarming a law enforcement officer pursuant to section 1 of P.L.1996, c.14 (C.2C:12-11); kidnapping pursuant to N.J.S.2C:13-1; criminal restraint pursuant to N.J.S.2C:13-2; robbery pursuant to N.J.S.2C:15-1; carjacking pursuant to section 1 of P.L.1993, c.221 (C.2C:15-2); aggravated arson or arson pursuant to N.J.S.2C:17-1; causing or risking widespread injury or damage pursuant to N.J.S.2C:17-2; damage to nuclear plant with the purpose to cause or threat to cause release of radiation pursuant to section 1 of P.L.1983, c.480 (C.2C:17-7); damage to nuclear plant

resulting in death by radiation pursuant to section 2 of P.L.1983, c.480 (C.2C:17-8); damage to nuclear plant resulting in injury by radiation pursuant to section 3 of P.L.1983, c.480 (C.2C:17-9); producing or possessing chemical weapons, biological agents or nuclear or radiological devices pursuant to section 3 of P.L.2002, c.26 (C.2C:38-3); burglary pursuant to N.J.S.2C:18-2; possession of prohibited weapons and devices pursuant to N.J.S.2C:39-3; possession of weapons for unlawful purposes pursuant to N.J.S.2C:39-4; unlawful possession of weapons pursuant to N.J.S.2C:39-5; weapons training for illegal activities pursuant to section 1 of P.L.1983, c.229 (C.2C:39-14); racketeering pursuant to N.J.S.2C:41-1 et seq.; and any other crime involving a risk of death or serious bodily injury to any person.

d. Definitions. For the purposes of this section:

"Government" means the United States, any state, county, municipality, or other political unit, or any department, agency or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government.

"Serious bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

"Terror" means the menace or fear of death or serious bodily injury.

"Terrorize" means to convey the menace or fear of death or serious bodily injury by words or actions.

e. A prosecution pursuant to this section may be brought by the Attorney General, his assistants and deputies within the Division of Criminal Justice, or by a county prosecutor or a designated assistant prosecutor if the county prosecutor is expressly authorized in writing by the Attorney General to prosecute a violation of this section.

f. Notwithstanding the provisions of N.J.S.2C:1-8 or any other provision of law, a conviction of terrorism under this section shall not merge with a conviction of any other offense, nor shall such other conviction merge with a conviction under this section, and the court shall impose separate sentences upon each violation of this section and any other offense.

g. Nothing contained in this section shall be deemed to preclude, if the evidence so warrants, an indictment and conviction for murder under the provisions of N.J.S.2C:11-3 or any other offense.

C.2C:38-3 Producing or possessing chemical weapons, biological agents or nuclear or radiological devices; definitions.

3. Producing or Possessing Chemical Weapons, Biological Agents or Nuclear or Radiological Devices.

a. A person who, purposely or knowingly, unlawfully develops, produces, otherwise acquires, transfers, receives, stockpiles, retains, owns, possesses

or uses, or threatens to use, any chemical weapon, biological agent, toxin, vector or delivery system for use as a weapon, or nuclear or radiological device commits a crime of the first degree, except that:

(1) Notwithstanding any other provision of law to the contrary, any person convicted under this subsection shall be sentenced to a term of 30 years, during which the person shall not be eligible for parole, or to a specific term of years which shall be between 30 years and life imprisonment, of which the person shall serve not less than 30 years before being eligible for parole.

(2) If a violation of this section results in death, the person shall be sentenced to a term of life imprisonment, during which time the person shall not be eligible for parole.

b. Any manufacturer, distributor, transferor, possessor or user of any toxic chemical, biological agent, toxin or vector, or radioactive material that is related to a lawful industrial, agricultural, research, medical, pharmaceutical or other activity, who recklessly allows an unauthorized individual to obtain access to the toxic chemical or biological agent, toxin or vector or radioactive material, commits a crime of the second degree and, notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, shall be subject to a fine of up to $250,000 for each violation.

c. For the purposes of this section:

(1) "Chemical weapon" means:

(a) a toxic chemical and its precursors, except where intended for a lawful purpose as long as the type and quantity is consistent with such a purpose. "Chemical weapon" shall include, but not be limited to:

(i) nerve agents, including GA (Tabun) cyanide irreversible inhibitor, Sarin (GB), GB (Soman) fluorine, reversible "slow aging," GF, and VX sulfur, irreversible;

(ii) choking agents, including Phosgene (CG) and Diphosgene (DP);

(iii) blood agents, including Hydrogen Cyanide (AC), Cyanogen Chloride (CK), and Arsine (SA); and

(iv) blister agents, including mustards (H, HD {sulfur mustard}, HN-1, HN-2, HN-3 {nitrogen mustard}), arsenicals, such as Lewisite (L), and urticants, including CX; and

(v) incapacitating agents, including BZ; or

(b) a munition or device specifically designed to cause death or other harm through the toxic properties of those chemical weapons defined in subparagraph (a) of paragraph (1) of subsection c. of this section, which would be released as a result of the employment of such munition or device; or

(c) any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (b) of paragraph (1) of subsection c. of this section.

(2) "Biological agent" means any microorganism, virus, bacteria, rickettsiae, fungi, toxin, infectious substance or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, bacteria, rickettsiae, fungi, infectious substance or biological product, capable of causing:

(a) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism; or

(b) deterioration of food, water, equipment, supplies, or material of any kind; or

(c) deleterious alteration of the environment.

"Biological agent" shall include, but not be limited to: viruses, including Crimean-Congo hemorrhagic fever virus, eastern equine encephalitis virus, ebola viruses, equine morbilli virus, lassa fever virus, Marburg virus, Rift Valley fever virus, South American hemorrhagic fever viruses (Junin, Machupo, Sabia, Flexal, Guanarito), tick-borne encephalitis complex viruses, variola major virus (smallpox virus), Venezuelan equine encephalitis virus, viruses causing hantavirus pulmonary syndrome, and yellow fever virus; bacteria including Bacillus anthracis (commonly known as anthrax), Brucella abortus, Brucella melitensis, Brucella suis, Burkholderia (pseudomonas) mallei, Burkholderia (pseudomonas) pseudomallei, Clostridium botulinum, Francisella tularensis, Yersinia pestis (commonly known as plague); rickettsiae, including Coxiella burnetii, Rickettsia prowazekii and Rickettsia rickettsii; Coccidioides immitis fungus; and toxins, including abrin, aflatoxins, Botulinum toxins, Clostridium perringes epsilon toxin, conotoxins, diacetoxyscirpenol, ricin, saxitoxin, shigatoxin, Staphylococcal enterotoxins, tetrodotoxins and T-2 toxin.

(3) "Toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of production, including:

(a) any poisonous substance or biological product that may be engineered as a result of biotechnology or produced by a living organism; or

(b) any poisonous isomer or biological product, homolog, or derivative of such a substance.

(4) "Vector" means a living organism or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology, capable of carrying a biological agent or toxin to a host.

(5) "Nuclear or radiological device" includes: (a) any nuclear device which is an explosive device designed to cause a nuclear yield; (b) a radiological dispersal device which is an explosive device used to spread radioactive material; or (c) a simple radiological dispersal device which is any act, container or any other device used to release radiological material for use as a weapon.

(6) "Delivery system" means any apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin or vector.

(7) "For use as a weapon" means all situations in which the circumstances indicate that the person intended to employ an item's ready capacity of lethal use or of inflicting serious bodily injury.

d. This section shall not apply to the development, production, acquisition, transfer, receipt, possession or use of any toxic chemical, biological agent, toxin or vector that is related to a lawful industrial, agricultural, research, medical, pharmaceutical, or other activity.

e. This section shall not apply to any device whose possession is otherwise lawful pursuant to N.J.S.2C:39-6.

f. Nothing contained in this section shall be deemed to preclude, if the evidence so warrants, an indictment and conviction for murder under the provisions of N.J.S.2C:11-3 or any other offense.

C.2C:38-4 Hindering apprehension or prosecution for terrorism.

4. Hindering Apprehension or Prosecution for Terrorism.

a. A person commits a crime if, with the purpose to hinder the detention, apprehension, investigation, prosecution, conviction or punishment of another for the crime of terrorism, he:

(1) Harbors or conceals the other;

(2) Provides or aids in providing a weapon, money, transportation, disguise or other means of avoiding discovery or apprehension or effecting escape;

(3) Suppresses, by way of concealment or destruction, any evidence of the crime, or tampers with a witness, informant, document or other source of information, regardless of its admissibility in evidence, which might aid in the discovery or apprehension of such person or in the lodging of a charge against him;

(4) Warns the other of impending discovery or apprehension, except that this paragraph does not apply to a warning given in connection with an effort to bring another into compliance with law;

(5) Prevents or obstructs, by means of force, intimidation or deception, anyone from performing an act which might aid in the discovery or apprehension of such person or in the lodging of a charge against him;

(6) Aids such person to protect or expeditiously profit from an advantage derived from such crime; or

(7) Gives false information to a law enforcement officer.

b. A violation of subsection a. of this section is a crime of the first degree if the crime of terrorism resulted in death. Otherwise, it is a crime of the second degree.

C.2C:38-5 Soliciting or providing material support or resources for terrorism; definitions.

5. Soliciting or Providing Material Support or Resources for Terrorism.

a. As used in this section:

"Charitable organization" means: (1) any person determined by the federal Internal Revenue Service to be a tax exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. s.501(c)(3); or

(2) any person who is, or holds himself out to be, established for any benevolent, philanthropic, humane, social welfare, public health, or other eleemosynary purpose, or for the benefit of law enforcement personnel, firefighters or other persons who protect the public safety, or any person who in any manner employs a charitable appeal as the basis of any solicitation, or an appeal which has a tendency to suggest there is a charitable purpose to any such solicitation.

"Charitable purpose" means: (1) any purpose described in section 501 (c)(3)of the Internal Revenue Code of 1986, 26 U.S.C. s.501(c)(3); or (2) any benevolent, philanthropic, humane, social welfare, public health, or other eleemosynary objective, or an objective that benefits law enforcement personnel, firefighters, or other persons who protect the public safety.

"Material support or resources" means: (1) services or assistance with knowledge or purpose that the services or assistance will be used in preparing for or carrying out an act of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2);

(2) currency, financial securities or other monetary instruments, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation and other physical assets or anything of value; or

(3) any chemical weapon, or any biological agent, toxin, vector or delivery system for use as a weapon, or any nuclear or radiological device, as defined in subsection c. of section 3 of P.L.2002, c.26 (C.2C:38-3).

"Professional fund raiser" means any person who for compensation performs for a charitable organization any service in connection with which contributions are or will be solicited in this State by that compensated person or by any compensated person he employs, procures, or engages, directly or indirectly to solicit contributions. A bona fide salaried officer, employee, or volunteer of a charitable organization shall not be deemed to be a professional fund raiser. No attorney, accountant or banker who advises a person to make a charitable contribution during the course of rendering professional services to that person shall be deemed, as a result of that advice, to be a professional fund raiser.

b. (1) It shall be unlawful for any person, charitable organization or professional fund raiser to solicit, transport or otherwise provide material support or resources with the purpose or knowledge that such material support

or resources will be used, in whole or in part, to aid, plan, prepare or carry out an act of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2) or with the purpose or knowledge that such material support or resources are to be given, in whole or in part, to a person or an organization that has committed or has the purpose to commit or has threatened to commit an act of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2).

(2) It shall be unlawful for any person, charitable organization or professional fund raiser to solicit, transport or otherwise provide material support or resources to or on behalf of a person or an organization that is designated as a foreign terrorist organization by the United States Secretary of State pursuant to 8 U.S.C. s.1189. It shall not be a defense to a prosecution for a violation of this section that the actor did not know that the person or organization is designated as a foreign terrorist organization.

c. A person who violates the provisions of subsection b. of this section shall be guilty of a crime of the first degree if the act of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2) results in death. Otherwise, it is a crime of the second degree.

6. Section 8 of P.L.1968, c.409 (C.2A:156A-8) is amended to read as follows:

C.2A:156A-8 Authorization for application for order to intercept communications.

8. The Attorney General, county prosecutor or a person designated to act for such an official and to perform his duties in and during his actual absence or disability, may authorize, in writing, an ex parte application to a judge designated to receive the same for an order authorizing the interception of a wire, or electronic or oral communication by the investigative or law enforcement officers or agency having responsibility for an investigation when such interception may provide evidence of the commission of the offense of murder, kidnapping, gambling, robbery, bribery, a violation of paragraph (1) or (2) of subsection b. of N.J.S.2C:12-1, a violation of section 3 of P.L.1997, c.353 (C.2C:21-4.3), a violation of N.J.S.2C:21-19 punishable by imprisonment for more than one year, a violation of P.L.1994, c.121 (C.2C:21-23 et seq.), a violation of sections 1 through 5 of P.L.2002, c.26 (C.2C:38-1 through C.2C:38-5), a violation of N.J.S.2C:33-3, a violation of N.J.S.2C:17-2, a violation of sections 1 through 3 of P.L.1983, c.480 (C.2C:17-7 through 2C:17-9), a violation of N.J.S.2C:12-3 (terroristic threats), violations of N.J.S.2C:35-3, N.J.S.2C:35-4 and N.J.S.2C:35-5, violations of sections 112 through 116, inclusive, of the "Casino Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116), arson, burglary, theft and related offenses punishable by imprisonment for more than one year, endangering the welfare of a child pursuant to N.J.S.2C:24-4, escape, forgery and fraudulent practices punishable

by imprisonment for more than one year, alteration of motor vehicle identification numbers, unlawful manufacture, purchase, use, or transfer of firearms, unlawful possession or use of destructive devices or explosives, weapons training for illegal activities pursuant to section 1 of P.L.1983, c.229 (C.2C:39-14), racketeering or a violation of subsection g. of N.J.S.2C:5-2, leader of organized crime, organized criminal activity directed toward the unlawful transportation, storage, disposal, discharge, release, abandonment or disposition of any harmful, hazardous, toxic, destructive, or polluting substance, or any conspiracy to commit any of the foregoing offenses or which may provide evidence aiding in the apprehension of the perpetrator or perpetrators of any of the foregoing offenses.

7. N.J.S.2C:1-6 is amended to read as follows:

Time limitations.

2C:1-6. Time Limitations. a. A prosecution for any offense set forth in N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:14-2 or sections 1 through 5 of P.L.2002, c.26 (C.2C:38-1 through C.2C:38-5) may be commenced at any time.

b. Except as otherwise provided in this section, prosecutions for other offenses are subject to the following periods of limitations:

(1) A prosecution for a crime must be commenced within five years after it is committed;

(2) A prosecution for a disorderly persons offense or petty disorderly persons offense must be commenced within one year after it is committed;

(3) A prosecution for any offense set forth in N.J.S.2C:27-2, N.J.S.2C:27-4, N.J.S.2C:27-6,N.J.S.2C:27-7,N.J.S.2C:29-4,N.J.S.2C:30-2,N.J.S.2C:30-3, or any attempt or conspiracy to commit such an offense, must be commenced within seven years after the commission of the offense;

(4) A prosecution for an offense set forth in N.J.S.2C:14-3 or N.J.S.2C:24-4, when the victim at the time of the offense is below the age of 18 years, must be commenced within five years of the victim's attaining the age of 18 or within two years of the discovery of the offense by the victim, whichever is later;

(5) A prosecution for any offense set forth in paragraph (2) of subsection a. of N.J.S.2C:17-2, section 9 of P.L.1970, c.39 (C.13:1E-9), section 20 of P.L.1989, c.34 (C.13:1E-48.20), section 19 of P.L.1954, c.212 (C.26:2C-19), section 10 of P.L.1984, c.173 (C.34:5A-41), or section 10 of P.L.1977, c.74 (C.58:10A-10) must be commenced within 10 years after the date of discovery of the offense by a local law enforcement agency, a county prosecutor, or the Department of Environmental Protection either directly by any of those entities or indirectly by notice given to any of those entities.

c. An offense is committed either when every element occurs or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed, except that when the prosecution is supported by physical evidence that identifies the actor by means of DNA testing or fingerprint analysis, time does not start to run until the State is in possession of both the physical evidence and the DNA or fingerprint evidence necessary to establish the identification of the actor by means of comparison to the physical evidence.

d. A prosecution is commenced for a crime when an indictment is found and for a nonindictable offense when a warrant or other process is issued, provided that such warrant or process is executed without unreasonable delay. Nothing contained in this section, however, shall be deemed to prohibit the downgrading of an offense at any time if the prosecution of the greater offense was commenced within the statute of limitations applicable to the greater offense.

e. The period of limitation does not run during any time when a prosecution against the accused for the same conduct is pending in this State.

f. The limitations in this section shall not apply to any person fleeing from justice.

g. Except as otherwise provided in this code, no civil action shall be brought pursuant to this code more than five years after such action accrues.

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

Conspiracy.

2C:5-2. Conspiracy. a. Definition of conspiracy. A person is guilty of conspiracy with another person or persons to commit a crime if with the purpose of promoting or facilitating its commission he:

(1) Agrees with such other person or persons that they or one or more of them will engage in conduct which constitutes such crime or an attempt or solicitation to commit such crime; or

(2) Agrees to aid such other person or persons in the planning or commission of such crime or of an attempt or solicitation to commit such crime.

b. Scope of conspiratorial relationship. If a person guilty of conspiracy, as defined by subsection a. of this section, knows that a person with whom he conspires to commit a crime has conspired with another person or persons to commit the same crime, he is guilty of conspiring with such other person or persons, whether or not he knows their identity, to commit such crime.

c. Conspiracy with multiple objectives. If a person conspires to commit a number of crimes, he is guilty of only one conspiracy so long as such multiple

crimes are the object of the same agreement or continuous conspiratorial relationship. It shall not be a defense to a charge under this section that one or more of the objectives of the conspiracy was not criminal; provided that one or more of its objectives or the means of promoting or facilitating an objective of the conspiracy is criminal.

d. Overt act. No person may be convicted of conspiracy to commit a crime other than a crime of the first or second degree or distribution or possession with intent to distribute a controlled dangerous substance or controlled substance analog as defined in chapter 35 of this title, unless an overt act in pursuance of such conspiracy is proved to have been done by him or by a person with whom he conspired.

e. Renunciation of purpose. It is an affirmative defense which the actor must prove by a preponderance of the evidence that he, after conspiring to commit a crime, informed the authority of the existence of the conspiracy and his participation therein, and thwarted or caused to be thwarted the commission of any offense in furtherance of the conspiracy, under circumstances manifesting a complete and voluntary renunciation of criminal purpose as defined in N.J.S.2C:5-1d.; provided, however, that an attempt as defined in N.J.S.2C:5-1 shall not be considered an offense for purposes of renunciation under this subsection.

f. Duration of conspiracy. For the purpose of N.J.S.2C:1-6d.:

(1) Conspiracy is a continuing course of conduct which terminates when the crime or crimes which are its object are committed or the agreement that they be committed is abandoned by the defendant and by those with whom he conspired; and

(2) Such abandonment is presumed with respect to a crime other than one of the first or second degree if neither the defendant nor anyone with whom he conspired does any overt act in pursuance of the conspiracy during the applicable period of limitation; and

(3) If an individual abandons the agreement, the conspiracy is terminated as to him only if and when he advises those with whom he conspired of his abandonment or he informs the law enforcement authorities of the existence of the conspiracy and of his participation therein.

g. Leader of organized crime. A person is a leader of organized crime if he purposefully conspires with others as an organizer, supervisor, manager or financier to commit a continuing series of crimes which constitute a pattern of racketeering activity under the provisions of N.J.S.2C:41-1, provided, however, that notwithstanding 2C:1-8a. (2), a conviction of leader of organized crime shall not merge with the conviction of any other crime which constitutes racketeering activity under 2C:41-1. As used in this section, "financier" means a person who provides money, credit or a thing of value with the purpose or knowledge that it will be used to finance or support the operations of a

conspiracy to commit a series of crimes which constitute a pattern of racketeering activity, including but not limited to the purchase of materials to be used in the commission of crimes, buying or renting housing or vehicles, purchasing transportation for members of the conspiracy or otherwise facilitating the commission of crimes which constitute a pattern of racketeering activity.

9. N.J.S.2C:5-4 is amended to read as follows:

Grading of criminal attempt and conspiracy; mitigation in case of lesser danger.

2C:5-4. Grading of Criminal Attempt and Conspiracy; Mitigation in Cases of Lesser Danger. a. Grading. Except as provided in subsections c. and d., an attempt or conspiracy to commit a crime of the first degree is a crime of the second degree; except that an attempt or conspiracy to commit murder or terrorism is a crime of the first degree, provided, however, that if the person attempted or conspired to murder five or more persons, the person shall be sentenced by the court to a term of 30 years, during which the person shall not be eligible for parole, or to a specific term of years which shall be between 30 years and life imprisonment, of which the person shall serve not less than 30 years before eligibility for parole. Otherwise an attempt is a crime of the same degree as the most serious crime which is attempted, and conspiracy is a crime of the same degree as the most serious crime which is the object of the conspiracy; provided that, leader of organized crime is a crime of the second degree. An attempt or conspiracy to commit an offense defined by a statute outside the code shall be graded as a crime of the same degree as the offense is graded pursuant to N.J.S.2C:1-4 and N.J.S.2C:43-1.

b. Mitigation. The court may impose sentence for a crime of a lower grade or degree if neither the particular conduct charged nor the defendant presents a public danger warranting the grading provided for such crime under subsection a. because:

(1) The criminal attempt or conspiracy charged is so inherently unlikely to result or culminate in the commission of a crime; or

(2) The conspiracy, as to the particular defendant charged, is so peripherally related to the main unlawful enterprise.

c. Notwithstanding the provisions of subsection a. of this section, conspiracy to commit a crime set forth in subsection a., b., or d. of N.J.S.2C:17-1 where the structure which was the target of the crime was a church, synagogue, temple or other place of public worship is a crime of the first degree.

d. Notwithstanding the provisions of subsection a. of this section, conspiracy to commit a crime as set forth in P.L.1994, c.121 (C.2C:21-23 et seq.) is a crime of the same degree as the most serious crime that was conspired to be committed.

10. N.J.S.2C:11-3 is amended to read as follows:

Murder.

2C:11-3. Murder.

a. Except as provided in N.J.S.2C:11-4, criminal homicide constitutes murder when:

(1) The actor purposely causes death or serious bodily injury resulting in death; or

(2) The actor knowingly causes death or serious bodily injury resulting in death; or

(3) It is committed when the actor, acting either alone or with one or more other persons, is engaged in the commission of, or an attempt to commit, or flight after committing or attempting to commit robbery, sexual assault, arson, burglary, kidnapping, carjacking, criminal escape or terrorism pursuant to section 2 of P.L.2002, c.26 (C.2C:38-2), and in the course of such crime or of immediate flight therefrom, any person causes the death of a person other than one of the participants; except that in any prosecution under this subsection, in which the defendant was not the only participant in the underlying crime, it is an affirmative defense that the defendant:

(a) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid the commission thereof; and

(b) Was not armed with a deadly weapon, or any instrument, article or substance readily capable of causing death or serious physical injury and of a sort not ordinarily carried in public places by law-abiding persons; and

(c) Had no reasonable ground to believe that any other participant was armed with such a weapon, instrument, article or substance; and

(d) Had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.

b. (1) Murder is a crime of the first degree but a person convicted of murder shall be sentenced, except as provided in subsection c. of this section, by the court to a term of 30 years, during which the person shall not be eligible for parole, or be sentenced to a specific term of years which shall be between 30 years and life imprisonment of which the person shall serve 30 years before being eligible for parole.

(2) If the victim was a law enforcement officer and was murdered while performing his official duties or was murdered because of his status as a law enforcement officer, the person convicted of that murder shall be sentenced, except as otherwise provided in subsection c. of this section, by the court to a term of life imprisonment, during which the person shall not be eligible for parole.

(3) A person convicted of murder and who is not sentenced to death under this section shall be sentenced to a term of life imprisonment without eligibility for parole if the murder was committed under all of the following circumstances:

(a) The victim is less than 14 years old; and

(b) The act is committed in the course of the commission, whether alone or with one or more persons, of a violation of N.J.S.2C:14-2 or N.J.S.2C:14-3.

(4) If the defendant was subject to sentencing pursuant to subsection c. and the jury or court found the existence of one or more aggravating factors, but that such factors did not outweigh the mitigating factors found to exist by the jury or court or the jury was unable to reach a unanimous verdict as to the weight of the factors, the defendant shall be sentenced by the court to a term of life imprisonment during which the defendant shall not be eligible for parole.

With respect to a sentence imposed pursuant to this subsection, the defendant shall not be entitled to a deduction of commutation and work credits from that sentence.

c. Any person convicted under subsection a.(1) or (2) who committed the homicidal act by his own conduct; or who as an accomplice procured the commission of the offense by payment or promise of payment of anything of pecuniary value; or who, as a leader of a narcotics trafficking network as defined in N.J.S.2C:35-3 and in furtherance of a conspiracy enumerated in N.J.S.2C:35-3, commanded or by threat or promise solicited the commission of the offense, or, if the murder occurred during the commission of the crime of terrorism, any person who committed the crime of terrorism, shall be sentenced as provided hereinafter:

(1) The court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or pursuant to the provisions of subsection b. of this section.

Where the defendant has been tried by a jury, the proceeding shall be conducted by the judge who presided at the trial and before the jury which determined the defendant's guilt, except that, for good cause, the court may discharge that jury and conduct the proceeding before a jury empaneled for the purpose of the proceeding. Where the defendant has entered a plea of guilty or has been tried without a jury, the proceeding shall be conducted by the judge who accepted the defendant's plea or who determined the defendant's guilt and before a jury empaneled for the purpose of the proceeding. On motion of the defendant and with consent of the prosecuting attorney the court may conduct a proceeding without a jury. Nothing in this subsection shall be construed to prevent the participation of an alternate juror in the sentencing proceeding if one of the jurors who rendered the guilty verdict becomes ill or is otherwise unable to proceed before or during the sentencing proceeding.

(2) (a) At the proceeding, the State shall have the burden of establishing beyond a reasonable doubt the existence of any aggravating factors set forth in paragraph (4) of this subsection. The defendant shall have the burden of producing evidence of the existence of any mitigating factors set forth in

paragraph (5) of this subsection but shall not have a burden with regard to the establishment of a mitigating factor.

(b) The admissibility of evidence offered by the State to establish any of the aggravating factors shall be governed by the rules governing the admission of evidence at criminal trials. The defendant may offer, without regard to the rules governing the admission of evidence at criminal trials, reliable evidence relevant to any of the mitigating factors. If the defendant produces evidence in mitigation which would not be admissible under the rules governing the admission of evidence at criminal trials, the State may rebut that evidence without regard to the rules governing the admission of evidence at criminal trials.

(c) Evidence admitted at the trial, which is relevant to the aggravating and mitigating factors set forth in paragraphs (4) and (5) of this subsection, shall be considered without the necessity of reintroducing that evidence at the sentencing proceeding; provided that the fact finder at the sentencing proceeding was present as either the fact finder or the judge at the trial.

(d) The State and the defendant shall be permitted to rebut any evidence presented by the other party at the sentencing proceeding and to present argument as to the adequacy of the evidence to establish the existence of any aggravating or mitigating factor.

(e) Prior to the commencement of the sentencing proceeding, or at such time as he has knowledge of the existence of an aggravating factor, the prosecuting attorney shall give notice to the defendant of the aggravating factors which he intends to prove in the proceeding.

(f) Evidence offered by the State with regard to the establishment of a prior homicide conviction pursuant to paragraph (4)(a) of this subsection may include the identity and age of the victim, the manner of death and the relationship, if any, of the victim to the defendant.

(3) The jury or, if there is no jury, the court shall return a special verdict setting forth in writing the existence or nonexistence of each of the aggravating and mitigating factors set forth in paragraphs (4) and (5) of this subsection. If any aggravating factor is found to exist, the verdict shall also state whether it outweighs beyond a reasonable doubt any one or more mitigating factors.

(a) If the jury or the court finds that any aggravating factors exist and that all of the aggravating factors outweigh beyond a reasonable doubt all of the mitigating factors, the court shall sentence the defendant to death.

(b) If the jury or the court finds that no aggravating factors exist, or that all of the aggravating factors which exist do not outweigh all of the mitigating factors, the court shall sentence the defendant pursuant to subsection b.

(c) If the jury is unable to reach a unanimous verdict, the court shall sentence the defendant pursuant to subsection b.

(4) The aggravating factors which may be found by the jury or the court are:

(a) The defendant has been convicted, at any time, of another murder. For purposes of this section, a conviction shall be deemed final when sentence is imposed and may be used as an aggravating factor regardless of whether it is on appeal;

(b) In the commission of the murder, the defendant purposely or knowingly created a grave risk of death to another person in addition to the victim;

(c) The murder was outrageously or wantonly vile, horrible or inhuman in that it involved torture, depravity of mind, or an aggravated assault to the victim;

(d) The defendant committed the murder as consideration for the receipt, or in expectation of the receipt of anything of pecuniary value;

(e) The defendant procured the commission of the murder by payment or promise of payment of anything of pecuniary value;

(f) The murder was committed for the purpose of escaping detection, apprehension, trial, punishment or confinement for another offense committed by the defendant or another;

(g) The murder was committed while the defendant was engaged in the commission of, or an attempt to commit, or flight after committing or attempting to commit murder, robbery, sexual assault, arson, burglary, kidnapping, carjacking or the crime of contempt in violation of N.J.S.2C:29-9b.;

(h) The defendant murdered a public servant, as defined in N.J.S.2C:27-1, while the victim was engaged in the performance of his official duties, or because of the victim's status as a public servant;

(i) The defendant: (i) as a leader of a narcotics trafficking network as defined in N.J.S.2C:35-3 and in furtherance of a conspiracy enumerated in N.J.S.2C:35-3, committed, commanded or by threat or promise solicited the commission of the murder or (ii) committed the murder at the direction of a leader of a narcotics trafficking network as defined in N.J.S.2C:35-3 in furtherance of a conspiracy enumerated in N.J.S.2C:35-3;

(j) The homicidal act that the defendant committed or procured was in violation of paragraph (1) of subsection a. of N.J.S.2C:17-2;

(k) The victim was less than 14 years old; or

(l) The murder was committed during the commission of, or an attempt to commit, or flight after committing or attempting to commit, terrorism pursuant to section 2 of P.L.2002, c.26 (C.2C:38-2).

(5) The mitigating factors which may be found by the jury or the court are:

(a) The defendant was under the influence of extreme mental or emotional disturbance insufficient to constitute a defense to prosecution;

(b) The victim solicited, participated in or consented to the conduct which resulted in his death;

(c) The age of the defendant at the time of the murder;

(d) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law was significantly impaired as the result of mental disease or defect or intoxication, but not to a degree sufficient to constitute a defense to prosecution;

(e) The defendant was under unusual and substantial duress insufficient to constitute a defense to prosecution;

(f) The defendant has no significant history of prior criminal activity;

(g) The defendant rendered substantial assistance to the State in the prosecution of another person for the crime of murder; or

(h) Any other factor which is relevant to the defendant's character or record or to the circumstances of the offense.

(6) When a defendant at a sentencing proceeding presents evidence of the defendant's character or record pursuant to subparagraph (h) of paragraph (5) of this subsection, the State may present evidence of the murder victim's character and background and of the impact of the murder on the victim's survivors. If the jury finds that the State has proven at least one aggravating factor beyond a reasonable doubt and the jury finds the existence of a mitigating factor pursuant to subparagraph (h) of paragraph (5) of this subsection, the jury may consider the victim and survivor evidence presented by the State pursuant to this paragraph in determining the appropriate weight to give mitigating evidence presented pursuant to subparagraph (h) of paragraph (5) of this subsection. As used in this paragraph "victim and survivor evidence" may include the display of a photograph of the victim taken before the homicide.

d. The sentencing proceeding set forth in subsection c. of this section shall not be waived by the prosecuting attorney.

e. Every judgment of conviction which results in a sentence of death under this section shall be appealed, pursuant to the Rules of Court, to the Supreme Court. Upon the request of the defendant, the Supreme Court shall also determine whether the sentence is disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant. Proportionality review under this section shall be limited to a comparison of similar cases in which a sentence of death has been imposed under subsection c. of this section. In any instance in which the defendant fails, or refuses to appeal, the appeal shall be taken by the Office of the Public Defender or other counsel appointed by the Supreme Court for that purpose.

f. Prior to the jury's sentencing deliberations, the trial court shall inform the jury of the sentences which may be imposed pursuant to subsection b. of this section on the defendant if the defendant is not sentenced to death.

The jury shall also be informed that a failure to reach a unanimous verdict shall result in sentencing by the court pursuant to subsection b.

g. A juvenile who has been tried as an adult and convicted of murder shall not be sentenced pursuant to the provisions of subsection c. but shall be sentenced pursuant to the provisions of subsection b. of this section.

h. In a sentencing proceeding conducted pursuant to this section, no evidence shall be admissible concerning the method or manner of execution which would be imposed on a defendant sentenced to death.

i. For purposes of this section the term "homicidal act" shall mean conduct that causes death or serious bodily injury resulting in death.

j. In a sentencing proceeding conducted pursuant to this section, the display of a photograph of the victim taken before the homicide shall be permitted.

11. N.J.S.2C:12-3 is amended to read as follows:

Terroristic threats.

2C:12-3. Terroristic threats.

a. A person is guilty of a crime of the third degree if he threatens to commit any crime of violence with the purpose to terrorize another or to cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious public inconvenience, or in reckless disregard of the risk of causing such terror or inconvenience. A violation of this subsection is a crime of the second degree if it occurs during a declared period of national, State or county emergency. The actor shall be strictly liable upon proof that the crime occurred, in fact, during a declared period of national, State or county emergency. It shall not be a defense that the actor did not know that there was a declared period of emergency at the time the crime occurred.

b. A person is guilty of a crime of the third degree if he threatens to kill another with the purpose to put him in imminent fear of death under circumstances reasonably causing the victim to believe the immediacy of the threat and the likelihood that it will be carried out.

12. N.J.S.2C:17-2 is amended to read as follows:

Causing or risking widespread injury or damage.

2C:17-2. Causing or Risking Widespread Injury or Damage.

a. (1) A person who, purposely or knowingly, unlawfully causes an explosion, flood, avalanche, collapse of a building, release or abandonment of poison gas, radioactive material or any other harmful or destructive substance commits a crime of the second degree. A person who, purposely or knowingly, unlawfully causes widespread injury or damage in any manner commits a crime of the second degree.

(2) A person who, purposely or knowingly, unlawfully causes a hazardous discharge required to be reported pursuant to the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any rules and regulations adopted pursuant thereto, or who, purposely or knowingly, unlawfully causes a release or abandonment of hazardous waste as defined in section 1 of P.L.1976, c.99 (C.13:1E-38) or a toxic pollutant as defined in section 3 of P.L.1977, c.74 (C.58:10A-3) commits a crime of the second degree. Any person who recklessly violates the provisions of this paragraph is guilty of a crime of the third degree.

b. A person who recklessly causes widespread injury or damage is guilty of a crime of the third degree.

c. A person who recklessly creates a risk of widespread injury or damage commits a crime of the fourth degree, even if no such injury or damage occurs. A violation of this subsection is a crime of the third degree if the risk of widespread injury or damage results from the reckless handling or storage of hazardous materials. A violation of this subsection is a crime of the second degree if the handling or storage of hazardous materials violated any law, rule or regulation intended to protect the public health and safety.

d. A person who knowingly or recklessly fails to take reasonable measures to prevent or mitigate widespread injury or damage commits a crime of the fourth degree, if:

(1) He knows that he is under an official, contractual or other legal duty to take such measures; or

(2) He did or assented to the act causing or threatening the injury or damage.

e. For purposes of this section, widespread injury or damage means serious bodily injury to five or more people or damage to five or more habitations or to a building which would normally have contained 25 or more persons at the time of the offense.

13. Section 1 of P.L.1983, c. 480 (C.2C:17-7) is amended to read as follows:

C.2C:17-7 Tampering, damage involving nuclear electric generating plant; crime of first degree.

1. The provisions of N.J.S.2C:17-2 to the contrary notwithstanding, any person who purposely or knowingly damages or tampers with any machinery, device, or equipment at a nuclear electric generating plant with the purpose to cause or threaten to cause an unauthorized release of radiation commits a crime of the first degree, and may be sentenced to an extended term of imprisonment as set forth in paragraph (2) of subsection a. of N.J.S.2C:43-7, notwithstanding the provisions of N.J.S.2C:44-3; provided, however, that if the defendant is not sentenced to an extended term of imprisonment, the

defendant shall be sentenced to an ordinary term of imprisonment between 15 and 30 years.

14. Section 3 of P.L.1994, c.121 (C.2C:21-25) is amended to read as follows:

C.2C:21-25 Money laundering, illegal investment, crime.

3. A person is guilty of a crime if the person:

a. transports or possesses property known or which a reasonable person would believe to be derived from criminal activity; or

b. engages in a transaction involving property known or which a reasonable person would believe to be derived from criminal activity

(1) with the intent to facilitate or promote the criminal activity; or

(2) knowing that the transaction is designed in whole or in part:

(a) to conceal or disguise the nature, location, source, ownership or control of the property derived from criminal activity; or

(b) to avoid a transaction reporting requirement under the laws of this State or any other state or of the United States; or

c. directs, organizes, finances, plans, manages, supervises, or controls the transportation of or transactions in property known or which a reasonable person would believe to be derived from criminal activity.

d. For the purposes of this act, property is known to be derived from criminal activity if the person knows that the property involved represents proceeds from some form, though not necessarily which form, of criminal activity. Among the factors that the finder of fact may consider in determining that a transaction has been designed to avoid a transaction reporting requirement shall be whether the person, acting alone or with others, conducted one or more transactions in currency, in any amount, at one or more financial institutions, on one or more days, in any manner. The phrase "in any manner" includes the breaking down of a single sum of currency exceeding the transaction reporting requirement into smaller sums, including sums at or below the transaction reporting requirement, or the conduct of a transaction, or series of currency transactions, including transactions at or below the transaction reporting requirement. The transaction or transactions need not exceed the transaction reporting threshold at any single financial institution on any single day in order to demonstrate a violation of subparagraph (b) of paragraph (2) of subsection b. of this section.

e. A person is guilty of a crime if, with the purpose to evade a transaction reporting requirement of this State or of 31 U.S.C. s.5311 et seq. or 31 C.F.R. s.103 et seq., or any rules or regulations adopted under those chapters and sections, he:

(1) causes or attempts to cause a financial institution, including a foreign or domestic money transmitter or an authorized delegate thereof, casino, check casher, person engaged in a trade or business or any other individual or entity required by State or federal law to file a report regarding currency transactions or suspicious transactions to fail to file a report; or

(2) causes or attempts to cause a financial institution, including a foreign or domestic money transmitter or an authorized delegate thereof, casino, check casher, person engaged in a trade or business or any other individual or entity required by State or federal law to file a report regarding currency transactions or suspicious transactions to file a report that contains a material omission or misstatement of fact; or

(3) structures or assists in structuring, or attempts to structure or assist in structuring any transaction with one or more financial institutions, including foreign or domestic money transmitters or an authorized delegate thereof, casinos, check cashers, persons engaged in a trade or business or any other individuals or entities required by State or federal law to file a report regarding currency transactions or suspicious transactions. "Structure" or "structuring" means that a person, acting alone, or in conjunction with, or on behalf of, other persons, conducts or attempts to conduct one or more transactions in currency, in any amount, at one or more financial institutions, on one or more days, in any manner, for the purpose of evading currency transaction reporting requirements provided by State or federal law. "In any manner" includes, but is not limited to, the breaking down into smaller sums of a single sum of currency meeting or exceeding that which is necessary to trigger a currency reporting requirement or the conduct of a transaction, or series of currency transactions, at or below the reporting requirement. The transaction or transactions need not exceed the reporting threshold at any single financial institution on any single day in order to meet the definition of "structure" or "structuring" provided in this paragraph.

15. Section 5 of P.L.1994, c.121 (C.2C:21-27) is amended to read as follows:

C.2C:21-27 Degrees of offense; penalties; nonmerger.

5. a. The offense defined in subsections a. b. and c. of section 3 of P.L.1994, c.121 (C.2C:21-25) constitutes a crime of the first degree if the amount involved is $500,000.00 or more. If the amount involved is at least $75,000.00 but less than $500,000.00 the offense constitutes a crime of the second degree; otherwise, the offense constitutes a crime of the third degree. The offense defined in subsection e. of section 3 of P.L.1994, c.121 (C.2C:21-25) constitutes a crime of the third degree. Notwithstanding the provisions of N.J.S.2C:43-3, the court may also impose a fine up to $500,000.00. The

amount involved in a prosecution for violation of this section shall be determined by the trier of fact. Amounts involved in transactions conducted pursuant to one scheme or course of conduct may be aggregated in determining the degree of the offense. Notwithstanding the provisions of paragraph (1) of subsection a. of N.J.S.2C:43-6, a person convicted of a crime of the first degree pursuant to the provisions of this subsection shall be sentenced to a term of imprisonment that shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, during which time the defendant shall not be eligible for parole.

b. In addition to any other dispositions authorized by this Title, upon conviction of a violation of this section, the court may sentence the defendant to pay an amount as calculated pursuant to subsection a. of section 6 of P.L.1994, c.121 (C.2C:21-28).

c. Notwithstanding N.J.S.2C:1-8 or any other provision of law, a conviction of an offense defined in this section shall not merge with the conviction of any other offense constituting the criminal activity involved or from which the property was derived, and a conviction of any offense constituting the criminal activity involved or from which the property was derived shall not merge with a conviction of an offense defined in section 3 of P.L.1994, c.121 (C.2C:21-25), and the sentence imposed upon a conviction of any offense defined in section 3 of P.L.1994, c.121 (C.2C:21-25) shall be ordered to be served consecutively to that imposed for a conviction of any offense constituting the criminal activity involved or from which the property was derived. Nothing in P.L.1994, c.121 (C.2C:21-23 et seq.) shall be construed in any way to preclude or limit a prosecution or conviction for any other offense defined in this Title or any other criminal law of this State.

16. N.J.S.2C:33-3 is amended to read as follows:

False public alarms.

2C:33-3. False Public Alarms. a. Except as provided in subsection b. or c. of this section, a person is guilty of a crime of the third degree if he initiates or circulates a report or warning of an impending fire, explosion, bombing, crime, catastrophe or emergency knowing that the report or warning is false or baseless and that it is likely to cause evacuation of a building, place of assembly, or facility of public transport, or to cause public inconvenience or alarm. A person is guilty of a crime of the third degree if he knowingly causes such false alarm to be transmitted to or within any organization, official or volunteer, for dealing with emergencies involving danger to life or property.

b. A person is guilty of a crime of the second degree if in addition to the report or warning initiated, circulated or transmitted under subsection a.

of this section, he places or causes to be placed any false or facsimile bomb in a building, place of assembly, or facility of public transport or in a place likely to cause public inconvenience or alarm. A violation of this subsection is a crime of the first degree if it occurs during a declared period of national, State or county emergency.

c. A person is guilty of a crime of the second degree if a violation of subsection a. of this section in fact results in serious bodily injury to another person or occurs during a declared period of national, State or county emergency. A person is guilty of a crime of the first degree if a violation of subsection a. of this section in fact results in death.

d. For the purposes of this section, "in fact" means that strict liability is imposed. It shall not be a defense that the death or serious bodily injury was not a foreseeable consequence of the person's acts or that the death or serious bodily injury was caused by the actions of another person or by circumstances beyond the control of the actor. The actor shall be strictly liable upon proof that the crime occurred during a declared period of national, State or county emergency. It shall not be a defense that the actor did not know that there was a declared period of emergency at the time the crime occurred.

e. A person is guilty of a crime of the fourth degree if the person knowingly places a call to a 9-1-1 emergency telephone system without purpose of reporting the need for 9-1-1 service.

17. Section 3 of P.L.1999, c.195 (C.2C:33-3.2) is amended to read as follows:

C.2C:33-3.2 Fines for violation of N.J.S.2C:33-3.

3. Any person who violates the provisions of N.J.S.2C:33-3 shall be liable for a civil penalty of not less than $2,000 or actual costs incurred by or resulting from the law enforcement and emergency services response to the false alarm, whichever is higher. Any monies collected pursuant to this section shall be made payable to the municipality or other entity providing the law enforcement or emergency services response to the false alarm. "Emergency services" includes, but is not limited to, paid or volunteer fire fighters, paramedics, members of an ambulance team, rescue squad or mobile intensive care unit.

18. N.J.S.2C:41-1 is amended to read as follows:

Definitions.

2C:41-1. Definitions.

For purposes of this section and N.J.S.2C:41-2 through N.J.S.2C:41-6:

a. "Racketeering activity" means (1) any of the following crimes which are crimes under the laws of New Jersey or are equivalent crimes under the laws of any other jurisdiction:

(a) murder

(b) kidnapping

(c) gambling

(d) promoting prostitution

(e) obscenity

(f) robbery

(g) bribery

(h) extortion

(i) criminal usury

(j) violations of Title 33 of the Revised Statutes

(k) violations of Title 54A of the New Jersey Statutes and Title 54 of the Revised Statutes

(l) arson

(m) burglary

(n) theft and all crimes defined in chapter 20 of Title 2C of the New Jersey Statutes

(o) forgery and fraudulent practices and all crimes defined in chapter 21 of Title 2C of the New Jersey Statutes

(p) fraud in the offering, sale or purchase of securities

(q) alteration of motor vehicle identification numbers

(r) unlawful manufacture, purchase, use or transfer of firearms

(s) unlawful possession or use of destructive devices or explosives

(t) violation of sections 112 through 116 inclusive of the "Casino Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116)

(u) violation of N.J.S.2C:35-4, N.J.S.2C:35-5 or N.J.S.2C:35-6 and all crimes involving illegal distribution of a controlled dangerous substance or controlled substance analog, except possession of less than one ounce of marijuana

(v) violation of subsection b. of N.J.S.2C:24-4 except for subparagraph (b) of paragraph (5) of subsection b.

(w) violation of section 1 of P.L.1995, c.405 (C.2C:39-16), leader of firearms trafficking network

(x) violation of section 1 of P.L.1983, c.229 (C.2C:39-14), weapons training for illegal activities

(y) violation of section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism.

(2) any conduct defined as "racketeering activity" under Title 18, U.S.C.s.1961(1)(A), (B) and (D).

b. "Person" includes any individual or entity or enterprise as defined herein holding or capable of holding a legal or beneficial interest in property.

c. "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business or charitable trust, association, or other legal entity, any union or group of individuals associated in fact although not a legal entity, and it includes illicit as well as licit enterprises and governmental as well as other entities.

d. "Pattern of racketeering activity" requires

(1) Engaging in at least two incidents of racketeering conduct one of which shall have occurred after the effective date of this act and the last of which shall have occurred within 10 years (excluding any period of imprisonment) after a prior incident of racketeering activity; and

(2) A showing that the incidents of racketeering activity embrace criminal conduct that has either the same or similar purposes, results, participants or victims or methods of commission or are otherwise interrelated by distinguishing characteristics and are not isolated incidents.

e. "Unlawful debt" means a debt

(1) Which was incurred or contracted in gambling activity which was in violation of the law of the United States, a state or political subdivision thereof; or

(2) Which is unenforceable under state or federal law in whole or in part as to principal or interest because of the laws relating to usury.

f. "Documentary material" includes any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic or recording or video tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into useable form or other tangible item.

g. "Attorney General" includes the Attorney General of New Jersey, his assistants and deputies. The term shall also include a county prosecutor or his designated assistant prosecutor if a county prosecutor is expressly authorized in writing by the Attorney General to carry out the powers conferred on the Attorney General by this chapter.

h. "Trade or commerce" shall include all economic activity involving or relating to any commodity or service.

19. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to read as follows:

C.2C:43-7.2 Mandatory service of 85% of sentence for certain offenses.

2. a. A court imposing a sentence of incarceration for a crime of the first or second degree enumerated in subsection d. of this section shall fix a minimum term of 85% of the sentence imposed, during which the defendant shall not be eligible for parole.

b. The minimum term required by subsection a. of this section shall be fixed as a part of every sentence of incarceration imposed upon every conviction of a crime enumerated in subsection d. of this section, whether the sentence of incarceration is determined pursuant to N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3 or any other provision of law, and shall be calculated based upon the sentence of incarceration actually imposed. The provisions of subsection a. of this section shall not be construed or applied to reduce the time that must be served before eligibility for parole by an inmate sentenced to a mandatory minimum period of incarceration. Solely for the purpose of calculating the minimum term of parole ineligibility pursuant to subsection a. of this section, a sentence of life imprisonment shall be deemed to be 75 years.

c. Notwithstanding any other provision of law to the contrary and in addition to any other sentence imposed, a court imposing a minimum period of parole ineligibility of 85 percent of the sentence pursuant to this section shall also impose a five-year term of parole supervision if the defendant is being sentenced for a crime of the first degree, or a three-year term of parole supervision if the defendant is being sentenced for a crime of the second degree. The term of parole supervision shall commence upon the completion of the sentence of incarceration imposed by the court pursuant to subsection a. of this section unless the defendant is serving a sentence of incarceration for another crime at the time he completes the sentence of incarceration imposed pursuant to subsection a., in which case the term of parole supervision shall commence immediately upon the defendant's release from incarceration. During the term of parole supervision the defendant shall remain in release status in the community in the legal custody of the Commissioner of the Department of Corrections and shall be supervised by the State Parole Board as if on parole and shall be subject to the provisions and conditions of section 3 of P.L.1997, c.117 (C.30:4-123.51b).

d. The court shall impose sentence pursuant to subsection a. of this section upon conviction of the following crimes or an attempt or conspiracy to commit any of these crimes:

(1) N.J.S.2C:11-3, murder;

(2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;

(3) N.J.S.2C:11-5, vehicular homicide;

(4) subsection b. of N.J.S.2C:12-1, aggravated assault;

(5) subsection b. of N.J.S.2C:12-11, disarming a law enforcement officer;

(6) N.J.S.2C:13-1, kidnapping;

(7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;

(8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of subsection c. of N.J.S.2C:14-2, sexual assault;

(9) N.J.S.2C:15-1, robbery;

(10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;
(11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated arson;
(12) N.J.S.2C:18-2, burglary;
(13) subsection a. of N.J.S.2C:20-5, extortion;
(14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1), booby traps in manufacturing or distribution facilities; or
(15) N.J.S.2C:35-9, strict liability for drug induced deaths.
(16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism; or
(17) section 3 of P.L.2002, c.26 (C.2C:38-3), producing or possessing chemical weapons, biological agents or nuclear or radiological devices.
e. (Deleted by amendment, P.L.2001, c.129).

20. This act shall take effect immediately.

Approved June 18, 2002.

CHAPTER 27

AN ACT requiring certain reports to be submitted to the New Jersey Commission on Higher Education and supplementing chapter 62 of Title 18A of the New Jersey Statutes.

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

1. a. Each public institution of higher education as defined in N.J.S.18A:62-1 and the majority representative of the employees of that public institution shall submit a report, within 90 days of the effective date of this act, to the New Jersey Commission on Higher Education on part-time faculty, part-time lecturers and adjunct faculty which contains information in a table format for the most recent Fall and Spring semesters under the following column headings: Individual (assign each individual a number, do not use name); Title; Semester Course Load; Total Semester Compensation; and Benefits.
b. The New Jersey Commission on Higher Education shall, within 30 days of receipt of the information required pursuant to subsection a. of this section, review the information and issue a report to the Senate and Assembly Education Committees summarizing the data and including a recommendation concerning the establishment of minimum salary and benefit provisions for part-time faculty, part-time lecturers and adjunct faculty at public institutions of higher education in the State.
c. Upon receipt of the report required pursuant to subsection b. of this section, the Senate and Assembly Education Committees shall hold a joint

public hearing on the data and recommendations included in that report and any other related matters.

2. This act shall take effect immediately and shall expire 30 days after the submission of the report to the Legislature.

Approved June 24, 2002.

CHAPTER 28

AN ACT concerning penalties for unauthorized operation of a motor vehicle under certain circumstances and amending R.S.39:3-40.

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

1. R.S.39:3-40 is amended to read as follows:

Penalties for driving while license suspended, etc.

39:3-40. No person to whom a driver's license has been refused or whose driver's license or reciprocity privilege has been suspended or revoked, or who has been prohibited from obtaining a driver's license, shall personally operate a motor vehicle during the period of refusal, suspension, revocation, or prohibition.

No person whose motor vehicle registration has been revoked shall operate or permit the operation of such motor vehicle during the period of such revocation.

Except as provided in subsections i. and j. of this section, a person violating this section shall be subject to the following penalties:

a. Upon conviction for a first offense, a fine of $500.00 and, if that offense involves the operation of a motor vehicle during a period when the violator's driver's license is suspended for a violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), revocation of the violator's motor vehicle registration privilege in accordance with the provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5);

b. Upon conviction for a second offense, a fine of $750.00, imprisonment in the county jail for not more than five days and, if the second offense involves the operation of a motor vehicle during a period when the violator's driver's license is suspended and that second offense occurs within five years of a conviction for that same offense, revocation of the violator's motor vehicle registration privilege in accordance with the provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5);

c. Upon conviction for a third offense or subsequent offense, a fine of $1,000.00, imprisonment in the county jail for 10 days. If the third or a subsequent offense involves the operation of a motor vehicle during a period when the violator's driver's license is suspended and the third or subsequent offense occurs within five years of a conviction for the same offense, revocation of the violator's motor vehicle registration privilege shall be revoked in accordance with the provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5);

d. Upon conviction, the court shall impose or extend a period of suspension not to exceed six months;

e. Upon conviction, the court shall impose a period of imprisonment for not less than 45 days or more than 180 days, if while operating a vehicle in violation of this section a person is involved in an accident resulting in bodily injury to another person;

f. (1) Notwithstanding subsections a. through e., any person violating this section while under suspension issued pursuant to section 2 of P.L.1972, c.197 (C.39:6B-2), upon conviction, shall be fined $500.00, shall have his license to operate a motor vehicle suspended for an additional period of not less than one year nor more than two years, and may be imprisoned in the county jail for not more than 90 days.

(2) Notwithstanding the provisions of subsections a. through e. of this section and paragraph (1) of this subsection, any person violating this section under suspension issued pursuant to R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a) or P.L.1982, c.85 (C.39:5-30a et seq.), shall be fined $500, shall have his license to operate a motor vehicle suspended for an additional period of not less than one year or more than two years, and shall be imprisoned in the county jail for not less than 10 days or more than 90 days.

(3) Notwithstanding the provisions of subsections a. through e. of this section and paragraphs (1) and (2) of this subsection, a person shall have his license to operate a motor vehicle suspended for an additional period of not less than one year or more than two years, which period shall commence upon the completion of any prison sentence imposed upon that person, shall be fined $500 and shall be imprisoned for a period of 60 to 90 days for a first offense, imprisoned for a period of 120 to 150 days for a second offense, and imprisoned for 180 days for a third or subsequent offense, for operating a motor vehicle while in violation of paragraph (2) of this subsection 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 not be relevant to the imposition of sentence pursuant to 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 relevant to the imposition of sentence 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;

g. In addition to the other applicable penalties provided under this section, a person violating this section whose license has been suspended pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35) or the regulations adopted thereunder, shall be fined $3,000. The court shall waive the fine upon proof that the person has paid the total surcharge imposed pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35) or the regulations adopted thereunder. Notwithstanding the provisions of R.S.39:5-41, the fine imposed pursuant to this subsection shall be collected by the Division of Motor Vehicles pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35), and distributed as provided in that section, and the court shall file a copy of the judgment of conviction with the director and with the Clerk of the Superior Court who shall enter the following information upon the record of docketed judgments: the name of the person as judgment debtor; the Division of Motor Vehicles as judgment creditor; the amount of the fine; and the date of the order. These entries shall have the same force and effect as any civil judgment docketed in the Superior Court;

h. A person who owns or leases a motor vehicle and permits another to operate the motor vehicle commits a violation and is subject to suspension of his license to operate a motor vehicle and to revocation of registration pursuant to sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5) if the person:

(1) Knows that the operator's license to operate a motor vehicle has been suspended for a violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a); or

(2) Knows that the operator's license to operate a motor vehicle is suspended and that the operator has been convicted, within the past five years, of operating a vehicle while the person's license was suspended or revoked;

i. If the violator's driver's license to operate a motor vehicle has been suspended pursuant to section 9 of P.L.1985, c.14 (C.39:4-139.10), the violator shall be subject to a maximum fine of $100 upon proof that the violator has satisfied the parking ticket or tickets that were the subject of the Order of Suspension;

j. If a person is convicted for a second or subsequent violation of this section and the second or subsequent offense involves a motor vehicle moving violation, the term of imprisonment for the second or subsequent offense shall be 10 days longer than the term of imprisonment imposed for the previous offense.

For the purposes of this subsection, a "motor vehicle moving violation" means any violation of the motor vehicle laws of this State for which motor vehicle points are assessed by the Director of the Division of Motor Vehicles pursuant to section 1 of P.L.1982, c.43 (C.39:5-30.5).

2. This act shall take effect immediately.

Approved June 24, 2002.

CHAPTER 29

AN ACT redirecting $125 million in payroll taxes from the unemployment compensation fund to the Heath Care Subsidy Fund and amending R.S.43:21-7 and P.L.1992, c.160.

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

1. R.S.43:21-7 is amended to read as follows:

Contributions.

43:21-7. Contributions. Employers other than governmental entities, whose benefit financing provisions are set forth in section 4 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations liable for payment in lieu of contributions on the basis set forth in section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the unemployment compensation fund, contributions as set forth in subsections (a), (b) and (c) hereof, and the provisions of subsections (d) and (e) shall be applicable to all employers, consistent with the provisions of the "unemployment compensation law" and the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).

(a) Payment.

(1) Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this chapter (R.S.43:21-1 et

seq.), with respect to having individuals in his employ during that calendar year, at the rates and on the basis hereinafter set forth. Such contributions shall become due and be paid by each employer to the controller for the fund, in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to $0.005 or more, in which case it shall be increased to $0.01.

(b) Rate of contributions. Each employer shall pay the following contributions:

(1) For the calendar year 1947, and each calendar year thereafter, 2 7/10% of wages paid by him during each such calendar year, except as otherwise prescribed by subsection (c) of this section.

(2) The "wages" of any individual, with respect to any one employer, as the term is used in this subsection (b) and in subsections (c), (d) and (e) of this section 7, shall include the first $4,800.00 paid during calendar year 1975, for services performed either within or without this State; provided that no contribution shall be required by this State with respect to services performed in another state if such other state imposes contribution liability with respect thereto. If an employer (hereinafter referred to as a successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessors, then, for the purpose of determining whether the successor employer has paid wages with respect to employment equal to the first $4,800.00 paid during calendar year 1975, any wages paid to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer.

(3) For calendar years beginning on and after January 1, 1976, the "wages" of any individual, as defined in the preceding paragraph (2) of this subsection (b), shall be established and promulgated by the Commissioner of Labor on or before September 1 of the preceding year and shall be, 28 times the Statewide average weekly remuneration paid to workers by employers, as determined under R.S.43:21-3(c), raised to the next higher multiple of $100.00 if not already a multiple thereof, provided that if the amount of wages so determined for a calendar year is less than the amount similarly determined for the preceding year, the greater amount will be used; provided, further, that if the amount of such wages so determined does not equal or exceed the amount of wages as defined in subsection (b) of section 3306 of the Federal Unemployment

Tax Act, Chapter 23 of the Internal Revenue Code of 1986 (26 U.S.C.s.3306(b)), the wages as determined in this paragraph in any calendar year shall be raised to equal the amount established under the Federal Unemployment Tax Act for that calendar year.

(c) Future rates based on benefit experience.

(1) A separate account for each employer shall be maintained and this shall be credited with all the contributions which he has paid on his own behalf on or before January 31 of any calendar year with respect to employment occurring in the preceding calendar year; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday, an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this chapter (R.S.43:21-1 et seq.) shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him into the fund either on his own behalf or on behalf of such individuals. Benefits paid with respect to benefit years commencing on and after January 1, 1953, to any individual on or before December 31 of any calendar year with respect to unemployment in such calendar year and in preceding calendar years shall be charged against the account or accounts of the employer or employers in whose employment such individual established base weeks constituting the basis of such benefits, except that, with respect to benefit years commencing after January 4, 1998, an employer's account shall not be charged for benefits paid to a claimant if the claimant's employment by that employer was ended in any way which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of R.S.43:21-5, would have disqualified the claimant for benefits if the claimant had applied for benefits at the time when that employment ended. Benefits paid under a given benefit determination shall be charged against the account of the employer to whom such determination relates. When each benefit payment is made, either a copy of the benefit check or other form of notification shall be promptly sent to the employer against whose account the benefits are to be charged. Such copy or notification shall identify the employer against whose account the amount of such payment is being charged, shall show at least the name and social security account number of the claimant and shall specify the period of unemployment to which said check applies. If the total amount of benefits paid to a claimant and charged to the account of the appropriate employer exceeds 50% of the total base year, base week wages paid to the claimant by that employer, then such employer shall have canceled from his account such excess benefit charges as specified above.

Each employer shall be furnished an annual summary statement of benefits charged to his account.

(2) Regulations may be prescribed for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(3) No employer's rate shall be lower than 5.4% unless assignment of such lower rate is consistent with the conditions applicable to additional credit allowance for such year under section 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C.s.3303(a)(1)), any other provision of this section to the contrary notwithstanding.

(4) Employer Reserve Ratio. (A) Each employer's rate shall be 2 8/10%, except as otherwise provided in the following provisions. No employer's rate for the 12 months commencing July 1 of any calendar year shall be other than 2 8/10%, unless as of the preceding January 31 such employer shall have paid contributions with respect to wages paid in each of the three calendar years immediately preceding such year, in which case such employer's rate for the 12 months commencing July 1 of any calendar year shall be determined on the basis of his record up to the beginning of such calendar year. If, at the beginning of such calendar year, the total of all his contributions, paid on his own behalf, for all past years exceeds the total benefits charged to his account for all such years, his contribution rate shall be:

(1) 2 5/10%, if such excess equals or exceeds 4%, but less than 5%, of his average annual payroll (as defined in paragraph (2), subsection (a) of R.S.43:21-19);

(2) 2 2/10%, if such excess equals or exceeds 5%, but is less than 6%, of his average annual payroll;

(3) 1 9/10%, if such excess equals or exceeds 6%, but is less than 7%, of his average annual payroll;

(4) 1 6/10%, if such excess equals or exceeds 7%, but is less than 8%, of his average annual payroll;

(5) 1 3/10%, if such excess equals or exceeds 8%, but is less than 9%, of his average annual payroll;

(6) 1%, if such excess equals or exceeds 9%, but is less than 10%, of his average annual payroll;

(7) 7/10 of 1%, if such excess equals or exceeds 10%, but is less than 11%, of his average annual payroll;

(8) 4/10 of 1%, if such excess equals or exceeds 11% of his average annual payroll.

(B) If the total of an employer's contributions, paid on his own behalf, for all past periods for the purposes of this paragraph (4), is less than the total

benefits charged against his account during the same period, his rate shall be:

(1) 4%, if such excess is less than 10% of his average annual payroll;

(2) 4 3/10%, if such excess equals or exceeds 10%, but is less than 20%, of his average annual payroll;

(3) 4 6/10%, if such excess equals or exceeds 20% of his average annual payroll.

(C) Specially assigned rates. If no contributions were paid on wages for employment in any calendar year used in determining the average annual payroll of an employer eligible for an assigned rate under this paragraph (4), the employer's rate shall be specially assigned as follows:

(i) if the reserve balance in its account is positive, its assigned rate shall be the highest rate in effect for positive balance accounts for that period, or 5.4%, whichever is higher, and (ii) if the reserve balance in its account is negative, its assigned rate shall be the highest rate in effect for deficit accounts for that period.

(D) The contribution rates prescribed by subparagraphs (A) and (B) of this paragraph (4) shall be increased or decreased in accordance with the provisions of paragraph (5) of this subsection (c) for experience rating periods through June 30, 1986.

(5) (A) Unemployment Trust Fund Reserve Ratio. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 4% but is less than 7% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by 3/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3) or (4) of this subsection. If on March 31 of any calendar year the balance of the unemployment trust fund exceeds 2 1/2% but is less than 4% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3) or (4) of this subsection.

If on March 31 of any calendar year the balance of the unemployment trust fund is less than 2 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer (1) eligible for a contribution rate calculation based upon benefit experience, shall be increased by (i) 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3), (4)(A) or (4)(B) of this subsection, and

(ii) an additional amount equal to 20% of the total rate established herein, provided, however, that the final contribution rate for each employer shall be computed to the nearest multiple of 1/10% if not already a multiple thereof; (2) not eligible for a contribution rate calculation based upon benefit experience, shall be increased by 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (4) of this subsection. For the period commencing July 1, 1984 and ending June 30, 1986, the contribution rate for each employer liable to pay contributions under R.S.43:21-7 shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(B) If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 10% but is less than 12 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 12 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by 6/10 of 1% if his account for all past periods reflects an excess of contributions paid over total benefits charged of 3% or more of his average annual payroll, otherwise by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%.

(C) The "balance" in the unemployment trust fund, as the term is used in subparagraphs (A) and (B) above, shall not include moneys credited to the State's account under section 903 of the Social Security Act, as amended (42 U.S.C.s.1103), during any period in which such moneys are appropriated for the payment of expenses incurred in the administration of the "unemployment compensation law."

(D) Prior to July 1 of each calendar year the controller shall determine the Unemployment Trust Reserve Ratio, which shall be calculated by dividing the balance of the unemployment trust fund as of the prior March 31 by total taxable wages reported to the controller by all employers as of March 31 with respect to their employment during the last calendar year.

(E) (i) (Deleted by amendment, P.L.1997, c.263).

(ii) (Deleted by amendment, P.L.2001, c.152).

(iii) With respect to experience rating years beginning on or after July 1, 1998 and before July 1, 2002, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column headed by the Unemployment Trust Fund Reserve Ratio as of the applicable calculation date and on the line with the Employer Reserve Ratio, as defined in paragraph 4 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following table:

EXPERIENCE RATING TAX TABLE
Fund Reserve Ratio[1]

Employer Reserve Ratio[2]	4.50% and Over A	3.50% to 4.49% B	3.00% to 3.49% C	2.50% to 2.99% D	2.49% and Under E
Positive Reserve Ratio:					
17% and over	0.3	0.4	0.5	0.6	1.2
16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
Deficit Reserve Ratio:					
-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
-9.00% to-11.99%	3.5	4.5	5.3	5.9	6.4
-12.00%to-14.99%	3.6	4.6	5.4	6.0	6.5
-15.00%to-19.99%	3.6	4.6	5.5	6.1	6.6
-20.00%to-24.99%	3.7	4.7	5.6	6.2	6.7
-25.00%to-29.99%	3.7	4.8	5.6	6.3	6.8
-30.00%to-34.99%	3.8	4.8	5.7	6.3	6.9
-35.00% and under	5.4	5.4	5.8	6.4	7.0
New Employer Rate	2.8	2.8	2.8	3.1	3.4

[1]Fund balance as of March 31 as a percentage of taxable wages in the prior calendar year.

[2]Employer Reserve Ratio (Contributions minus benefits as a percentage of employer's taxable wages).

(iv) With respect to experience rating years beginning on or after July 1, 2002, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column headed by the Unemployment Trust Fund Reserve Ratio as of the applicable calculation date and on the line with the Employer Reserve Ratio, as defined in paragraph 4 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following table:

EXPERIENCE RATING TAX TABLE
Fund Reserve Ratio[1]

Employer Reserve Ratio[2]	3.50% and Over A	3.00% to 3.49% B	2.50% to 2.99% C	2.00% to 2.49% D	1.99% and Under E
Positive Reserve Ratio:					
17% and over	0.3	0.4	0.5	0.6	1.2
16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
Deficit Reserve Ratio:					
-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
-9.00% to-11.99%	3.5	4.5	5.3	5.9	6.4
-12.00%to-14.99%	3.6	4.6	5.4	6.0	6.5
-15.00%to-19.99%	3.6	4.6	5.5	6.1	6.6
-20.00%to-24.99%	3.7	4.7	5.6	6.2	6.7
-25.00%to-29.99%	3.7	4.8	5.6	6.3	6.8
-30.00%to-34.99%	3.8	4.8	5.7	6.3	6.9
-35.00% and under	5.4	5.4	5.8	6.4	7.0
New Employer Rate	2.8	2.8	2.8	3.1	3.4

[1]Fund balance as of March 31 as a percentage of taxable wages in the prior calendar year.

[2]Employer Reserve Ratio (Contributions minus benefits as a percentage of employer's taxable wages).

(F) (i) (Deleted by amendment, P.L.1997, c.263).

(ii) With respect to experience rating years beginning on or after July 1, 1997, if the fund reserve ratio, based on the fund balance as of the prior March 31, is less than 1.00%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(G) On or after January 1, 1993, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by 0.1%, except that, during any experience rating year starting before January 1, 1998 in which the fund reserve ratio is equal to or greater than 7.00% or during any experience rating year starting on or after January 1, 1998, in which the fund reserve ratio is equal to or greater than 3.5%, there shall be no decrease pursuant to this subparagraph (G) in the contribution of any employer who has a deficit reserve ratio of negative 35.00% or under.

(H) On or after January 1, 1993 until December 31, 1993, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 52.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

On or after January 1, 1994 until December 31, 1995, except as provided pursuant to subparagraph (I) of this paragraph (5), notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 36.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in

the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

On or after April 1, 1996 until December 31, 1996, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 25.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

On or after January 1, 1997 until December 31, 1997, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 10.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

On and after January 1, 1998 until December 31, 2000 and on or after January 1, 2002 until June 30, 2003, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor, as set out below, computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%:

From January 1, 1998 until December 31, 1998, a factor of 12%;

From January 1, 1999 until December 31, 1999, a factor of 10%;

From January 1, 2000 until December 31, 2000, a factor of 7%.
From January 1, 2002 until March 31, 2002, a factor of 36%;
From April 1, 2002 until June 30, 2002, a factor of 85%;
From July 1, 2002 until June 30, 2003, a factor of 15%.

The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

(I) If the fund reserve ratio decreases to a level of less than 4.00% on March 31 of calendar year 1994 or calendar year 1995, the provisions of subparagraph (H) of this paragraph (5) shall cease to be in effect as of July 1 of that calendar year.

If, upon calculating the unemployment compensation fund reserve ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31, 1997, March 31, 1998 or March 31, 1999, the controller finds that the fund reserve ratio has decreased to a level of less than 3.00%, the Commissioner of Labor shall notify the State Treasurer of this fact and of the dollar amount necessary to bring the fund reserve ratio up to a level of 3.00%. The State Treasurer shall, prior to March 31, 1997, March 31, 1998 or March 31, 1999, as applicable, transfer from the General Fund to the unemployment compensation fund, revenues in the amount specified by the commissioner and which, upon deposit in the unemployment compensation fund, shall result, upon recalculation, in a fund reserve ratio used to determine employer contributions beginning July 1, 1997, July 1, 1998, July 1, 1999, as applicable, of at least 3.00%.

If, upon calculating the unemployment compensation fund reserve ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31, 2000, the controller finds that the fund reserve ratio has decreased to a level of less than 3.00%, the Commissioner of Labor shall notify the State Treasurer of this fact and of the dollar amount necessary to bring the fund reserve ratio up to a level of 3.00%. The State Treasurer shall, prior to March 31, 2000, transfer from the General Fund to the unemployment compensation fund, revenues in the amount specified by the commissioner and which, upon deposit in the unemployment compensation fund, shall result, upon recalculation, in a fund reserve ratio used to determine employer contributions beginning July 1, 2000 of at least 3.00%.

(J) On or after July 1, 2001, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by 0.0175%, except that, during any experience rating year starting on or after

July 1, 2001, in which the fund reserve ratio is equal to or greater than 3.5%, there shall be no decrease pursuant to this subparagraph (J) in the contribution of any employer who has a deficit reserve ratio of negative 35.00% or under. The amount of the reduction in the employer contributions stipulated by this subparagraph (J) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraphs (G) and (H) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (J) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

(6) Additional contributions.

Notwithstanding any other provision of law, any employer who has been assigned a contribution rate pursuant to subsection (c) of this section for the year commencing July 1, 1948, and for any year commencing July 1 thereafter, may voluntarily make payment of additional contributions, and upon such payment shall receive a recomputation of the experience rate applicable to such employer, including in the calculation the additional contribution so made. Any such additional contribution shall be made during the 30-day period following the date of the mailing to the employer of the notice of his contribution rate as prescribed in this section, unless, for good cause, the time for payment has been extended by the controller for not to exceed an additional 60 days; provided that in no event may such payments which are made later than 120 days after the beginning of the year for which such rates are effective be considered in determining the experience rate for the year in which the payment is made. Any employer receiving any extended period of time within which to make such additional payment and failing to make such payment timely shall be, in addition to the required amount of additional payment, a penalty of 5% thereof or $5.00, whichever is greater, not to exceed $50.00. Any adjustment under this subsection shall be made only in the form of credits against accrued or future contributions.

(7) Transfers.

(A) Upon the transfer of the organization, trade or business, or substantially all the assets of an employer to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, the controller shall transfer the employment experience of the predecessor employer to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer, pursuant to regulation, if it is determined that the employment experience of the predecessor employer with respect to the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. Unless the predecessor employer was owned or controlled (by legally enforceable means or otherwise),

directly or indirectly, by the successor in interest, or the predecessor employer and the successor in interest were owned or controlled (by legally enforceable means or otherwise), directly or indirectly, by the same interest or interests, the transfer of the employment experience of the predecessor shall not be effective if such successor in interest, within four months of the date of such transfer of the organization, trade, assets or business, or thereafter upon good cause shown, files a written notice protesting the transfer of the employment experience of the predecessor employer.

(B) An employer who transfers part of his or its organization, trade, assets or business to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, may jointly make application with such successor in interest for transfer of that portion of the employment experience of the predecessor employer relating to the portion of the organization, trade, assets or business transferred to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer. The transfer of employment experience may be allowed pursuant to regulation only if it is found that the employment experience of the predecessor employer with respect to the portion of the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. Credit shall be given to the successor in interest only for the years during which contributions were paid by the predecessor employer with respect to that part of the organization, trade, assets or business transferred.

(C) A transfer of the employment experience in whole or in part having become final, the predecessor employer thereafter shall not be entitled to consideration for an adjusted rate based upon his or its experience or the part thereof, as the case may be, which has thus been transferred. A successor in interest to whom employment experience or a part thereof is transferred pursuant to this subsection shall, as of the date of the transfer of the organization, trade, assets or business, or part thereof, immediately become an employer if not theretofore an employer subject to this chapter (R.S.43:21-1 et seq.).

(d) Contributions of workers to the unemployment compensation fund and the State disability benefits fund.

(1) (A) For periods after January 1, 1975, each worker shall contribute to the fund 1% of his wages with respect to his employment with an employer, which occurs on and after January 1, 1975, after such employer has satisfied the condition set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer; provided, however, that such contributions shall be at the rate of 1/2 of 1% of wages paid with respect to employment while the worker is in the employ of the State of New Jersey, or any governmental entity or instrumentality which is an employer as defined under R.S.43:21-19(h)(5), or is covered by an approved private plan under the "Temporary Disability

Benefits Law" or while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31).

(B) Effective January 1, 1978 there shall be no contributions by workers in the employ of any governmental or nongovernmental employer electing or required to make payments in lieu of contributions unless the employer is covered by the State plan under the "Temporary Disability Benefits Law" (C.43:21-37 et seq.), and in that case contributions shall be at the rate of 1/2 of 1%, except that commencing July 1, 1986, workers in the employ of any nongovernmental employer electing or required to make payments in lieu of contributions shall be required to make contributions to the fund at the same rate prescribed for workers of other nongovernmental employers.

(C) (i) Notwithstanding the above provisions of this paragraph (1), during the period starting July 1, 1986 and ending December 31, 1992, each worker shall contribute to the fund 1.125% of wages paid with respect to his employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under R.S.43:21-19(h)(6), regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection R.S.43:21-19(h) with respect to becoming an employer. Contributions, however, shall be at the rate of 0.625% while the worker is covered by an approved private plan under the "Temporary Disability Benefits Law" while the worker is exempt under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that such contributions shall be at the rate of 0.625% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions and which is covered by the State plan under the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is covered for disability benefits by an approved private plan of the employer, the contributions to the fund shall be 0.125%.

(ii) (Deleted by amendment, P.L.1995, c.422.)

(D) Notwithstanding any other provisions of this paragraph (1), during the period starting January 1, 1993 and ending June 30, 1994, each worker shall contribute to the unemployment compensation fund 0.5% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit

organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer. No contributions, however, shall be made by the worker while the worker is covered by an approved private plan under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.) or while the worker is exempt under section 7 of P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that the contributions shall be at the rate of 0.50% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions and which is covered by the State plan under the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is covered for disability benefits by an approved private plan of the employer, no contributions shall be made to the fund.

Each worker shall, starting on January 1, 1996 and ending March 31, 1996, contribute to the unemployment compensation fund 0.60% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 1998 and ending December 31, 1998, contribute to the unemployment compensation fund 0.10% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the

State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 1999 until December 31, 1999, contribute to the unemployment compensation fund 0.15% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 2000 until December 31, 2001, contribute to the unemployment compensation fund 0.20% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 2002 until June 30, 2003, contribute to the unemployment compensation fund 0.1825% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or a nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.0825% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on and after July 1, 2003, contribute to the unemployment compensation fund 0.3825% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.0825% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

(E) Each employer shall, notwithstanding any provision of law in this State to the contrary, withhold in trust the amount of his workers' contributions from their wages at the time such wages are paid, shall show such deduction on his payroll records, shall furnish such evidence thereof to his workers as the division or controller may prescribe, and shall transmit all such contributions, in addition to his own contributions, to the office of the controller in such manner and at such times as may be prescribed. If any employer fails to deduct the contributions of any of his workers at the time their wages are paid, or fails to make a deduction therefor at the time wages are paid for the next succeeding payroll period, he alone shall thereafter be liable for such contributions, and for the purpose of R.S.43:21-14, such contributions shall be treated as employer's contributions required from him.

(F) As used in this chapter (R.S.43:21-1 et seq.), except when the context clearly requires otherwise, the term "contributions" shall include the contributions of workers pursuant to this section.

(G) Each worker shall, starting on July 1, 1994, contribute to the State disability benefits fund an amount equal to 0.50% of wages paid with respect to the worker's employment with a government employer electing or required to pay contributions to the State disability benefits fund or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, unless the employer is covered by an approved private disability plan or is exempt from the provisions of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.) under section 7 of that law (C.43:21-31) or any other provision of that law.

(2) (A) (Deleted by amendment, P.L.1984, c.24.)

(B) (Deleted by amendment, P.L.1984, c.24.)

(C) (Deleted by amendment, P.L.1994, c.112.)

(D) (Deleted by amendment, P.L.1994, c.112.)

(E) (i) (Deleted by amendment, P.L.1994, c.112.)

(ii) (Deleted by amendment, P.L.1996, c.28.)

(iii) (Deleted by amendment, P.L.1994, c.112.)

(3) If an employee receives wages from more than one employer during any calendar year, and either the sum of his contributions deposited in and credited to the State disability benefits fund plus the amount of his contributions, if any, required towards the costs of benefits under one or more approved private plans under the provisions of section 9 of the "Temporary Disability Benefits Law" (C.43:21-33) and deducted from his wages, or the sum of such latter contributions, if the employee is covered during such calendar year only by two or more private plans, exceeds an amount equal to 1/2 of 1% of the "wages" determined in accordance with the provisions of R.S.43:21-7(b)(3) during the calendar years beginning on or after January 1, 1976, the employee shall be entitled to a refund of the excess if he makes a claim to the controller within two years after the end of the calendar year in which the wages are received with respect to which the refund is claimed and establishes his right to such refund. Such refund shall be made by the controller from the State disability benefits fund. No interest shall be allowed or paid with respect to any such refund. The controller shall, in accordance with prescribed regulations, determine the portion of the aggregate amount of such refunds made during any calendar year which is applicable to private plans for which deductions were made under section 9 of the "Temporary Disability Benefits Law," such determination to be based upon the ratio of the amount of such wages exempt from contributions to such fund, as provided in subparagraph (B) of paragraph (1) of this subsection with respect to coverage under private plans, to the total wages so exempt plus the amount of such wages subject to contributions to the disability benefits fund, as provided in subparagraph (G) of paragraph (1) of this subsection. The controller shall, in accordance with prescribed regulations, prorate the amount so determined among the applicable private plans in the proportion that the wages covered by each plan bear to the total private plan wages involved in such refunds, and shall assess against and recover from the employer, or the insurer if the insurer has indemnified the employer with respect thereto, the amount so prorated. The provisions of R.S.43:21-14 with respect to collection of employer contributions shall apply to such assessments. The amount so recovered by the controller shall be paid into the State disability benefits fund.

(4) If an individual does not receive any wages from the employing unit which for the purposes of this chapter (R.S.43:21-1 et seq.) is treated as his employer, or receives his wages from some other employing unit, such employer shall nevertheless be liable for such individual's contributions in the first instance; and after payment thereof such employer may deduct the amount of such contributions from any sums payable by him to such employing unit,

or may recover the amount of such contributions from such employing unit, or, in the absence of such an employing unit, from such individual, in a civil action; provided proceedings therefor are instituted within three months after the date on which such contributions are payable. General rules shall be prescribed whereby such an employing unit may recover the amount of such contributions from such individuals in the same manner as if it were the employer.

(5) Every employer who has elected to become an employer subject to this chapter (R.S.43:21-1 et seq.), or to cease to be an employer subject to this chapter (R.S.43:21-1 et seq.), pursuant to the provisions of R.S.43:21-8, shall post and maintain printed notices of such election on his premises, of such design, in such numbers, and at such places as the director may determine to be necessary to give notice thereof to persons in his service.

(6) Contributions by workers, payable to the controller as herein provided, shall be exempt from garnishment, attachment, execution, or any other remedy for the collection of debts.

(e) Contributions by employers to State disability benefits fund.

(1) Except as hereinafter provided, each employer shall, in addition to the contributions required by subsections (a), (b), and (c) of this section, contribute 1/2 of 1% of the wages paid by such employer to workers with respect to employment unless he is not a covered employer as defined in section 3 of the "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that the rate for the State of New Jersey shall be 1/10 of 1% for the calendar year 1980 and for the first six months of 1981. Prior to July 1, 1981 and prior to July 1 each year thereafter, the controller shall review the experience accumulated in the account of the State of New Jersey and establish a rate for the next following fiscal year which, in combination with worker contributions, will produce sufficient revenue to keep the account in balance; except that the rate so established shall not be less than 1/10 of 1%. Such contributions shall become due and be paid by the employer to the controller for the State disability benefits fund as established by law, in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ. In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to $0.005 or more, in which case it shall be increased to $0.01.

(2) During the continuance of coverage of a worker by an approved private plan of disability benefits under the "Temporary Disability Benefits Law," the employer shall be exempt from the contributions required by subparagraph (1) above with respect to wages paid to such worker.

(3) (A) The rates of contribution as specified in subparagraph (1) above shall be subject to modification as provided herein with respect to employer contributions due on and after July 1, 1951.

(B) A separate disability benefits account shall be maintained for each employer required to contribute to the State disability benefits fund and such account shall be credited with contributions deposited in and credited to such fund with respect to employment occurring on and after January 1, 1949. Each employer's account shall be credited with all contributions paid on or before January 31 of any calendar year on his own behalf and on behalf of individuals in his service with respect to employment occurring in preceding calendar years; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this act shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him to the fund either on his own behalf or on behalf of such individuals. Benefits paid to any covered individual in accordance with Article III of the "Temporary Disability Benefits Law" on or before December 31 of any calendar year with respect to disability in such calendar year and in preceding calendar years shall be charged against the account of the employer by whom such individual was employed at the commencement of such disability or by whom he was last employed, if out of employment.

(C) The controller may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(D) Prior to July 1 of each calendar year, the controller shall make a preliminary determination of the rate of contribution for the 12 months commencing on such July 1 for each employer subject to the contribution requirements of this subsection (e).

(1) Such preliminary rate shall be 1/2 of 1% unless on the preceding January 31 of such year such employer shall have been a covered employer who has paid contributions to the State disability benefits fund with respect to employment in the three calendar years immediately preceding such year.

(2) If the minimum requirements in (1) above have been fulfilled and the credited contributions exceed the benefits charged by more than $500.00, such preliminary rate shall be as follows:

(i) 2/10 of 1% if such excess over $500.00 exceeds 1% but is less than 1 1/4% of his average annual payroll (as defined in this chapter (R.S.43:21-1 et seq.));

(ii) 15/100 of 1% if such excess over $500.00 equals or exceeds 1 1/4% but is less than 1 1/2% of his average annual payroll;

(iii) 1/10 of 1% if such excess over $500.00 equals or exceeds 1 1/2% of his average annual payroll.

(3) If the minimum requirements in (1) above have been fulfilled and the contributions credited exceed the benefits charged but by not more than $500.00 plus 1% of his average annual payroll, or if the benefits charged exceed the contributions credited but by not more than $500.00, the preliminary rate shall be 1/4 of 1%.

(4) If the minimum requirements in (1) above have been fulfilled and the benefits charged exceed the contributions credited by more than $500.00, such preliminary rate shall be as follows:

(i) 35/100 of 1% if such excess over $500.00 is less than 1/4 of 1% of his average annual payroll;

(ii) 45/100 of 1% if such excess over $500.00 equals or exceeds 1/4 of 1% but is less than 1/2 of 1% of his average annual payroll;

(iii) 55/100 of 1% if such excess over $500.00 equals or exceeds 1/2 of 1% but is less than 3/4 of 1% of his average annual payroll;

(iv) 65/100 of 1% if such excess over $500.00 equals or exceeds 3/4 of 1% but is less than 1% of his average annual payroll;

(v) 75/100 of 1% if such excess over $500.00 equals or exceeds 1% of his average annual payroll.

(5) Determination of the preliminary rate as specified in (2), (3) and (4) above shall be subject, however, to the condition that it shall in no event be decreased by more than 1/10 of 1% of wages or increased by more than 2/10 of 1% of wages from the preliminary rate determined for the preceding year in accordance with (1), (2), (3) or (4), whichever shall have been applicable.

(E) (1) Prior to July 1 of each calendar year the controller shall determine the amount of the State disability benefits fund as of December 31 of the preceding calendar year, increased by the contributions paid thereto during January of the current calendar year with respect to employment occurring in the preceding calendar year. If such amount exceeds the net amount withdrawn from the unemployment trust fund pursuant to section 23 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47) plus the amount at the end of such preceding calendar year of the unemployment disability account (as defined in section 22 of said law (C.43:21-46)), such excess shall be expressed as a percentage of the wages on which contributions were paid to the State disability benefits fund on or before January 31 with respect to employment in the preceding calendar year.

(2) The controller shall then make a final determination of the rates of contribution for the 12 months commencing July 1 of such year for employers whose preliminary rates are determined as provided in (D) hereof, as follows:

(i) If the percentage determined in accordance with paragraph (E)(1) of this subsection equals or exceeds 1 1/4%, the final employer rates shall

be the preliminary rates determined as provided in (D) hereof, except that if the employer's preliminary rate is determined as provided in (D)(2) or (D)(3) hereof, the final employer rate shall be the preliminary employer rate decreased by such percentage of excess taken to the nearest 5/100 of 1%, but in no case shall such final rate be less than 1/10 of 1%.

(ii) If the percentage determined in accordance with paragraph (E)(1) of this subsection equals or exceeds 3/4 of 1% and is less than 1 1/4 of 1%, the final employer rates shall be the preliminary employer rates.

(iii) If the percentage determined in accordance with paragraph (E)(1) of this subsection is less than 3/4 of 1%, but in excess of 1/4 of 1%, the final employer rates shall be the preliminary employer rates determined as provided in (D) hereof increased by the difference between 3/4 of 1% and such percentage taken to the nearest 5/100 of 1%; provided, however, that no such final rate shall be more than 1/4 of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(2) hereof, more than 1/2 of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(1) and (D)(3) hereof, nor more than 3/4 of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(4) hereof.

(iv) If the amount of the State disability benefits fund determined as provided in paragraph (E)(1) of this subsection is equal to or less than 1/4 of 1%, then the final rate shall be 2/5 of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(2) hereof, 7/10 of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(1) and (D)(3) hereof, and 1.1% in the case of an employer whose preliminary rate is determined as provided in (D)(4) hereof. Notwithstanding any other provision of law or any determination made by the controller with respect to any 12-month period commencing on July 1, 1970, the final rates for all employers for the period beginning January 1, 1971, shall be as set forth herein.

2. Section 29 of P.L.1992, c.160 (C.43:21-7b) is amended to read as follows:

C.43:21-7b Contributions to Health Care Subsidy Fund.

29. a. Beginning January 1, 1993 until December 31, 1995, except as provided pursuant to subsection b. of this section, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.6% of the employee's taxable wages.

Beginning April 1, 1996 through December 31, 1996, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.6% of the employee's taxable wages, except that the total amount contributed to the fund when combined

with the employee's contribution made pursuant to R.S.43:31-7(d)(1)(D) for the period January 1, 1996 through March 31, 1996, shall not exceed 0.6% of the employee's taxable wages for the 1996 calendar year.

Beginning January 1, 1997 through December 31, 1997, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.5% of the employee's taxable wages.

Beginning on January 1, 1998 until December 31, 1998, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.30% of the employee's taxable wages.

Beginning on January 1, 1999 until December 31, 1999, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.25% of the employee's taxable wages.

Beginning on January 1, 2000 until June 30, 2003, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.20% of the employee's taxable wages.

Also beginning on January 1, 1993 until December 31, 1995 and beginning April 1, 1996 until December 31, 1997, each employer shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to the amount that the employer's contribution to the unemployment compensation fund is decreased pursuant to subparagraph (H) of paragraph (5) of subsection (c) of R.S.43:21-7.

Also beginning on January 1, 1998 until December 31, 2000, and beginning on January 1, 2002 and ending June 30, 2003, each employer shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to the amount that the employer's contribution to the unemployment compensation fund is decreased pursuant to subparagraph (H) of paragraph (5) of subsection (c) of R.S.43:21-7.

b. If the unemployment compensation fund reserve ratio, as determined pursuant to paragraph (5) of subsection (c) of R.S.43:21-7, decreases to a level of less than 4.00% on March 31 of calendar year 1994 or calendar year 1995, the provisions of subsection a. of this section shall cease to be in effect as of July 1 of that calendar year and each employer who would be subject to making the contributions pursuant to subsection a. of this section if that subsection were in effect shall, beginning on July 1 of that calendar year, contribute to the fund an amount equal to 0.62% of the total wages paid by the employer and shall continue to contribute that amount until December 31, 1995.

c. If the total amount of contributions to the fund pursuant to this section during the calendar year 1993 exceeds $600 million, all contributions which

exceed $600 million shall be deposited in the unemployment compensation fund. If the total amount of contributions to the fund pursuant to this section during calendar year 1994 or calendar year 1995 exceeds $500 million, all contributions which exceed $500 million shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 1996 or 1997 exceeds $330 million, all contributions which exceed $330 million in calendar year 1996 or 1997 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 1998 exceeds $288 million, all contributions which exceed $288 million in the calendar year 1998 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 1999 exceeds $233.9 million, all contributions which exceed $233.9 million in the calendar year 1999 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 2000 exceeds $178.6 million, all contributions which exceed $178.6 million in the calendar year 2000 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 2001 exceeds $94.9 million, all contributions which exceed $94.9 million in the calendar year 2001 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the period beginning January 1, 2002 and ending June 30, 2002 exceeds $516.5 million, all contributions which exceed $516.5 million in the period beginning January 1, 2002 and ending June 30, 2002 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the fiscal year 2003 exceeds $325 million, all contributions which exceed $325 million in the fiscal year 2003 shall be deposited in the unemployment compensation fund.

d. All necessary administrative costs related to the collection of contributions pursuant to this section shall be paid from the contributions.

3. This act shall take effect immediately.

Approved June 30, 2002.

CHAPTER 30

AN ACT concerning surplus lines insurance and amending and supplementing P.L.1984, c.101.

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

C.17:22-6.70a Findings, declarations relative to surplus lines insurance.

1. The Legislature finds and declares:

a. The "New Jersey Surplus Lines Insurance Guaranty Fund Act," P.L.1984, c.101 (C.17:22-6.70 et seq.), enacted 18 years ago in the face of an imminent threat of declaration of insolvency of Ambassador Insurance Company of Vermont, has provided valuable benefits by covering claims of certain claimants against insolvent property and casualty insurers selling insurance in New Jersey as surplus lines.

b. That act was amended 15 years ago to include, as covered claims, those claims arising from the declared insolvency of Northeastern Fire Insurance Company of Pennsylvania.

c. Claims covered by the New Jersey Surplus Lines Insurance Guaranty Fund included claims by New Jersey residents or claims arising from property permanently located in New Jersey, in an amount up to the lesser of the policy limit or $300,000, subject to policy deductibles, thereby redistributing some of the economic burden of surplus lines insurer failures.

d. The New Jersey Surplus Lines Insurance Guaranty Fund currently contains a balance of approximately $80,000,000 and $40,000,000 is sufficient to satisfy existing covered claims.

e. The Legislature believes that, beyond the payment of existing covered claims, it is good public policy to maintain surplus lines insurance guaranty benefits for certain lines of insurance in the future.

2. Section 1 of P.L.1984, c 101 (C 17:22-6.71) is amended to read as follows:

C.17:22-6.71 Purpose, application of act.

1. The purpose of this act is to provide a mechanism for the payment of covered claims under certain insurance policies issued by eligible surplus lines insurers; to avoid excessive delays in the payment of the covered claims against insolvent, eligible, nonadmitted insurers; and to avoid financial loss to claimants or policyholders because of the insolvency of an eligible, nonadmitted insurer.

On and after July 27, 1984 and before June 25, 2002, P.L.1984, c.101 (C.17:22-6.70 et seq.) shall apply to all property and casualty lines of direct insurance authorized under R.S.17:17-1, except workers' compensation insurance, title insurance, surety bonds, credit insurance, mortgage guaranty insurance, municipal bond coverage, fidelity insurance, investment return assurance, and ocean marine insurance. This act shall also not apply to reinsurance of any kind.

On or after June 25, 2002, P.L.1984, c.101 (C.17:22-6.70 et seq.) shall apply only to medical malpractice liability insurance as defined in subsection d. of section 3 of P.L.1975, c.301 (C.17:30D-3) and property insurance covering owner occupied dwellings of less than four dwelling units. On or after June 25, 2002, P.L.1984, c.101 (C.17:22-6.70 et seq.) shall not apply to reinsurance of any kind.

3. Section 3 of P.L.1984, c.101 (C.17:22-6.72) is amended to read as follows:

C.17:22-6.72 Definitions relative to the Surplus Lines Insurance Guaranty Fund.

3. a. "Association" means the New Jersey Property-Liability Insurance Guaranty Association created pursuant to P.L.1974, c.17 (C.17:30A-1 et seq.).

b. "Covered claim" means an unpaid claim, including a claim for unearned premiums, which arises out of and is within the coverage, and not in excess of the applicable limits of an insurance policy to which this act applies, and which was issued by a surplus lines insurer which was eligible to transact insurance business in this State at the time the policy was issued and which has been determined to be an insolvent insurer on or after June 1, 1984, but prior to June 25, 2002, if (1) the claimant or policyholder is a resident of this State at the time of the occurrence of the insured event for which a claim has been made, or (2) the property from which the claim arises is permanently located in this State. A "covered claim" which arises because of an insolvency occurring on or after June 25, 2002 shall be limited to an unpaid claim, including a claim for unearned premiums, which arises out of either medical malpractice liability insurance coverage or property insurance covering owner occupied dwellings of less than four dwelling units within the coverage, and not in excess of the applicable limits, of an insurance policy to which P.L.1984, c.101 (C.17:22-6.70 et seq.) applies, and which was issued by a surplus lines insurer which was eligible to transact insurance business in this State at the time the policy was issued and which has been determined to be an insolvent insurer on or after June 25, 2002, if (1) the claimant or policyholder is a resident of this State at the time of the occurrence of the insured event for which a claim has been made, or (2) the property from which the claim arises is permanently located in this State.

"Covered claim" shall not include any amount due any reinsurer, insurance pool or underwriting association, as subrogation recoveries or otherwise, except that a claim for any such amount, asserted against a person insured under a policy issued by a surplus lines insurer which has become an insolvent insurer, which, if it were not a claim by or for the benefit of a reinsurer, insurer, insurance pool, or underwriting association, would be a "covered claim," may be filed directly with the receiver of the insolvent insurer, but in no event may any

such claim be asserted in any legal action against the insured of that insolvent insurer. "Covered claim" shall also not include amounts for interest on unliquidated claims, punitive damages unless covered by the policy, counsel fees for prosecuting suits for claims against the fund, and assessments or charges for failure by an insolvent insurer to have expeditiously settled claims.

A "covered claim" shall not include a claim filed with the fund after the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer unless the claimant demonstrates unusual hardship and the commissioner approves of treatment of the claim as a "covered claim." "Unusual hardship" shall be defined in regulations promulgated by the commissioner. With respect to insurer insolvencies pending as of the effective date of this 1996 amendatory act, a "covered claim" shall not include a claim filed with the fund: (1) more than one year after the effective date of this 1996 amendatory act or (2) the date set by the court for the filing of claims against the liquidator or receiver of the insolvent insurer, whichever date occurs later.

c. "Fund" means the New Jersey Surplus Lines Insurance Guaranty Fund created pursuant to section 4 of this act.

d. "Insolvent insurer" means an insurer which was an eligible surplus lines insurer at the time the insurance policy was issued or when the insured event occurred, and which is determined to be insolvent by a court of competent jurisdiction in this State or the state or place in which the surplus lines insurer is domiciled. "Insolvent insurer" does not include an admitted insurer issuing insurance pursuant to section 10 of P.L.1960, c.32 (C.17:22-6.44).

e. "Member insurer" means an eligible, nonadmitted or surplus lines insurer required to be a member of, and that is subject to, assessments by the fund.

f. "Net direct written premiums" means direct gross premiums on insurance policies written by a surplus lines insurer to which this act applies, less return premiums thereon and dividends paid or credited to policyholders on that direct business. If a policy issued by a surplus lines insurer covers risks or exposures only partially in this State, the "net direct written premiums" shall be computed, for assessment purposes, on that portion of the premium subject to the premium receipts tax levied in accordance with section 25 of P.L.1960, c.32 (C.17:22-6.59). "Net direct written premiums" do not include premiums on contracts between insurers or reinsurers.

g. "Surplus lines insurer" means a nonadmitted insurer approved as an eligible, nonadmitted or unauthorized insurer pursuant to section 11 of P.L.1960, c.32 (C.17:22-6.45) at the time the policies were issued against which a covered claim may be filed in accordance with this act.

4. Section 4 of P.L.1984, c.101 (C.17:22-6.73) is amended to read as follows:

C.17:22-6.73 Surplus Lines Insurance Guaranty Fund.

4. There is created a private, nonprofit, unincorporated, legal entity to be known as the New Jersey Surplus Lines Insurance Guaranty Fund. All surplus lines insurers shall be and remain member insurers of the fund as a condition of their continued eligibility pursuant to section 11 of P.L.1960, c.32 (C.17:22-6.45). The fund shall be managed and administered by the New Jersey Property-Liability Insurance Guaranty Association. The association shall exercise all of the powers vested in the fund under this act, and such other powers as may be necessary or appropriate to the fulfilling of its responsibilities under this act. The association shall administer the affairs of the fund in accordance with the "New Jersey Property-Liability Guaranty Association Act," P.L.1974, c.17 (C.17:30A-1 et seq.) and its plan of operation adopted pursuant to section 9 (C.17:30A-9), insofar as the provisions of that act and that plan are not thereof inconsistent with the provisions of this act, and subject to any amendments to the plan as may be necessary or appropriate to effectuate the purposes of this act. After the excess moneys in the fund are transferred to the General Fund pursuant to section 5 of P.L.1984, c.101 (C.17:22-6.74), the association shall be responsible for the run-off and wind-up of all covered claims existing before June 25, 2002. On or after June 25, 2002, the operations and obligations of the fund pursuant to P.L.1984, c.101 (C.17:22-6.70 et seq.), with respect to eligible surplus lines insurers determined to be insolvent after that date, other than eligible surplus lines insurers issuing policies for medical malpractice liability insurance or property insurance covering owner occupied dwellings of less than four dwelling units, shall be terminated. On or after June 25, 2002, the fund shall only provide coverage for eligible surplus lines insurers issuing medical malpractice liability insurance or property insurance covering owner occupied dwellings of less than four dwelling units determined to be insolvent after that date.

In order to assist the association in implementing the provisions of this act, there is created an advisory body to the board of directors of the association to be comprised of two members representing eligible surplus lines insurers and two members representing surplus lines agents, to be appointed by and to serve at the pleasure of the commissioner. The association shall consult the advisory body on any matter relating to the provisions of P.L.1984, c.101 (C.17:22-6.70 et seq.).

5. Section 5 of P.L.1984, c.101 (C.17:22-6.74) is amended to read as follows:

C.17:22-6.74 Powers, duties and obligations.

5. a. The fund shall:

(1) Be obligated to the extent of the covered claims against an insolvent insurer incurred prior to or 30 days after the determination of insolvency, or before the policy expiration date, if less than 30 days after that determination, or before the policyholder replaces the policy or causes its cancellation, if he does so within 30 days of the determination. The fund's obligation for covered claims shall not be greater than $300,000.00 per occurrence, subject to any applicable deductible contained in the policy. The commissioner may adjust the fund's obligations for covered claims based on the moneys available in the fund. In no event shall the fund be obligated to a policyholder or claimant in excess of the limits of liability of the insolvent insurer stated in the policy from which the claim arises;

(2) Be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent;

(3) Assess member insurers in accordance with section 6 of this act in amounts necessary to pay:

(a) Obligations of the fund under paragraph (1) of this subsection,

(b) Expenses of handling covered claims,

(c) Any other expenses incurred in the implementation of the provisions of this act;

(4) Investigate claims brought against the fund; and adjust, compromise, settle, and pay covered claims to the extent of the fund's obligation; and deny all other claims; and may review settlements, releases and judgments to which the insolvent insurer or its policyholders were parties to determine the extent to which the settlements, releases and judgments may be properly contested;

(5) Notify those persons as the commissioner directs under section 8 of this act;

(6) Handle claims through the association's employees or representatives, or through one or more insurers or other persons designated as servicing facilities;

(7) Pay the other expenses of the association in administering the provisions of this act; and

(8) Within 60 days of enactment of P.L.2002, c.30 (C.17:22-6.70a et al.), transfer to the General Fund any and all moneys in excess of $40,000,000 in the fund as of June 24, 2002.

b. The fund may:

(1) Sue or be sued;

(2) Negotiate and become a party to those contracts which are necessary to carry out the purpose of this act;

(3) Perform those other acts which are necessary or appropriate to effectuate the purpose of this act;

(4) (Deleted by amendment, P.L.2002, c.30.)

(5) With the approval of the commissioner, borrow moneys from any source, including but not limited to the New Jersey Property-Liability Insurance Guaranty Association, in accordance with subsection b. of section 6 of P.L.1984, c.101 (C.17:22-6.75), as may be necessary to effectuate the purposes of that act, except that the use of the proceeds of any loans shall be limited to the payment of covered claims, including claim adjustment expenses; and

(6) Make loans to the New Jersey Property-Liability Insurance Guaranty Association in accordance with the provisions of the "New Jersey Property-Liability Insurance Guaranty Association Act," P.L.1974, c.17 (C.17:30A-1 et seq.).

6. This act shall take effect immediately and be retroactive to June 24, 2002.

Approved July 1, 2002.

CHAPTER 31

AN ACT concerning the estate tax imposed under chapter 38 of Title 54 of the Revised Statutes, amending R.S.54:38-1, R.S.54:38-6 and R.S.54:38-7, and repealing R.S.54:38-8 and R.S.54:38-9.

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

1. R.S.54:38-1 is amended to read as follows:

Imposition of tax; amount.

54:38-1. a. In addition to the inheritance, succession or legacy taxes imposed by this State under authority of chapters 33 to 36 of this title (R.S.54:33-1 et seq.), or hereafter imposed under authority of any subsequent enactment, there is hereby imposed an estate or transfer tax:

(1) Upon the transfer of the estate of every resident decedent dying before January 1, 2002 which is subject to an estate tax payable to the United States under the provisions of the federal revenue act of one thousand nine hundred and twenty-six and the amendments thereof and supplements thereto or any other federal revenue act in effect as of the date of death of the decedent, the amount of which tax shall be the sum by which the maximum credit allowable against any federal estate tax payable to the United States under any federal revenue act on account of taxes paid to any state or territory of the United States or the District of Columbia, shall exceed the aggregate amount of all

estate, inheritance, succession or legacy taxes actually paid to any state or territory of the United States or the District of Columbia, including inheritance, succession or legacy taxes actually paid this State, in respect to any property owned by such decedent or subject to such taxes as a part of or in connection with the estate; and

(2) (a) Upon the transfer of the estate of every resident decedent dying after December 31, 2001 which would have been subject to an estate tax payable to the United States under the provisions of the federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001, the amount of which tax shall be, at the election of the person or corporation liable for the payment of the tax under this chapter, either

(i) the maximum credit that would have been allowable under the provisions of that federal Internal Revenue Code in effect on that date against the federal estate tax that would have been payable under the provisions of that federal Internal Revenue Code in effect on that date on account of taxes paid to any state or territory of the United States or the District of Columbia, or

(ii) determined pursuant to the simplified tax system as may be prescribed by the Director of the Division of Taxation in the Department of the Treasury to produce a liability similar to the liability determined pursuant to clause (i) of this paragraph reduced pursuant to paragraph (b) of this subsection.

(b) The amount of tax liability determined pursuant to subparagraph (a) of this paragraph shall be reduced by the aggregate amount of all estate, inheritance, succession or legacy taxes actually paid to any state or territory of the United States or the District of Columbia, including inheritance, succession or legacy taxes actually paid this State, in respect to any property owned by such decedent or subject to such taxes as a part of or in connection with the estate; provided however, that the amount of the reduction shall not exceed the proportion of the tax otherwise due under this subsection that the amount of the estates's property subject to tax by other jurisdictions bears to the entire estate taxable under this chapter.

b. (1) In the case of the estate of a decedent dying before January 1, 2002 where no inheritance, succession or legacy tax is due this State under the provisions of chapters 33 to 36 of this title or under authority of any subsequent enactment imposing taxes of a similar nature, but an estate tax is due the United States under the provisions of any federal revenue act in effect as of the date of death, wherein provision is made for a credit on account of taxes paid the several states or territories of the United States, or the District of Columbia, the tax imposed by this chapter shall be the maximum amount of such credit less the aggregate amount of such estate, inheritance, succession or legacy taxes actually paid to any state or territory of the United States or the District of Columbia.

(2) In the case of the estate of a decedent dying after December 31, 2001 where no inheritance, succession or legacy tax is due this State under the provisions of chapters 33 to 36 of this title or under authority of any subsequent enactment imposing taxes of a similar nature, the tax imposed by this chapter shall be determined pursuant to paragraph (2) of subsection a. of this section.

c. For the purposes of this section, a "simplified tax system" to produce a liability similar to the liability determined pursuant to clause (i) of subparagraph (a) of paragraph (2) of subsection a. of this section is a tax system that is based upon the $675,000 unified estate and gift tax applicable exclusion amount in effect under the provisions of the federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001, and results in general in the determination of a similar amount of tax but which will enable the person or corporation liable for the payment of the tax to calculate an amount of tax notwithstanding the lack or paucity of information for compliance due to such factors as the absence of an estate valuation made for federal estate tax purposes, the absence of a measure of the impact of gifts made during the lifetime of the decedent in the absence of federal gift tax information, and any other information compliance problems as the director determines are the result of the phased repeal of the federal estate tax.

2. R.S.54:38-6 is amended to read as follows:

Assessment and collection; disposition of proceeds; executors personally liable; liens.

54:38-6. The Director of the Division of Taxation in the Department of the Treasury shall assess and collect all taxes imposed by this chapter. Such taxes when and as collected by the director shall be paid forthwith into the State Treasury for the exclusive use of the State, and all administrators, executors, trustees, grantees, donees and vendees, shall be personally liable for any and all such taxes until paid, for which an action at law shall lie in the name of the State. Notwithstanding the provisions of any other law to the contrary, taxes imposed under this chapter shall remain a lien on all property of the decedent as of the date of the decedent's death until paid. No property owned by the decedent as of the date of the decedent's death may be transferred without the written consent of the director, or pursuant to such rules as the director may prescribe.

3. R.S.54:38-7 is amended to read as follows:

Copy of federal estate tax; alternate forms.

54:38-7. The executor, administrator, trustee or other person or corporation liable for the payment of the tax hereunder shall file with the Director of the Division of Taxation in the Department of the Treasury a copy of the federal estate tax return within thirty days after the filing of the original with the federal

government, and a copy of any communication from the federal government making any final change in said return, or confirming, increasing or diminishing the tax thereby shown to be due, which is to be filed within thirty days after receipt thereof. In the case of any decedent dying after December 31, 2001 the executor, administrator, trustee or other person or corporation liable for the payment of such tax shall prepare and file with the director, in addition to a copy of such return, if any, as shall have been filed with the federal government, a federal estate tax return in the form in which such return would have been required to be filed with the federal government under the provisions of the federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001, within 30 days after the date on which such a filing would have been due under those provisions for a decedent dying on that date; provided however, that a person or corporation liable for the payment of the tax under this chapter that elects to determine tax pursuant to clause (ii) of subparagraph (a) of paragraph (2) of subsection a. of R.S.54:38-1 shall file such alternate New Jersey estate tax forms as may be prescribed by the director pursuant to the requirements of that clause.

In addition to the copy or copies of the federal estate tax return, or alternate tax forms, the executor, administrator, trustee or other person or corporation shall file any other evidence, information or data that the Director of the Division of Taxation shall in the director's discretion deem necessary. For the purposes of this chapter the Director of the Division of Taxation is hereby authorized and empowered to promulgate such rules and regulations, not inconsistent with the provisions hereof, as the director shall deem necessary.

Repealer.

4. R.S.54:38-8 and R.S.54:38-9 are repealed.

5. This act shall take effect immediately and shall apply to the estate of any resident decedent dying after December 31, 2001.

Approved July 1, 2002.

CHAPTER 32

AN ACT creating and providing for the purposes and powers of the Tobacco Settlement Financing Corporation, supplementing Title 52 of the Revised Statutes.

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

C.52:18B-1 Short title.

1. This act shall be known and may be cited as the "Tobacco Settlement Financing Corporation Act."

C.52:18B-2 Purpose of act.

2. The purpose of this act is to authorize, create and establish a corporation empowered to acquire from the State all or a portion of the State's tobacco receipts; to authorize the sale by the State of all or a portion of the State's tobacco receipts to the corporation; to authorize the transfer to and the receipt by the corporation of such tobacco receipts; to authorize the corporation to issue securities of the corporation for the purposes authorized in this act, payable solely from and secured solely by such portion of the State's tobacco receipts as the corporation may designate and pledge to secure the securities, together with the investment income thereon and any reserve funds created by the corporation from any portion of the proceeds of such securities; to authorize the corporation to hold and invest such portion of the net proceeds of the sale of the securities pending direction by the State and such portion of the State's tobacco receipts sold to the corporation which are not pledged to secure securities of the corporation; and to authorize the corporation to manage such portion of the net proceeds of the sale of the securities pending direction by the State and all or a portion of the State's tobacco receipts sold to the corporation for the purposes and in the manner authorized in this act.

C.52:18B-3 "Tobacco Settlement Financing Corporation."

3. a. There is hereby established in, but not of, the Department of Treasury a public body corporate and politic, with corporate succession, to be known as the "Tobacco Settlement Financing Corporation." The corporation is hereby constituted as an instrumentality of the State exercising public and essential governmental functions; and the exercise by the corporation of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State. Notwithstanding the existence of common management, the corporation shall be treated and accounted for as a separate legal entity with its separate corporate purposes as set forth in this act. The assets, liabilities and funds of the corporation shall be neither consolidated nor commingled with those of the State or of any entity capable of being a debtor in a case commenced under the federal bankruptcy code.

b. The corporation shall have and be governed by three members who shall be the Commissioner of Health and Senior Services of the State and the State Treasurer, who shall be members ex officio, and one public member appointed by the Governor (who shall have knowledge in the area of health care or the provision of health care) who shall serve at the pleasure of the Governor; provided however, the Governor may appoint the head of a principal department of the State to replace the Commissioner of Health and Senior

Services of the State as a member. The State Treasurer shall serve as the chairperson of the corporation. The corporation shall elect from among its members a vice chairman. The powers of the corporation shall be vested in the members thereof in office from time to time and a majority of the total authorized membership of the corporation shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the corporation at any meeting thereof by the affirmative vote of a majority of the members present. No vacancy in the membership of the corporation shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the corporation.

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

d. The State Treasurer shall be the president of the corporation, the Deputy State Treasurer shall be the vice president of the corporation and the State Comptroller shall be the treasurer of the corporation. The president of the corporation shall appoint the secretary of the corporation. The staff of the office of the State Treasurer shall also serve as staff of the corporation. State officers, agencies, and departments may render services to the corporation within their respective functions, as requested by the corporation.

e. Each member and the treasurer of the corporation shall execute a bond to be conditioned upon the faithful performance of the duties of such member or treasurer in such form and amount as may be prescribed by the State Comptroller. Such bonds shall be filed in the office of the Secretary of State. At all times thereafter the members and treasurer of the corporation shall maintain such bonds in full force and effect. All costs of such bonds shall be borne by the corporation.

f. The members of the corporation shall serve without compensation, but the corporation shall reimburse its members for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding the provisions of any other laws, no officer or employee of the State shall be deemed to have forfeited or shall forfeit his or her office or employment or any benefits or emoluments thereof by reason of his or her acceptance of the office of ex officio member or officer of the corporation or his or her services therein.

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

h. The corporation may be dissolved by act of the Legislature on condition that the corporation has no debts or obligations outstanding or that provision has been made for the payment or retirement of such debts or obligations. Upon any such dissolution of the corporation, all property, funds and assets thereof shall be vested in the State.

i. The corporation shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and cause a copy thereof to be filed with the Secretary of State and the State Comptroller.

j. No member, officer, employee or agent of the corporation shall have an interest, either directly or indirectly, in any business organization engaged in any business, contract or transaction with the corporation or in any contract of any other person engaged in any business with the corporation, or in the purchase, sale, lease or transfer of any property to or from the corporation.

C.52:18B-4 Definitions relative to the Tobacco Settlement Financing Corporation.

4. As used in this act, unless the context clearly requires a different meaning:

"Ancillary facility" means any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange or similar agreement, currency exchange agreement, interest rate floor or cap, options, puts or calls to hedge payment, currency, rate, spread or similar exposure, or similar agreements, float agreements, forward agreements, insurance contract, surety bond, commitment to purchase or sell securities, purchase or sale agreement, or commitments or other contracts or agreements and other security agreements approved by the corporation, including without limitation any arrangement referred to in subsection j., k., l. or m. of section 6 of this act;

"Benefitted parties" means person, firms or corporations that enter into ancillary facilities with the corporation according to the provisions of this act;

"Code" means the United States Internal Revenue Code of 1986, as amended, and any successor provision of law;

"Costs of issuance" means any item of expense directly or indirectly payable or reimbursable by the corporation and related to the authorization, sale or issuance of securities, including without limitation underwriting fees, and fees and expenses of consultants and fiduciaries;

"Corporation" means the Tobacco Settlement Financing Corporation established by section 3 of this act;

"Encumbered tobacco revenues" means that portion of the TSRs that is pledged by the corporation to the repayment of any securities pursuant to the terms of the applicable corporation resolution, trust agreement or trust indenture;

"Financing costs" means all capitalized interest, operating and debt service reserves, costs of issuance, fees for credit and liquidity enhancements and other costs as the corporation determines to be desirable in issuing, securing and marketing the securities;

"Interest rate exchange or similar agreement" means a written contract with a counterparty to provide for an exchange of payments based upon fixed and/or variable interest rates;

"Master settlement agreement" means the master settlement agreement, dated November 23, 1998, among the attorneys general of 46 states, including the State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, American Samoa and the Territory of the Northern Mariana Islands, on the one hand, and certain tobacco manufacturers, on the other hand;

"Net proceeds" means the amount of proceeds remaining following each sale of securities which are not required by the corporation to establish and fund reserve or escrow funds or termination or settlement payments under ancillary facilities and to provide the financing costs and other expenses and fees directly related to the authorization and issuance of securities;

"Operating expenses" means the reasonable operating expenses of the corporation, including without limitation the cost of preparation of accounting and other reports, costs of maintenance of the ratings on the securities, insurance premiums and costs of annual meetings or other required activities of the corporation, and fees and expenses incurred for consultants and fiduciaries;

"Outstanding" means, when used with respect to securities, all securities other than securities that shall have been paid in full at maturity or that may be deemed not outstanding pursuant to the applicable corporation resolution, trust indenture or trust agreement authorizing the issuance of such securities and when used with respect to ancillary facilities, all ancillary facilities other than ancillary facilities that have been paid in full or that may be deemed not outstanding under such ancillary facilities;

"Qualifying statute" means "qualifying statute" as defined in the master settlement agreement; currently P.L.1999, c.148 (C.52:4D-1 et seq.);

"Residual interests" means: the unencumbered tobacco revenues; the net proceeds not previously paid to the State; the income of the corporation that is in excess of the corporation's requirements to pay its operating expenses, debt service, sinking fund requirements, reserve fund or escrow fund requirements and any other contractual obligations to the owners of the securities or benefitted parties, or that may be incurred in connection with the issuance of the securities or the execution of ancillary facilities; and such contractual rights, if any, as shall be provided to the State in accordance with the terms of any sale agreements;

"Sale agreement" means any agreement authorized pursuant to section 5 of this act in which the State provides for the sale of TSRs to the corporation;

"Securities" means any securities, including without limitation any bonds, notes and other evidence of indebtedness, issued by the corporation pursuant to section 7 of this act;

"State" means the State of New Jersey;

"State representative" means the State acting by and through the State Treasurer;

"State's tobacco receipts" means a) all tobacco settlement payments that are received by the State that are required to be made, pursuant to the terms of the master settlement agreement, by tobacco manufacturers to the State, and b) the State's rights to receive such tobacco settlement payments;

"TSRs" means the portion (which may include any or all) of the State's tobacco receipts sold to the corporation pursuant to this act and any sale agreement; and

"Unencumbered tobacco revenues" means that portion of the TSRs that are not subject to the pledge of the applicable corporate resolution, trust agreement or trust indenture by the corporation to the repayment of any securities issued pursuant to the terms of such applicable corporation resolution, trust agreement or trust indenture.

C.52:18B-5 Sale, purchase of tobacco receipts.

5. a. The State representative may sell to the corporation, and the corporation may purchase, for cash or other consideration and in one or more installments, all or a portion of the State's tobacco receipts pursuant to the terms of one or more sale agreements. Any such sale agreement shall provide, among other matters, that the purchase price payable by the corporation to the State for such TSRs shall consist of the net proceeds and the residual interests, if any. Any such sale shall be pursuant to one or more sale agreements that may contain such terms and conditions deemed appropriate by the State representative to carry out and effectuate the purposes of this section, including without limitation covenants binding the State in favor of the corporation and its assignees, including without limitation the owners of its securities and benefitted parties, such as a requirement that the State enforce the provisions of the master settlement agreement that require payment of the TSRs, a requirement that the State enforce the provisions of the qualifying statute, a provision authorizing inclusion of the State's pledge and agreement, as set forth in section 10 of this act, in any agreement with owners of the securities or any benefitted parties, and covenants with respect to the application and use of the proceeds of the sale of the State's tobacco receipts to preserve the tax-exemption of the interest on any securities, if issued as tax-exempt. The State representative in any sale agreement may agree to, and the corporation

may provide for, the assignment of the corporation's right, title and interest under such sale agreement for the benefit and security of the owners of securities and benefitted parties.

b. Any sale of TSRs to the corporation pursuant to a sale agreement shall be treated as a true sale and absolute transfer of the property so transferred and not as a pledge or other security interest for any borrowing. The characterization of such a sale as an absolute transfer by the participants shall not be negated or adversely affected by the fact that only a portion of the State's tobacco receipts is transferred, nor by the acquisition or retention by the State of a residual interest, nor by the participation by any State official as a member or officer of the corporation, nor by the commingling of amounts arising with respect to the TSRs with other amounts, nor by whether the State is responsible for collecting the TSRs or otherwise enforcing the master settlement agreement or retains legal title to such portion of the State's tobacco receipts for the purposes of these collection activities, nor by any characterization of the corporation or its obligations for purposes of accounting, taxation or securities regulation, nor by any other factor whatsoever.

c. On and after the effective date of each sale of TSRs, the State shall have no right, title or interest in or to the TSRs sold, and the TSRs so sold shall be property of the corporation and not of the State, and shall be owned, received, held and disbursed by the corporation and not the State. On or before the effective date of any such sale, the State through the Attorney General shall notify the escrow agent under the master settlement agreement that such TSRs have been sold to the corporation and irrevocably instruct such escrow agent that, subsequent to such date, such TSRs are to be paid directly to the corporation or the trustee under the applicable corporation resolution, trust agreement or trust indenture for the benefit of the owners of the securities and benefitted parties until such securities and ancillary facilities are no longer outstanding. Thereafter, any officer or agent of the State who shall receive any such TSRs shall hold the same in trust for the corporation or such trustee, as applicable, and shall promptly remit the same to the corporation or such trustee, as applicable.

d. The net proceeds and any earnings thereon shall never be pledged to, nor made available for, payment of the securities or ancillary facilities or any interest or redemption price thereon or any other debt or obligation of the corporation. The net proceeds, any earnings thereon and any residual interests shall be applied, transferred, or paid to, and upon the order of, the State, as directed by the State representative, and shall be used by the State for any bona fide governmental purposes as determined by the State, including without limitation for capital expenditures, debt service on outstanding bonds of the State, working capital expenditures or operating deficit needs of the State, endowments, or grants or aid to political subdivisions, including without

limitation school districts, of the State. Pending such direction by the State representative, the corporation shall invest such moneys such that funds will be available at such times as the State representative shall deem necessary for the expenditure thereof. The State is authorized and may arrange for the availability of the net proceeds and residual interests from the corporation on such terms and conditions as the State representative deems appropriate and may include in the sale agreement provisions for interfund transactions with respect thereto between the State and the corporation. Notwithstanding any provisions of this subsection, the corporation shall not pay to the State during State fiscal year 2003 funds from any net proceeds, earnings thereon or residual interests in excess of the amount appropriated from such funds pursuant to the State annual appropriation act for State fiscal year 2003.

C.52:18B-6 Powers of corporation.

6. The corporation also shall have the power to:

a. sue and be sued;

b. have a seal and alter the same at its pleasure;

c. make and alter bylaws for its organization and internal management and make rules and regulations governing the use of its property and facilities;

d. make and execute contracts including without limitation sale agreements, trust agreements, trust indentures, bond purchase agreements, tax regulatory agreements, continuing disclosure agreements, ancillary facilities and all other instruments necessary or convenient for the exercise of its powers and functions, and commence any action to protect or enforce any right conferred upon it by any law, contract or other agreement;

e. engage the services of financial advisors and experts, placement agents, underwriters, appraisers and such other advisors, consultants and fiduciaries as may be necessary to effectuate the purposes of this act;

f. pay its operating expenses and financing costs;

g. borrow money in its name and issue negotiable securities and provide for the rights of the owners thereof;

h. procure insurance against any loss in connection with its activities, properties and assets in such amount and from such insurers as it deems desirable;

i. invest any funds or other moneys under its custody and control in investments and securities that are legal investments under the laws of the State for funds of the State and, notwithstanding any law to the contrary, in any ancillary facility, in obligations the interest on which is exempt from federal income taxation under the code and in shares or participation interests in funds or trusts that invest solely in such obligations;

j. as security for the payment of the principal of and interest on any securities and for its obligations under any ancillary facility, pledge all or any part of the TSRs or other assets;

k. procure insurance, letters of credit or other credit enhancement with respect to any securities for the payment of tenders of securities, or for the payment upon maturity of short-term securities;

l. (1) enter into any ancillary facility with any person under such terms and conditions as the corporation, with the approval of the State Treasurer, may determine;

(2) procure insurance, letters of credit or other credit enhancement with respect to any ancillary facility;

(3) provide security for the payment or performance of its obligations with respect to any ancillary facility from such sources and with the same effect as is authorized by this act with respect to security for securities; and

(4) modify, amend or replace any existing, or enter into a new, ancillary facility; and

m. do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this act.

C.52:18B-7 Issuance of securities by corporation.

7. a. (1) The corporation shall have power and is hereby authorized from time to time to issue securities in such principal amount or amounts as the corporation shall determine to be necessary to provide sufficient funds for achieving its authorized purposes, consisting of the purchase of all or a portion of the State's tobacco receipts pursuant to section 5 of this act and the payment of or provision for financing costs.

(2) The issuance of securities shall be authorized by a corporation resolution. No corporation resolution authorizing the issuance of securities (including securities issued to refund securities) pursuant to this act shall be adopted or otherwise made effective without the approval in writing of the State Treasurer. Securities (including securities issued to refund securities) may be issued without obtaining the consent of any department, division, commission, board, bureau or agency of the State, other than the approval as required by this subsection, and without any other proceedings or the occurrence of any other conditions or other things other than those proceedings, conditions or things which are specifically required by this act. Every issue of securities shall be special revenue obligations payable from and secured by a pledge of encumbered tobacco revenues and other assets, including without limitation those proceeds of such securities deposited in a reserve fund for the benefit of the owners of the securities, earnings on funds of the corporation and such other funds as may become available, upon such terms and conditions as approved by the State Treasurer and as specified by the corporation in the

corporation resolution pursuant to which the securities are issued or in a related trust agreement or trust indenture.

(3) The corporation shall issue securities to refund any securities by the issuance of new securities, whenever it deems such refunding expedient, whether the securities to be refunded have or have not matured, and to issue securities partly to refund securities then outstanding and partly for any of its other authorized purposes. The refunding securities may be exchanged for the securities to be refunded or sold and the proceeds applied to the purchase, redemption or payment of such securities.

b. Each issue of securities shall be dated, shall bear interest (which, under the code, may be includable in or excludable from the gross income of the owners for federal income tax purposes) at such fixed or variable rates, payable at or prior to maturity, and shall mature at such time or times, as may be determined by the corporation and may be made redeemable before maturity, at the option of the corporation, at such price or prices and under such terms and conditions as may be fixed by the corporation. The principal and interest of such securities may be made payable in any lawful medium. The corporation shall determine the form of the securities, either coupon, registered or book-entry form, and the manner of execution of the securities and shall fix the denomination or denominations of the securities and the place or places of payment of principal and interest thereof, which may be at any bank or trust company within or without the State. If any officer whose signature or a facsimile thereof appears on any securities or coupons shall cease to be such officer before the delivery of such securities, such signature or facsimile shall nevertheless be valid and sufficient for all purposes as if he or she had remained in office until such delivery. The securities may be issued in coupon or in registered form or both, as the corporation may determine, and provisions may be made for the registration of any coupon securities as to principal alone and as to both principal and interest and for the reconversion of any securities registered as to both principal and interest into coupon securities. The corporation may also provide for temporary securities and for the replacement of any security that shall become mutilated or shall be destroyed or lost.

c. The corporation with the approval of the State Treasurer may sell such securities in such manner, either at public or private sale and on either a competitive or negotiated basis. The proceeds of such securities shall be disbursed for the purposes for which such securities were issued as the act, the sale agreement and the corporation resolution authorizing the issuance of such securities or the related trust agreement or trust indenture may provide.

d. Any pledge made by the corporation shall be valid and binding at the time the pledge is made. The revenues, reserves or earnings so pledged or earnings on the investment thereof shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act and the

lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether such parties have notice thereof. Notwithstanding any other provision of law to the contrary, neither the corporation resolution nor any trust agreement or trust indenture or other instrument by which a pledge is created or by which the corporation's interest in encumbered tobacco revenues, reserves or earnings thereon is assigned need be filed or recorded in any public records in order to protect the pledge thereof or perfect the lien thereof as against third parties, except that a copy thereof shall be filed in the records of the corporation.

e. Notwithstanding the provisions of any other law to the contrary, any securities issued pursuant to this act shall be fully negotiable within the meaning and for all purposes of Title 12A of the New Jersey Statutes, and each owner of such a security or other obligation, or of any coupon appurtenant thereto, by accepting the security or coupon shall be conclusively deemed to have agreed that the security or coupon is and shall be fully negotiable within the meaning and for all purposes of Title 12A.

f. In the discretion of the corporation, any securities and any ancillary facilities may be secured by a trust agreement or trust indenture by and between the corporation and the trustee thereunder, which may be any trust company or bank having the powers of a trust company, whether located within or without the State. Such trust agreement or trust indenture or corporation resolution providing for the issuance of such securities may provide for the creation and maintenance of such reserves as the corporation shall determine to be proper and may include covenants setting forth the duties of the corporation in relation to the securities, the ancillary facilities, the income to the corporation, the sale agreement, the encumbered tobacco revenues and residual interests. Such trust agreement or trust indenture or corporation resolution may contain provisions respecting the custody, safeguarding and application of all moneys and securities and may contain such provisions for protecting and enforcing the rights and remedies (pursuant thereto and to the sale agreement) of the owners of the securities and benefitted parties as may be reasonable and proper and not in violation of law. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depository of the proceeds of securities or of any other funds or obligations received on behalf of the corporation to furnish such indemnifying bonds or to pledge such obligations as may be required by the corporation. Any such trust agreement or trust indenture or corporation resolution may contain such other provisions as the corporation may deem reasonable and proper for priorities and subordination among the owners of the securities and benefitted parties.

g. The corporation may enter into, amend or terminate, as it determines to be necessary or appropriate, any ancillary facilities (1) to facilitate the

issuance, sale, resale, purchase, repurchase or payment of securities or the making or performance of swap contracts, including without limitation bond insurance, letters of credit and liquidity facilities or (2) to attempt to hedge risk or achieve a desirable effective interest rate or cash flow. The determination of the corporation that an ancillary facility or the amendment or termination thereof is necessary or appropriate as aforesaid shall be conclusive. Such ancillary facility shall be made upon the terms and conditions established by the corporation, including without limitation provisions as to security, default, termination, payment, remedy and consent to service of process.

h. The corporation may enter into, amend or terminate any ancillary facility as it determines to be necessary or appropriate to place the obligations or investments of the corporation, as represented by the securities or the investment of their proceeds, in whole or in part, on the interest rate, cash flow or other basis desired by the corporation, which facility may include without limitation contracts commonly known as interest rate swap agreements, and futures or contracts providing for payments based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the corporation in connection with, or incidental to, entering into, or maintaining any (1) agreement which secures securities of the corporation or (2) investment, or contract providing for investments, of reserves or similar facility guaranteeing an investment rate for a period of years. The determination by the corporation that an ancillary facility or the amendment or termination thereof is necessary or appropriate as aforesaid shall be conclusive. Any ancillary facility may contain such payment, security, default, remedy, termination provisions and payments and other terms and conditions as determined by the corporation, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including without limitation any rating by any nationally recognized rating agency, and any other criteria as may be appropriate.

i. Securities and ancillary facilities may contain a recital that they are issued pursuant to this act, which recital shall be conclusive evidence of their validity, the validity of any ancillary facility and the regularity of the proceedings relating thereto.

j. Neither the members of the corporation nor any other person executing the securities or an ancillary facility shall be subject to any personal liability or accountability by reason of the issuance or execution and delivery thereof.

C.52:18B-8 Issuance of securities, execution of ancillary facility not an obligation of State.

8. The issuance of securities and the execution of any ancillary facility under the provisions of this act shall not directly, or indirectly or contingently obligate the State or any political subdivision thereof to pay any amounts to the corporation or owner of securities or benefitted parties or levy or pledge any form of taxation whatsoever therefor. The securities and any ancillary

facility shall not be a debt or liability of the State or any agency or instrumentality thereof (other than the corporation as set forth in this act), either legal, moral or otherwise, and nothing contained in this act shall be construed to authorize the corporation to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof, and the securities and any ancillary facility shall contain on the face thereof or other prominent place thereon in bold typeface a statement to the foregoing effect. No appropriation of any moneys by the State to the corporation is authorized in this act.

C.52:18B-9 Creation of corporation deemed public benefit; tax exemption provided.

9. a. It is hereby determined that the creation of the corporation and the carrying out of its authorized purposes is in all respects a public and governmental purpose for the benefit of the people of the State and for the improvement of their health, safety, welfare, comfort and security, and that said purposes are public purposes and that the corporation will be performing an essential governmental function in the exercise of the powers conferred upon it by this act.

b. The property of the corporation and its income and operations shall be exempt from taxation.

c. The securities and the interest thereon and the income derived from all funds, revenues, incomes and other moneys received for or to be received by the corporation shall be exempt from all taxes levied pursuant to the provisions of Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, except for transfer inheritance and estate taxes levied pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

d. In the case of any securities, the interest on which is intended to be exempt from federal income tax, the corporation shall prescribe restrictions on the use of the proceeds thereof and related matters as are necessary to assure such exemption, and the recipients of such proceeds shall be bound thereby to the extent such restrictions shall be made applicable to them. Any such recipient, including without limitation the State or any political subdivision of the State, is authorized to execute a tax regulatory agreement with the corporation (and, as to any such political subdivision, the State) and the execution of such an agreement may be treated as a condition to receiving any such proceeds.

C.52:18B-10 Pledge, agreement between State and corporation.

10. a. The State hereby pledges and agrees with the corporation, and the owners of the securities and benefitted parties, that until all securities and ancillary facilities, together with the interest thereon and all costs and expenses in connection with any action or proceedings by or on behalf of owners of securities or benefitted parties, are fully paid and discharged the State will (1) irrevocably direct through the Attorney General the escrow agent under

the master settlement agreement to transfer directly to the corporation or its assignee the TSRs, (2) enforce the corporation's rights to receive the TSRs to the full extent permitted by the terms of the master settlement agreement, (3) not amend the master settlement agreement in any manner that would materially impair the rights of the owners of the securities or of the benefitted parties, (4) not limit or alter the rights of the corporation to fulfill the terms of its agreements with such owners or benefitted parties, (5) not in any way impair the rights and remedies of such owners or benefitted parties or the security for such securities or ancillary facilities (provided, that nothing herein shall be construed to preclude the State's regulation of smoking and taxation and regulation of the sale of cigarettes or the like), (6) not fail to enforce the qualifying statute, and (7) not amend, supersede or repeal the qualifying statute in any way that would materially adversely affect the amount of any payment to, or materially impair the rights of, the corporation, such owners of the securities or the benefitted parties. The State representative is authorized and directed to include this pledge and agreement in sale agreements and the corporation is authorized and directed to include this pledge and agreement in any contract with the owners of the securities and benefitted parties.

b. Prior to the date that is one year and one day after the corporation no longer has any securities or ancillary facilities outstanding, the corporation shall have no authority to file a voluntary petition under chapter 9 of the federal bankruptcy code or such corresponding chapter or sections as may, from time to time, be in effect, and neither any public officer nor any organization, entity or other person shall authorize the corporation to be or become a debtor under chapter 9 or any successor or corresponding chapter or sections during such period. The State hereby covenants with the owners of the securities and benefitted parties that the State will not limit or alter the denial of the corporation under this subsection during the period referred to in the preceding sentence. The corporation is authorized and directed to include this covenant as an agreement of the State in any contract with the owners of the securities and benefitted parties.

C.52:18B-11 Securities as legal investments.

11. Notwithstanding any restriction contained in any other law, rule, regulation or order to the contrary, the State and all political subdivisions of the State, their officers, boards, commissioners, departments or other agencies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, saving and loan associations, investment companies and other persons carrying on a banking or investment business, and all executors, administrators, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest

any sinking funds, moneys or other funds, including capital, belonging to them or within their control, in any securities; and said securities are hereby made securities which may properly and legally be deposited with, and received by, any State municipal officers or agency of the State, for any purpose for which the deposit of bonds or other obligations of the State is now, or may hereafter be, authorized by law.

C.52:18B-12 Immunity from personal liability.

12. Neither any member of the corporation nor any officer, employee or agent of the corporation, while acting within the scope of his or her authority, shall be subject to any personal liability resulting from exercising or carrying out of any of the corporation's purposes or powers.

C.52:18B-13 Rules, regulations.

13. The corporation may adopt any rules and regulations to effectuate the purposes of this act and, if it does so, shall apply the procedures of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), with respect thereto.

C.52:18B-14 Liberal construction; severability.

14. This act and all powers granted hereby shall be liberally construed to effectuate its intent and their purposes, without implied limitations thereon. This act shall constitute full and complete authority for all things herein contemplated to be done. All rights and powers herein granted shall be cumulative with those derived from other sources and shall not, except as expressly stated herein, be construed in limitation thereof. Insofar as the provisions of this act are inconsistent with the provisions of any other act, general or special, the provisions of this act shall be controlling. If any clause, sentence, paragraph, section or part of this act be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof but shall be applied in its operation to the clause, sentence, paragraph, section or part hereof directly involved in the controversy in which such judgment shall have been rendered.

15. This act shall take effect immediately.

Approved July 1, 2002.

CHAPTER 33

AN ACT concerning the taxation of cigarettes, amending P.L.1997, c.264 and amending and supplementing P.L.1948, c.65.

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

1. Section 301 of P.L.1948, c.65 (C.54:40A-8) is amended to read as follows:

C.54:40A-8 Tax imposed; rate.

301. Tax imposed; rate. A tax is hereby imposed on the sale, use or possession for sale or use within this State of all cigarettes at the rate of $0.075 for each cigarette.

2. a. Each retail licensee under P.L.1948, c.65 (C.54:40A-1 et seq.), shall, on or before the first day of the second month after the effective date of P.L.2002, c.33, file a return under oath or certified under the penalties of perjury with the director on forms furnished by the director, showing the amount of cigarettes in the retail licensee's possession in the State at 12:01 a.m. on the effective date of P.L.2002, c.33, and shall at the time of filing that return pay the tax to the director. Failure to obtain such forms shall not be an excuse for the failure to make a return containing the information required by the director.

b. Notwithstanding the provisions of section 401 of P.L.1948, c.65 (C.54:40A-11) to the contrary, each licensed distributor and wholesale dealer under P.L.1948, c.65 (C.54:40A-1 et seq.), shall, on or before the first day of the second month after the effective date of P.L.2002, c.33, file a return under oath or certified under the penalties of perjury with the director on forms furnished by the director, showing the amount of cigarettes in the dealer's or wholesaler's possession in the State at the close of business prior to the effective date of P.L.2002, c.33. An amount of tax shall be due equal to the additional tax on the number of cigarettes bearing stamps and unaffixed stamps on hand. Each licensed distributor and wholesale dealer shall at the time of filing that return pay the tax to the director. Failure to obtain such forms shall not be an excuse for the failure to make a return containing the information required by the director.

3. Section 4 of P.L.1997, c.264 (C.26:2H-18.58g) is amended to read as follows:

C.26:2H-18.58g Disposition of revenue collected from cigarette tax.

4. Notwithstanding the provisions of any other law to the contrary, commencing July 1, 1998: after the deposit required pursuant to section 5 of P.L.1982, c.40 (C.54:40A-37.1), the first $150,000,000 of revenue collected annually from the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) and the first $5,000,000 of revenue collected annually from the "Tobacco Products Wholesale Sales and Use Tax," P.L.1990, c.39 (C.54:40B-1 et seq.),

shall be deposited into the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58); and the next $200,000,000 of revenue collected annually from the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated annually for health programs, and the next $50,000,000 of revenue collected annually from the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated annually to the New Jersey Economic Development Authority for payment of debt service incurred by the authority for school facilities projects and in fiscal years commencing July 1, 2002 and July 1, 2003, the next $30,000,000 of revenue collected annually from the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be directed to the Department of Health and Senior Services to fund anti-smoking initiatives, except that the amount shall be $40,000,000 in the fiscal year commencing July 1, 2004 and $45,000,000 in fiscal years commencing July 1, 2005 and thereafter.

4. This act shall take effect July 1, 2002.

Approved July 1, 2002.

CHAPTER 34

AN ACT establishing and increasing certain fees and penalties and providing for the use thereof, revising various parts of the statutory law, repealing N.J.S.22A:4-13 and making an appropriation.

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

1. Section 3 of P.L.1993, c.265 (C.4:1-11.1) is amended to read as follows:

C.4:1-11.1 Rules, regulations.

3. The board may 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 carry out the provisions of this Title, including the amendment of fees and penalties authorized pursuant to this Title.

2. Section 4 of P.L.1970, c.338 (C.4:4-20.4) is amended to read as follows:

C.4:4-20.4 Registration; fee.

4. a. Every person engaged in the manufacture of commercial feed or customer formula feed to be distributed in this State shall on January 1 of each

year, or prior to manufacture or distribution of such feed, register each facility on a form furnished by the State Chemist, the application to be accompanied by a fee of $250.00. Upon approval by the State board, a copy of the registration shall be furnished to the applicant and displayed in or on the facility.

b. The State board is empowered to refuse registration of any facility not in compliance with the provisions of this act or to cancel the registration of any facility subsequently found not to be in compliance with any provision of this act, provided, however, that no registration shall be refused or canceled until the registrant shall have been given an opportunity to be heard before the secretary or his agent.

c. Before a commercial feed may be offered for sale which contains drugs, chemical additives or other ingredients which are potentially harmful to animals, the registrant may be required to submit evidence to show the safety of the feed when used according to the directions which the distributor furnished with the feed.

3. Section 9 of P.L.1970, c.338 (C.4:4-20.9) is amended to read as follows:

C.4:4-20.9 Inspection fees and reports.

9. Inspection fees and reports. a. An inspection fee at the rate of $0.30 per ton shall be paid on commercial feeds distributed in this State by the person who distributes the commercial feed to the consumer subject to the following:

(1) No fee shall be paid on a commercial feed if the payment has been made by a previous distributor.

(2) No fee shall be paid on customer formula feeds if the inspection fee is paid on the commercial feeds which are used as ingredients therein.

(3) No fee shall be paid on commercial feeds which are used as ingredients for the manufacture of commercial feeds which are subject to the inspection fee. If the fee has already been paid, credit shall be given for such payment.

(4) In the case of a person who manufactures or distributes commercial feed in the State, a minimum annual fee of $250.00 shall be paid.

b. Each person who is liable for the payment of such fee shall:

(1) File, not later than January 31 of each year, a statement, setting forth the number of net tons of commercial feeds distributed in this State during the preceding calendar year; and upon filing such statement shall pay the inspection fee at the rate stated in subsection a. of this section. Inspection fees which are due and owing and have not been remitted to the department within 15 days following the due date shall have a penalty fee of 10% (minimum $10.00) added to the amount due when payment is finally made. The assessment of this penalty fee shall not prevent the department from taking other actions as provided in this act.

(2) Keep such records as may be necessary or required by the State board to indicate accurately the tonnage of commercial feed distributed in this State, and the department shall have the right to examine such records to verify statements of tonnage.

Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein shall constitute sufficient cause for the cancellation of all registrations on file for the distributor.

c. Fees imposed by, and fines collected for violations of this act, shall be deposited in the State Treasury.

4. Section 13 of P.L.1970, c.338 (C.4:4-20.13) is amended to read as follows:

C.4:4-20.13 Penalties.

13. Penalties. a. Any person convicted of violating any of the provisions of this act or the rules and regulations promulgated thereunder or who shall impede, hinder, or otherwise prevent, or attempt to prevent, said secretary or his duly authorized agent in performance of his duty in connection with the provisions of this act, shall be fined not less than $100.00 or more than $500.00 for the first violation, and not less than $200.00 or more than $1,000.00 for a subsequent violation in any two years.

b. Nothing in this act shall be construed as requiring the State Chemist or his representative to: (1) report for prosecution, or (2) institute seizure proceedings, or (3) issue a withdrawal from distribution order, as a result of minor violations of the act, or when he believes the public interest will best be served by suitable notice of warning in writing.

c. It shall be the duty of the Attorney General to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the State Chemist reports a violation for such prosecution, an opportunity shall be given the distributor to present his view to the secretary.

d. The secretary is hereby authorized to apply for and the court to grant in an appropriate case, a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this act or any rule or regulation promulgated under the act, notwithstanding the existence of other remedies at law. Said injunction to be issued without bond.

e. Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this act may seek judicial review by appeal to the Superior Court by a proceeding in lieu of prerogative writs.

f. Any person who used to his own advantage, or reveals to other than the secretary, or officers of the New Jersey Department of Agriculture, or to the courts when relevant in any judicial proceeding, any information acquired

under the authority of this act, concerning any method, records, formulations, or processes which as a trade secret is entitled to protection, is guilty of a misdemeanor and shall on conviction thereof be fined not less than $500.00 or imprisoned for not less than one year or both, provided that, this prohibition shall not be deemed as prohibiting the secretary or his duly authorized agent, from exchanging information of a regulatory nature with duly appointed officials of the United States Government, or of other states, who are similarly prohibited by law from revealing this information.

g. Upon receiving any information of a violation of any provisions of this act or of any rule or regulation adopted thereunder, the secretary or any agent designated by him for such purpose, is empowered to hold hearings upon said violation and, upon finding the violation to have been committed, to assess a penalty against the violator in such amount, as the secretary deems proper under the circumstances. If the violator pays such penalty as settlement, no further prosecution shall be had upon that violation. Payment of such a penalty shall be deemed equivalent to a conviction for violation of this act.

5. Section 6 of P.L.1970, c.66 (C.4:9-15.6) is amended to read as follows:

C.4:9-15.6 License fee.

6. The minimum annual license fee for a manufacturer or distributor shall be $250.00. In the case of each person who owns or operates more than one manufacturing facility within this State there shall be an additional annual license fee of $250.00 for each such additional manufacturing facility. In the case of each person who owns or operates any manufacturing facilities located outside of New Jersey which distribute commercial fertilizers or soil conditions within this State, there shall be an additional annual license fee of $250.00 covering all such manufacturing facilities. Fees collected pursuant to this section shall be forwarded to the State Treasurer.

6. Section 16 of P.L.1970, c.66 (C.4:9-15.16) is amended to read as follows:

C.4:9-15.16 Inspection fee.

16. Each licensee shall pay to the Department of Agriculture for all commercial fertilizers and soil conditioners distributed in this State an inspection fee at the rate of $0.30 per ton on all tonnage in excess of 10 tons per semiannual statement. Fees so collected by the department shall be forwarded to the State Treasurer.

Sales to persons owning or operating manufacturing facilities or exchanges between such persons are exempted from the inspection fee.

7. Section 25 of P.L.1970, c.66 (C.4:9-15.25) is amended to read as follows:

C.4:9-15.25 Deficiency in primary plant nutrients; penalties.

25. If an official analysis shows that a commercial fertilizer is deficient in one or more of its guaranteed primary plant nutrients (nitrogen, available phosphoric acid, and soluble potash) beyond the investigational allowance as established by regulation or if the over-all index value of the fertilizer is below the level established by regulation, a penalty of five times the commercial value of such deficiency shall be assessed by the State Chemist against the licensee. Subsequent violations within two years of the first violation shall be subject to an additional penalty of not less than $200.00 or more than $1,000.00.

8. Section 7 of P.L.1968, c.392 (C.4:9-21.7) is amended to read as follows:

C.4:9-21.7 Annual license fee.

7. The annual license fee shall be $250.00 payable on January 1 of each year or prior to the distribution in such year.

9. Section 8 of P.L.1968, c.392 (C.4:9-21.8) is amended to read as follows:

C.4:9-21.8 Statement submitted by licensee.

8. Within the 30-day period following December 31 of each year, each licensee shall submit on a form furnished by the State board or its authorized agent a statement setting forth the number of net tons of each agricultural liming material sold by him for use in the State during the previous 12-month period. Such statement shall be accompanied by payment of the inspection fee at the rate of $0.05 per ton. Such reports shall be confidential and no information therein shall be disclosed in any manner that will reveal the operation of any licensee. Fees collected pursuant to this section shall be forwarded to the State Treasurer.

10. Section 10 of P.L.1968, c.392 (C.4:9-21.10) is amended to read as follows:

C.4:9-21.10 Violations; penalties.

10. Any person convicted of violating any provision of this act or any rule or regulation promulgated thereunder shall be subject to a penalty of not less than $100.00 nor more than $500.00 to be enforced by summary proceedings under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Upon receiving any information of a violation of any part of this act other than a violation involving a weighed or measured deficiency or the rules and regulations issued thereunder, the secretary, or any assistant

designated by him for such purpose, is empowered to hold hearings, formal or informal, upon said violation and upon finding the violation to have been committed, to assess a penalty against the person alleged to have committed such violation, in an amount not to exceed the maximum limit set forth in this section as the secretary deems proper under the circumstances. In the event the violator makes satisfactory settlement, no further prosecution shall be had upon that violation. Payment of a penalty, in the form of a settlement, shall be deemed equivalent to a conviction for a violation of this act. Violations not settled in this manner may be referred to the court of competent jurisdiction. Nothing in this act shall be construed as requiring the State board or its authorized agent to report for prosecution or for the institution of seizure proceedings as a result of minor violations of "The New Jersey Agricultural Liming Materials Act," P.L.1968, c.392 (C.4:9-21.1 et seq.) when it believes that the public interest will best be served by a suitable written warning.

11. Section 1 of P.L.1992, c.197 (C.11A:4-1.1) is amended to read as follows:

C.11A:4-1.1 Application fee for examinations; additional fees; uses.

1. a. Except as provided in subsection b. of this section concerning law enforcement officer and firefighter examinations, the Commissioner of the Department of Personnel shall establish a $15 fee for each application for an open competitive or promotional examination. Persons receiving public assistance benefits pursuant to P.L.1947, c.156 (C.44:8-107 et seq.), P.L.1973, c.256 (C.44:7-85 et seq.), or P.L.1997, c.38 (C.44:10-55 et seq.) shall not be required to pay this fee if they apply for an open competitive examination. Receipts derived from application fees established by this subsection shall be appropriated to the department.

b. The commissioner shall establish a fee for each application for an open competitive or promotional examination for a law enforcement officer or firefighter title. The fee shall not exceed the cost of developing, procuring and administering the examination, including the processing of any appeals or reviews associated with the examination. Persons receiving public assistance benefits pursuant to P.L.1947, c.156 (C.44:8-107 et seq.), P.L.1973, c.256 (C.44:7-85 et seq.), or P.L.1997, c.38 (C.44:10-55 et seq.) shall not be required to pay this fee if they apply for an open competitive examination. Receipts derived from application fees established by this subsection shall be appropriated to the department for use in developing, procuring and administering law enforcement officer and firefighter examinations, including the processing of any appeals or reviews associated with those examinations.

c. In addition to the fees established in subsections a. and b. of this section, the commissioner shall establish a $15 fee for each application for an open

competitive or promotional examination for a position in State service. Persons receiving public assistance benefits pursuant to P.L.1947, c.156 (C.44:8-107 et seq.), P.L.1973, c.256 (C.44:7-85 et seq.), or P.L.1997, c.38 (C.44:10-55 et seq.) shall not be required to pay this fee if they apply for an open competitive examination. Receipts derived from the application fee established pursuant to this subsection shall be appropriated annually to the department for the costs of the displaced workers pool program. This fee shall not be assessed and collected unless the commissioner implements a displaced workers pool program. If the displaced workers pool program is terminated at any time by the commissioner, the assessment and collection of this additional fee shall also be terminated.

12. Section 12 of P.L.1962, c.73 (C.12:7-34.47) is amended to read as follows:

C.12:7-34.47 Fees.

12. The fees for the initial numbering of all vessels and for each renewal of the certificate of number issued thereto, unless otherwise provided by law, shall be:

(a) For all vessels less than 16 feet,$12 per year; 16 feet or more but less than 26 feet, $28 per year; 26 feet or more but less than 40 feet, $52 per year; 40 feet or more but less than 65 feet, $80 per year; 65 feet or more, $250 per year. The revenue derived from the increase, pursuant to the amendatory provisions of section 12 of P.L.2002, c.34, in the amount of the fees imposed under this subsection shall be deposited into the "Maritime Industry Fund" established pursuant to section 8 of P.L.2001, c.429 (C.27:1A-82), as follows: in fiscal year 2003, 50% of the revenue derived from the increase in fees, in fiscal year 2004, 75% of the revenue derived from the increase in fees; and in fiscal year 2005 and thereafter, 100% of the revenue derived from the increase in fees.

(b) (Deleted by amendment.)

(c) Special numbers including up to three duplicates thereof and up to four sets of temporary numbers bearing a number corresponding to the special number, shall be assigned to boat dealers and manufacturers, as provided for under rules and regulations to be promulgated by the division, and such numbers shall be displayed temporarily upon boats being tested, demonstrated, photographed or transported, said display to be as prescribed in the rules and regulations aforementioned.

For each such special number so assigned the fee shall be $75 for one year.

(d) A fee shall not be charged for the numbering of any marine equipment operated and maintained by the State of New Jersey; a county; a municipality;

a volunteer first aid, rescue, or emergency squad; a search and rescue unit established within a fire district created pursuant to N.J.S.40A:14-70; or a volunteer fire company created pursuant to N.J.S.40A:14-70.1. This subsection shall apply only to marine equipment which is used exclusively in the performance of the prescribed duties of the governmental entities and organizations described above.

13. R.S.39:3-20 is amended to read as follows:

Commercial motor vehicle registrations; fees.

39:3-20. For the purpose of this section, gross weight means the weight of the vehicle or combination of vehicles, including load or contents.

a. The director is authorized to issue registrations for commercial motor vehicles other than omnibuses or motor-drawn vehicles upon application therefor and payment of a fee based on the gross weight of the vehicle, including the gross weight of all vehicles in any combination of vehicles of which the commercial motor vehicle is the drawing vehicle. The gross weight of a disabled commercial vehicle or combination of disabled commercial vehicles being removed from a highway shall not be included in the calculation of the registration fee for the drawing vehicle.

Except as otherwise provided in this subsection, every registration for a commercial motor vehicle other than an omnibus or motor-drawn vehicle shall expire and the certificate thereof shall become void on the last day of the eleventh calendar month following the month in which the certificate was issued; provided, however, that the director may require registrations which shall expire, and issue certificates thereof which shall become void, on a date fixed by the director, which shall not be sooner than three months or later than 26 months after the date of issuance of such certificates, and the fees for such registrations or registration applications, including any other fees or charges collected in connection with the registration fee, shall be fixed by the director in amounts proportionately less or greater than the fees established by law. The director may fix the expiration date for registration certificates at a date other than 11 months if the director determines that such change is necessary, appropriate or convenient in order to aid in implementing the vehicle inspection requirements of chapter 8 of Title 39 or for other good cause. The minimum registration fee shall be as follows:

(1) In the case of vehicles other than trucks transporting ready-mixed concrete, asphalt, stone, sand, gravel, clay and cleanfill:

For vehicles not in excess of 5,000 pounds, $53.50.

For vehicles in excess of 5,000 pounds and not in excess of 10,000 pounds, $53.50 plus $11.50 for each 1,000 pounds or portion thereof in excess of 5,000 pounds.

For vehicles in excess of 10,000 pounds and not in excess of 18,000 pounds, $53.50 plus $13.50 for each 1,000 pounds or portion thereof in excess of 5,000 pounds.

For vehicles in excess of 18,000 pounds and not in excess of 50,000 pounds, $53.50 plus $14.50 for each 1,000 pounds or portion thereof in excess of 5,000 pounds.

For vehicles in excess of 50,000 pounds, $53.50 plus $15.50 for each 1,000 pounds or portion thereof in excess of 5,000 pounds; and

(2) In the case of trucks transporting ready-mixed concrete, asphalt, stone, sand, gravel, clay and cleanfill:

For vehicles not in excess of 5,000 pounds, $53.50.

For vehicles in excess of 5,000 pounds and not in excess of 18,000 pounds, $53.50 plus $11.50 for each 1,000 pounds or portion thereof in excess of 5,000 pounds.

For vehicles in excess of 18,000 pounds and not in excess of 50,000 pounds, $53.50 plus $12.50 for each 1,000 pounds or portion thereof in excess of 5,000 pounds.

For vehicles in excess of 50,000 pounds, $53.50 plus $13.50 for each 1,000 pounds or portion thereof in excess of 5,000 pounds.

b. The director is also authorized to issue registrations for commercial motor vehicles having three or more axles and a gross weight over 40,000 pounds but not exceeding 70,000 pounds, upon application therefor and proof to the satisfaction of the director that the applicant is actually engaged in construction work or in the business of supplying material, transporting material, or using such registered vehicle for construction work.

Except as otherwise provided in this subsection, every registration for these commercial motor vehicles shall expire and the certificate thereof shall become void on the last day of the eleventh calendar month following the month in which the certificate was issued; provided, however, that the director may require registrations which shall expire, and issue certificates thereof which shall become void on a date fixed by the director, which shall not be sooner than three months or later than 26 months after the date of issuance of such certificates, and the fees for such registrations or registration applications, including any other fees or charges collected in connection with the registration fee, shall be fixed by the director in amounts proportionately less or greater than the fees established by law. The director may fix the expiration date for registration certificates at a date other than 11 months if the director determines that such change is necessary, appropriate or convenient in order to aid in implementing the vehicle inspection requirements of chapter 8 of Title 39 or for other good cause.

The registration fee shall be $22.50 for each 1,000 pounds or portion thereof.

For purposes of calculating this fee, weight means the gross weight, including the gross weight of all vehicles in any combination of which such commercial motor vehicle is the drawing vehicle.

Such commercial motor vehicle shall be operated in compliance with the speed limitations of Title 39 of the Revised Statutes and shall not be operated at a speed greater than 45 miles per hour when one or more of its axles has a load which exceeds the limitations prescribed in R.S.39:3-84.

c. The director is also authorized to issue registrations for each of the following solid waste vehicles: two-axle vehicles having a gross weight not exceeding 42,000 pounds; tandem three-axle and four-axle vehicles having a gross weight not exceeding 60,000 pounds; four-axle tractor-trailer combination vehicles having a gross weight not exceeding 60,000 pounds. Registration is based upon application to the director and proof to his satisfaction that the applicant is actually engaged in the performance of solid waste disposal or collection functions and holds a certificate of convenience and necessity therefor issued by the Department of Environmental Protection.

Except as otherwise provided in this subsection, every registration for a solid waste vehicle shall expire and the certificate thereof shall become void on the last day of the eleventh calendar month following the month in which the certificate was issued.

The registration fee shall be $50 plus $11.50 for each 1,000 pounds or portion thereof in excess of 5,000 pounds.

d. The director is also authorized to issue registrations for commercial motor-drawn vehicles upon application therefor. The registration year for commercial motor-drawn vehicles shall be April 1 to the following March 31 and the fee therefor shall be $18 for each such vehicle.

At the discretion of the director, an applicant for registration for a commercial motor-drawn vehicle may be provided the option of registering such vehicle for a period of four years. In the event that the applicant for registration exercises the four-year option, a fee of $64 for each such vehicle shall be paid to the director in advance.

If any commercial motor-drawn vehicle registered for a four-year period is sold or withdrawn from use on the highways, the director may, upon surrender of the vehicle registration and plate, refund $16 for each full year of unused prepaid registration.

e. It shall be unlawful for any vehicle or combination of vehicles registered under this act, having a gross weight, including load or contents, in excess of the gross weight provided on the registration certificate to be operated on the highways of this State.

The owner, lessee, bailee or any one of the aforesaid of a vehicle or combination of vehicles, including load or contents, found or operated on any public road, street or highway or on any public or quasi-public property

in this State with a gross weight of that vehicle or combination of vehicles, including load or contents, in excess of the weight limitation permitted by the certificate of registration for the vehicle or combination of vehicles, pursuant to the provisions of this section, shall be assessed a penalty of $500 plus an amount equal to $100 for each 1,000 pounds or fractional portion of 1,000 pounds of weight in excess of the weight limitation permitted by the certificate of registration for that vehicle or combination of vehicles. A vehicle or combination of vehicles for which there is no valid certificate of registration is deemed to have been registered for zero pounds for the purposes of the enforcement of this act, in addition to any other violation of this Title, but is not deemed to be lawfully or validly registered pursuant to the provisions of this Title.

This section shall not be construed to supersede or repeal the provisions of section 39:3-84, 39:4-75, or 39:4-76 of this Title.

f. Of the registration fees collected by the director pursuant to this section for vehicles with gross vehicle weights in excess of 5,000 pounds, an amount equal to $3 per 1,000 pounds or portion thereof in excess of 5,000 pounds for each registration shall be forwarded to the State Treasurer for deposit in the Commercial Vehicle Enforcement Fund established pursuant to section 17 of P.L.1995, c.157 (C.39:8-75). Moneys in the fund shall be used by the Department of Law and Public Safety and the Department of Transportation for enforcement of laws and regulations governing commercial motor vehicles.

14. Section 23 of P.L.1975, c.180 (C.39:3-10a) is amended to read as follows:

C.39:3-10a Fee for restoration of suspended or revoked licenses, vehicle registrations.

23. The Director of Motor Vehicles shall charge a fee of $100 for the restoration of any license which has been suspended or revoked by reason of the licensee's violation of any law or regulation and for the restoration of vehicle registrations that have been suspended pursuant to any law. The director may promulgate such regulations hereunder as he may deem necessary.

15. R.S.39:8-2 is amended to read as follows:

Examiners of motor vehicles; rules; regulations; inspections; requirements, etc.

39:8-2. a. The director may designate and appoint, subject to existing laws, competent examiners of motor vehicles to conduct examinations, other than the periodic inspections required pursuant to subsection b. of this section, of motor vehicles required to be inspected in accordance with the provisions of this chapter. The examiners may be delegated to enforce the provisions of the motor vehicle and traffic law.

b. (1) The director shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations consistent with P.L.1966, c.16 (C.26:2C-8.1 et seq.) and with the requirements of the federal Clean Air Act with respect to the type and character of the inspections to be made, the facility at which the vehicle shall be inspected, the frequency of inspections of motor vehicles and the approval or rejection of motor vehicles as a result of these inspections. These rules and regulations shall require the use of inspection tests that are designed to meet the enhanced inspection and maintenance requirements of the federal Clean Air Act and that have been proven to be feasible and effective for the inspection of large numbers of motor vehicles, except that these tests shall not include the "I/M 240" test. Nothing in this subsection shall preclude the use of the "I/M 240" test in sampling for performance evaluations only or the use of the test at the option of a private inspection facility. The rules and regulations may distinguish between vehicles based on model year, type, or other vehicle characteristics in order to facilitate inspections or to comply with the federal Clean Air Act. A low mileage vehicle shall not be subject to a tailpipe inspection test utilizing a dynamometer but may be subject to an idle test and a purge and pressure test. For the purpose of this paragraph, "low mileage vehicle" means a motor vehicle that is driven less than 10,000 miles during the biennial inspection period, except that the director may set the qualifying number of miles for this exemption at a lower number in order to meet the federal enhanced inspection and maintenance performance standard.

(2) The Department of Environmental Protection and the director shall investigate advanced testing technologies, including but not limited to remote sensing and onboard diagnostics, and shall, to the extent permitted by law, pursue the use of such technologies, other than the "I/M 240" test, in motor vehicle emission inspections required by the United States Environmental Protection Agency pursuant to the federal Clean Air Act. The director shall adopt, to the extent practicable, advanced technologies to facilitate the retrieval of testing and other information concerning motor vehicles, which technologies shall include but not be limited to the use of computer bar codes and personal cards containing encoded information, such as a person's operating license, motor vehicle registration, and motor vehicle insurance, the inspection status of a motor vehicle, and mass transit fares, that can be accessed quickly by a computer.

c. Except as modified by the director to distribute evenly the volume of inspections, all motor vehicles required by the director, in accordance with the provisions of R.S.39:8-1, to be inspected under this chapter shall be inspected biennially, except that (i) after certification by the director of the federal approval by the Environmental Protection Agency of the State waiver request, model year 2000 and newer motor vehicles shall be inspected no later

than four years from the last day of the month in which they were initially registered and thereafter biennially; and (ii) classes of vehicles that require more frequent inspections, such as school buses, shall be inspected at such shorter intervals as may be established by the director after consultation with the Department of Environmental Protection. At any time, the director may require the owner, lessee, or operator of a motor vehicle to submit the vehicle for inspection.

d. The director shall furnish to designated examiners or to other persons authorized to conduct inspections or to grant waivers official certificates of approval, rejection stickers or waiver certificates, the form, content and use of which he shall establish. The certificates of approval, rejection stickers and waiver certificates shall be of a type, such as a windshield sticker or license plate decal, that can be attached to the vehicle or license plate in a location that is readily visible to anyone viewing the vehicle. If a certificate of approval cannot be issued, the driver shall be provided with a written inspection report describing the reasons for rejection and, if appropriate, the repairs needed or likely to be needed to bring the vehicle into compliance with applicable standards.

e. The director may, with the approval of the State House Commission, purchase, lease or acquire by the exercise of the power of eminent domain any property for the purpose of assisting him in carrying out the provisions of this chapter. This property may also be used by the director for the exercise of the duties and powers conferred upon him by the other chapters of this Title.

f. For the purpose of implementing the motor vehicle inspection requirements of the federal Clean Air Act and subject to the approval of the Attorney General, the State Treasurer, prior to January 1, 1997, may:

(1) Purchase, lease or acquire by eminent domain any property for vehicle inspection purposes. Any other provision of law to the contrary notwithstanding, no further approval shall be required for transactions authorized by this paragraph, except that a proposed purchase, lease or acquisition by eminent domain shall require the approval of the Joint Budget Oversight Committee, and shall be submitted to the Joint Budget Oversight Committee, which shall review the proposed purchase, lease or acquisition by eminent domain within 15 business days; and

(2) Sell or lease, or grant an easement in, any property acquired, held or used for vehicle inspection purposes or any other suitable property held by the State that is not currently in use or dedicated to another purpose. For the purpose of this paragraph and notwithstanding any provision of R.S.52:20-1 et seq. to the contrary, the sale or lease of, or the granting of an easement in, real property owned by the State shall be subject to the approval of the State House Commission, which shall meet at the call of the Governor to act on a proposed sale or lease or grant of an easement pursuant to this paragraph.

A member of the State House Commission may permit a representative to act on that member's behalf in considering and voting on a sale or lease or grant of an easement pursuant to this paragraph. Any other provision of law to the contrary notwithstanding, any moneys derived from a sale, lease or granting of an easement by the State pursuant to this paragraph shall not be expended unless approved by the Joint Budget Oversight Committee for the purpose of purchasing, leasing or acquiring property pursuant to paragraph (1) of this subsection, except that any moneys derived therefrom and not approved for that purpose shall be appropriated to the Department of Transportation to provide for mass transit improvements.

g. The director shall conduct roadside examinations of motor vehicles required to be inspected, using such inspection equipment and procedures, and standards established pursuant to section 1 of P.L.1966, c.16 (C.26:2C-8.1), including, but not limited to, remote sensing technology, as the director shall deem appropriate to provide for the monitoring of motor vehicles pursuant to this subsection. At least 20,000 vehicles or 0.5 percent of the total number of motor vehicles required to be inspected under this chapter, whichever is less, shall be inspected during each inspection cycle by roadside examination teams under the supervision of the director. The director may require any vehicle failing a roadside examination to be inspected at an official inspection facility or a private inspection facility within a time period fixed by the director. Failure to appear and pass inspection within the time period fixed by the director shall result in registration suspension in addition to any other penalties provided in this Title. The director shall conduct an aggressive roadside inspection program to ensure that all motor vehicles that are required to be inspected in this State are in compliance with State law.

h. The director, and, when appropriate, the Department of Environmental Protection, shall conduct inspections and audits of licensed private inspection facilities, official inspection facilities and designated examiners to ensure accurate test equipment calibration and use, and compliance with proper inspection procedures and with the provisions of P.L.1995, c.112 (C.39:8-41 et al.) and any regulations adopted pursuant thereto by the Division of Motor Vehicles or by the Department of Environmental Protection. These inspections and audits shall be conducted at such times and in such manner as the director, upon consultation with the Department of Environmental Protection, shall determine in order to provide quality assurance in the performance of the inspection and maintenance program.

i. (1) The director shall make a charge of $2.50 for the initial inspection for each vehicle subject to inspection, which amount shall be paid to the director or his representative when payment of the registration fees fixed in chapter 3 of this Title is made; provided however, that on and after January 1, 1999, a school bus as defined pursuant to section 3 of P.L.1999, c.5 (C.39:3B-20)

and having a registration period commencing on or after January 1, 1999, shall be subject to an inspection fee for each in-terminal or in-lieu-of terminal inspection in accordance with the following schedule:

School Bus Specification Inspection	$50 per bus
School Bus Inspection	$25 per bus

School Bus Reinspection $25 per bus subject to the conditions set forth below:

The specification inspection is required when a school bus is put into service in New Jersey, whether a new bus or a bus from another state. The specification inspection is conducted to ensure that the school bus meets New Jersey specification standards. The school bus inspection fee shall be charged to the operator for each in-terminal or in-lieu-of terminal inspection. School Vehicle Type I and School Vehicle Type II buses shall be inspected semiannually. Retired school buses shall be inspected annually. No school bus inspection fee shall be charged for any reinspection conducted by the division if the reinspection is conducted on the same day as the inspection that necessitated the reinspection. If an additional trip is required by the division's inspectors, a fee of $25 per bus shall be charged. Inspection fees shall be paid to the director or the director's designee subject to the terms and conditions prescribed by the director. Any law or rule or regulation adopted pursuant thereto to the contrary notwithstanding, a registration fee authorized pursuant to chapter 3 of Title 39 of the Revised Statutes shall not be increased for the purpose of paying any costs associated in any manner with the establishment, implementation or operation of the motor vehicle inspection and maintenance program established pursuant to P.L.1995, c.112 (C.39:8-41 et al.).

(2) The director shall establish by regulation a fee to cover the costs of inspecting any vehicle that is required, or has the option, under federal law to be inspected in this State but is registered in another state or is owned or leased by the federal government. In determining these costs, the director shall include all capital and direct and indirect operating costs associated with the inspection of these vehicles including, but not limited to, the costs of the actual inspection, the creation and maintenance of the vehicle inspection record, administrative, oversight and quality assurance costs and the costs associated with reporting inspection information to the owner, the federal government and agencies of other states. All fees collected pursuant to this subsection shall be paid to the State Treasurer and deposited in the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of this section.

j. There is established in the General Fund a special dedicated, non-lapsing fund to be known as the "Motor Vehicle Inspection Fund," which shall be administered by the State Treasurer. The State Treasurer shall deposit into the "Motor Vehicle Inspection Fund" $11.50 from each motor vehicle

registration fee received by the State after June 30, 1995. The Legislature shall annually appropriate from the fund an amount necessary to pay the reasonable and necessary expenses of the implementation and operation of the motor vehicle inspection program. The State Treasurer shall:

(1) Pay to a private contractor or contractors contracted to design, construct, renovate, equip, establish, maintain and operate official inspection facilities under a contract or contracts entered into with the State Treasurer pursuant to subsection a. of section 4 of P.L.1995, c.112 (C.39:8-44) from the fund the amount necessary to meet the costs agreed to under the contract or contracts; and

(2) Transfer from the fund to the Division of Motor Vehicles and the Department of Environmental Protection the amounts necessary to finance the costs of administering and implementing all aspects of the inspection and maintenance program, and to the Office of Telecommunications and Information Systems in the Department of the Treasury the amount necessary for computer support upgrades;

Moneys remaining in the fund and any unexpended balance of appropriations from the fund at the end of each fiscal year shall be reappropriated for the purposes of the fund. Any interest earned on moneys in the fund shall be credited to the fund.

16. Section 20 of P.L.1952, c.173 (C.39:6-42) is amended to read as follows:

C.39:6-42 Certified abstract of operating record; fees.

20. Upon the request of any insurance company, any person furnishing any financial responsibility or any surety on a bond herein provided for, the director shall furnish such company person or surety a certified abstract of the operating record of any person subject to the provisions of this act. If there is no record of his conviction of a violation of a provision of law relating to the operation of motor vehicles or of an injury or damage caused by him as herein provided, the director shall so certify. The director shall collect a fee of $10 for each certified or uncertified abstract so issued. The director shall use the same schedule of fees established above for abstracts requested by persons authorized by law to receive them.

17. R.S.39:4-50 is amended to read as follows:

Driving while intoxicated.

39:4-50. (a) Except as provided in subsection (g) of this section, a person who operates a motor vehicle while under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug, or operates a motor vehicle with a blood alcohol concentration of 0.10% or more by weight of alcohol

in the defendant's blood or permits another person who is under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug to operate a motor vehicle owned by him or in his custody or control or permits another to operate a motor vehicle with a blood alcohol concentration of 0.10% or more by weight of alcohol in the defendant's blood shall be subject:

(1) For the first offense, to a fine of not less than $250.00 nor more than $400.00 and a period of detainment of not less than 12 hours nor more than 48 hours spent during two consecutive days of not less than six hours each day and served as prescribed by the program requirements of the Intoxicated Driver Resource Centers established under subsection (f) of this section and, in the discretion of the court, a term of imprisonment of not more than 30 days and shall forthwith forfeit his right to operate a motor vehicle over the highways of this State for a period of not less than six months nor more than one year. For a first offense, a person also shall be subject to the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).

(2) For a second violation, a person shall be subject to a fine of not less than $500.00 nor more than $1,000.00, and shall be ordered by the court to perform community service for a period of 30 days, which shall be of such form and on such terms as the court shall deem appropriate under the circumstances, and shall be sentenced to imprisonment for a term of not less than 48 consecutive hours, which shall not be suspended or served on probation, nor more than 90 days, and shall forfeit his right to operate a motor vehicle over the highways of this State for a period of two years upon conviction, and, after the expiration of said period, he may make application to the Director of the Division of Motor Vehicles for a license to operate a motor vehicle, which application may be granted at the discretion of the director, consistent with subsection (b) of this section. For a second violation, a person also shall be required to install an ignition interlock device under the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.) or shall have his registration certificate and registration plates revoked for two years under the provisions of section 2 of P.L.1995, c.286 (C.39:3-40.1).

(3) For a third or subsequent violation, a person shall be subject to a fine of $1,000.00, and shall be sentenced to imprisonment for a term of not less than 180 days, except that the court may lower such term for each day, not exceeding 90 days, served performing community service in such form and on such terms as the court shall deem appropriate under the circumstances and shall thereafter forfeit his right to operate a motor vehicle over the highways of this State for 10 years. For a third or subsequent violation, a person also shall be required to install an ignition interlock device under the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.) or shall have his registration certificate and registration plates revoked for 10 years under the provisions of section 2 of P.L.1995, c.286 (C.39:3-40.1).

As used in this section, the phrase "narcotic, hallucinogenic or habit-producing drug" includes an inhalant or other substance containing a chemical capable of releasing any toxic vapors or fumes for the purpose of inducing a condition of intoxication, such as any glue, cement or any other substance containing one or more of the following chemical compounds: acetone and acetate, amyl nitrite or amyl nitrate or their isomers, benzene, butyl alcohol, butyl nitrite, butyl nitrate or their isomers, ethyl acetate, ethyl alcohol, ethyl nitrite or ethyl nitrate, ethylene dichloride, isobutyl alcohol or isopropyl alcohol, methyl alcohol, methyl ethyl ketone, nitrous oxide, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl nitrate or propyl nitrate or their isomers, toluene, toluol or xylene or any other chemical substance capable of causing a condition of intoxication, inebriation, excitement, stupefaction or the dulling of the brain or nervous system as a result of the inhalation of the fumes or vapors of such chemical substance.

Whenever an operator of a motor vehicle has been involved in an accident resulting in death, bodily injury or property damage, a police officer shall consider that fact along with all other facts and circumstances in determining whether there are reasonable grounds to believe that person was operating a motor vehicle in violation of this section.

A conviction of a violation of a law of a substantially similar nature in another jurisdiction, regardless of whether that jurisdiction is a signatory to the Interstate Driver License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior conviction under this subsection unless the defendant can demonstrate by clear and convincing evidence that the conviction in the other jurisdiction was based exclusively upon a violation of a proscribed blood alcohol concentration of less than 0.10%.

If the driving privilege of any person is under revocation or suspension for a violation of any provision of this Title or Title 2C of the New Jersey Statutes at the time of any conviction for a violation of this section, the revocation or suspension period imposed shall commence as of the date of termination of the existing revocation or suspension period. In the case of any person who at the time of the imposition of sentence is less than 17 years of age, the forfeiture, suspension or revocation of the driving privilege imposed by the court under this section shall commence immediately, run through the offender's seventeenth birthday and continue from that date for the period set by the court pursuant to paragraphs (1) through (3) of this subsection. A court that imposes a term of imprisonment under this section may sentence the person so convicted to the county jail, to the workhouse of the county wherein the offense was committed, to an inpatient rehabilitation program or to an Intoxicated Driver Resource Center or other facility approved by the chief of the Intoxicated Driving Program Unit in the Department of Health and Senior Services; provided that for a third or subsequent offense a person

shall not serve a term of imprisonment at an Intoxicated Driver Resource Center as provided in subsection (f).

A person who has been convicted of a previous violation of this section need not be charged as a second or subsequent offender in the complaint made against him in order to render him liable to the punishment imposed by this section on a second or subsequent offender, but if the second offense occurs more than 10 years after the first offense, the court shall treat the second conviction as a first offense for sentencing purposes and if a third offense occurs more than 10 years after the second offense, the court shall treat the third conviction as a second offense for sentencing purposes.

(b) A person convicted under this section must satisfy the screening, evaluation, referral, program and fee requirements of the Division of Alcoholism and Drug Abuse's Intoxicated Driving Program Unit, and of the Intoxicated Driver Resource Centers and a program of alcohol and drug education and highway safety, as prescribed by the Director of the Division of Motor Vehicles. The sentencing court shall inform the person convicted that failure to satisfy such requirements shall result in a mandatory two-day term of imprisonment in a county jail and a driver license revocation or suspension and continuation of revocation or suspension until such requirements are satisfied, unless stayed by court order in accordance with the Rules Governing the Courts of the State of New Jersey, or R.S.39:5-22. Upon sentencing, the court shall forward to the Division of Alcoholism and Drug Abuse's Intoxicated Driving Program Unit a copy of a person's conviction record. A fee of $100.00 shall be payable to the Alcohol Education, Rehabilitation and Enforcement Fund established pursuant to section 3 of P.L.1983, c.531 (C.26:2B-32) to support the Intoxicated Driving Program Unit.

(c) Upon conviction of a violation of this section, the court shall collect forthwith the New Jersey driver's license or licenses of the person so convicted and forward such license or licenses to the Director of the Division of Motor Vehicles. The court shall inform the person convicted that if he is convicted of personally operating a motor vehicle during the period of license suspension imposed pursuant to subsection (a) of this section, he shall, upon conviction, be subject to the penalties established in R.S.39:3-40. The person convicted shall be informed orally and in writing. A person shall be required to acknowledge receipt of that written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of R.S.39:3-40. In the event that a person convicted under this section is the holder of any out-of-State driver's license, the court shall not collect the license but shall notify forthwith the director, who shall, in turn, notify appropriate officials in the licensing jurisdiction. The court shall, however, revoke the nonresident's driving privilege

to operate a motor vehicle in this State, in accordance with this section. Upon conviction of a violation of this section, the court shall notify the person convicted, orally and in writing, of the penalties for a second, third or subsequent violation of this section. A person shall be required to acknowledge receipt of that written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of this section.

(d) The Director of the Division of Motor Vehicles shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) in order to establish a program of alcohol education and highway safety, as prescribed by this act.

(e) Any person accused of a violation of this section who is liable to punishment imposed by this section as a second or subsequent offender shall be entitled to the same rights of discovery as allowed defendants pursuant to the Rules Governing the Courts of the State of New Jersey.

(f) The counties, in cooperation with the Division of Alcoholism and Drug Abuse and the Division of Motor Vehicles, but subject to the approval of the Division of Alcoholism and Drug Abuse, shall designate and establish on a county or regional basis Intoxicated Driver Resource Centers. These centers shall have the capability of serving as community treatment referral centers and as court monitors of a person's compliance with the ordered treatment, service alternative or community service. All centers established pursuant to this subsection shall be administered by a counselor certified by the Alcohol and Drug Counselor Certification Board of New Jersey or other professional with a minimum of five years' experience in the treatment of alcoholism. All centers shall be required to develop individualized treatment plans for all persons attending the centers; provided that the duration of any ordered treatment or referral shall not exceed one year. It shall be the center's responsibility to establish networks with the community alcohol and drug education, treatment and rehabilitation resources and to receive monthly reports from the referral agencies regarding a person's participation and compliance with the program. Nothing in this subsection shall bar these centers from developing their own education and treatment programs; provided that they are approved by the Division of Alcoholism and Drug Abuse.

Upon a person's failure to report to the initial screening or any subsequent ordered referral, the Intoxicated Driver Resource Center shall promptly notify the sentencing court of the person's failure to comply.

Required detention periods at the Intoxicated Driver Resource Centers shall be determined according to the individual treatment classification assigned by the Intoxicated Driving Program Unit. Upon attendance at an Intoxicated Driver Resource Center, a person shall be required to pay a per diem fee of $75.00 for the first offender program or a per diem fee of $100.00 for the second

offender program, as appropriate. Any increases in the per diem fees after the first full year shall be determined pursuant to rules and regulations adopted by the Commissioner of Health and Senior Services in consultation with the Governor's Council on Alcoholism and Drug Abuse pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

The centers shall conduct a program of alcohol and drug education and highway safety, as prescribed by the Director of the Division of Motor Vehicles.

The Commissioner of Health and Senior Services shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), in order to effectuate the purposes of this subsection.

(g) When a violation of this section occurs while:

(1) 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;

(2) 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

(3) 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, the convicted person shall: for a first offense, be fined not less than $500 or more than $800, be imprisoned for not more than 60 days and have his license to operate a motor vehicle suspended for a period of not less than one year or more than two years; for a second offense, be fined not less than $1,000 or more than $2,000, perform community service for a period of 60 days, be imprisoned for not less than 96 consecutive hours, which shall not be suspended or served on probation, nor more than 180 days, except that the court may lower such term for each day, not exceeding 90 days, served performing community service in such form and on such terms as the court shall deem appropriate under the circumstances and have his license to operate a motor vehicle suspended for a period of not less than four years; and, for a third offense, be fined $2,000, imprisoned for 180 days and have his license to operate a motor vehicle suspended for a period of 20 years; the period of license suspension shall commence upon the completion of any prison sentence imposed upon that person.

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 paragraph (1) of this subsection.

It shall not be relevant to the imposition of sentence pursuant to paragraph (1) or (2) 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 relevant to the imposition of sentence 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.

(h) A court also may order a person convicted pursuant to subsection a. of this section, to participate in a supervised visitation program as either a condition of probation or a form of community service, giving preference to those who were under the age of 21 at the time of the offense. Prior to ordering a person to participate in such a program, the court may consult with any person who may provide useful information on the defendant's physical, emotional and mental suitability for the visit to ensure that it will not cause any injury to the defendant. The court also may order that the defendant participate in a counseling session under the supervision of the Intoxicated Driving Program Unit prior to participating in the supervised visitation program. The supervised visitation program shall be at one or more of the following facilities which have agreed to participate in the program under the supervision of the facility's personnel and the probation department:

(1) a trauma center, critical care center or acute care hospital having basic emergency services, which receives victims of motor vehicle accidents for the purpose of observing appropriate victims of drunk drivers and victims who are, themselves, drunk drivers;

(2) a facility which cares for advanced alcoholics or drug abusers, to observe persons in the advanced stages of alcoholism or drug abuse; or

(3) if approved by a county medical examiner, the office of the county medical examiner or a public morgue to observe appropriate victims of vehicle accidents involving drunk drivers.

As used in this section,"appropriate victim" means a victim whose condition is determined by the facility's supervisory personnel and the probation officer to be appropriate for demonstrating the results of accidents involving drunk drivers without being unnecessarily gruesome or traumatic to the defendant.

If at any time before or during a visitation the facility's supervisory personnel and the probation officer determine that the visitation may be or is traumatic or otherwise inappropriate for that defendant, the visitation shall be terminated without prejudice to the defendant. The program may include a personal conference after the visitation, which may include the sentencing judge or the judge who coordinates the program for the court, the defendant, defendant's counsel, and, if available, the defendant's parents to discuss the visitation and its effect on the defendant's future conduct. If a personal conference is not practicable because of the defendant's absence from the jurisdiction, conflicting time schedules, or any other reason, the court shall require the defendant to submit a written report concerning the visitation experience and its impact on the defendant. The county, a court, any facility visited pursuant to the

program, any agents, employees, or independent contractors of the court, county, or facility visited pursuant to the program, and any person supervising a defendant during the visitation, are not liable for any civil damages resulting from injury to the defendant, or for civil damages associated with the visitation which are caused by the defendant, except for willful or grossly negligent acts intended to, or reasonably expected to result in, that injury or damage.

The Supreme Court may adopt court rules or directives to effectuate the purposes of this subsection.

(i) In addition to any other fine, fee, or other charge imposed pursuant to law, the court shall assess a person convicted of a violation of the provisions of this section a surcharge of $100, of which amount $50 shall be payable to the municipality in which the conviction was obtained and $50 shall be payable to the Treasurer of the State of New Jersey for deposit into the General Fund.

18. Section 23 of P.L.1973, c.337 (C.26:2J-23) is amended to read as follows:

C.26:2J-23 Fees.

23. Every health maintenance organization subject to this act shall pay to the commissioner the following fees:

a. for filing an application for a certificate of authority or amendment thereto, $100.00;

b. for filing each annual report, $10.00; and

c. for the purpose of supporting the activities of the Department of Health and Senior Services associated with the regulation of health maintenance organizations, $1.50 per life per year, with payment being made annually no later than July 15 for the preceding calendar year. Payments made by a health maintenance organization pursuant to this act shall not in any way reduce payments that may be owed by a health maintenance organization pursuant to P.L.1995, c.156 (C.17:1C-19 et seq.) and subsequent amendments thereto. No such payment shall be required for any per life per year that is funded through the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), the "Children's Health Care Coverage Program" established pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.), or the "FamilyCare Health Coverage Program" established pursuant to P.L.2000, c.71 (C.30:4J-1 et seq.).

In accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner may promulgate rules and regulations directing that additional fees be paid.

From fees collected under the provisions of subsection c. of this section, the Legislature shall in each fiscal year appropriate to the community health law project the sum of $100,000 to fund a grant in support of a program to provide any senior citizen resident of this State who is covered as an enrollee

in or beneficiary of a health plan administered by a health maintenance organization with information concerning the person's rights under the program and assistance with the procedures for receiving the benefits to which the person is entitled under the program.

19. N.J.S.12A:9-525 is amended to read as follows:

Fees.

12A:9-525. Fees. (a) Initial financing statement or other record: general rule. Except as otherwise provided in subsection (d), the fees for filing and indexing records under this part are:

(1) $25 for financing statement;
(2) $25 for continuation statement;
(3) $25 for amendment statement;
(4) $25 for partial release;
(5) $25 for assignment;
(6) $25 termination statement; and
(7) $1 per page for copy of any filed financing statement.

(b) Number of names. Except as otherwise provided in subsection (d), the number of names required to be indexed does not affect the amount of the fee in subsection (a).

(c) Response to information request. The fee for responding to a request for information from the filing office, including for issuing a certificate of search showing whether there is on file any financing statement naming a particular debtor, is $25.

(d) Record of mortgage. This section does not require a fee with respect to a record of mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under 12A:9-502 (c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

20. N.J.S.14A:15-2 is amended to read as follows:

Filing fees of the State Treasurer.

14A:15-2. On filing any certificate or other papers relative to corporations in the Department of the Treasury, there shall be paid to the State Treasurer, filing fees as follows:

(1) Certificate of incorporation and amendments thereto:
(a) for filing the original certificate of incorporation $125.00
(b) for filing a certificate of amendment of the certificate of incorporation, including any number of amendments 75.00

(c) for filing a certificate of abandonment of one or more amendments of the certificate of incorporation 75.00
(d) for filing a certificate of merger or a certificate of consolidation 75.00
(e) for filing a certificate of abandonment of a merger or consolidation 75.00
(2) Restated certificate of incorporation:
for filing a restated certificate of incorporation, including any amendments of the certificate of incorporation concurrently adopted 75.00
(3) Dissolution of corporation:
(a) for filing a certificate of dissolution 75.00
(b) for filing a certificate of revocation of dissolution proceedings 75.00
(4) Admission and withdrawal of foreign corporation:
(a) for filing an application for a certificate of authority to transact business in this State and issuing a certificate of authority 125.00
(b) for filing an application for an amended certificate of authority to transact business in this State and issuing an amended certificate of authority 75.00
(c) for filing an application for withdrawal from this State and issuing a certificate of withdrawal 75.00
(d) for filing a certificate of change of post-office address to which process may be mailed by the State Treasurer 25.00
(e) for filing a certificate, order or decree with respect to the dissolution of a foreign corporation, the termination of its existence, or the cancellation of its authority, and issuing a certificate of withdrawal 75.00
(5) Registered office and registered agent:
(a) for filing a certificate of change of address of registered office, or change of registered agent, or both 25.00
(b) (i) for filing a certificate of change of address of registered agent, where such certificate effects a change in the address of the registered office

of one to 499 corporations or of 500 or more corporations in cases where the filing information is not transmitted to the State Treasurer in a machine readable format agreeable to the Division of Commercial Recording, for each corporation named in the certificate 25.00

(ii) for filing a certificate of change of address of registered agent, where such certificate effects a change in the address of the registered office of 500 or more corporations in cases where the filing information is transmitted to the State Treasurer in a machine readable format agreeable to the Division of Commercial Recording . . 5,000.00

(iii) In addition to the fee imposed pursuant to subparagraph (ii) of this paragraph, the State Treasurer may assess an additional fee not to exceed those administrative costs associated with the technical transmission of the filing information.

(c) for filing an affidavit of resignation of a registered agent 25.00

(6) Annual report: for each such report required to be filed 50.00

(7) Tax clearance certificate from the Director of the Division of Taxation: for each such certificate required to be filed 20.00

21. N.J.S.14A:15-3 is amended to read as follows:

Additional corporate filing fees.

14A:15-3. Additional corporate filing fees. The State Treasurer shall also charge and collect for:

(1) filing an application to reserve a specified corporate name and issuing a certificate of reservation $50.00
if application is for the first name available for corporate use among not more than three specified names $50.00

(2) filing a notice of transfer of a reserved corporate name $25.00

(3) filing an application by a foreign corporation to register its corporate name $50.00

(4) filing an application by a foreign corporation to renew the registration of its corporate name $50.00
(5) filing a statement of cancellation of shares $75.00
(6) filing a statement of reduction of stated capital $75.00
(7) filing a certificate as to the acquisition of the shares or a class of shares of a domestic corporation $75.00
(8) issuing a certificate of standing, including registered agent and registered office $25.00
(9) issuing a certificate of standing, same as above, but including incorporators, officers and directors, and authorized shares $25.00
(10) issuing a certificate of standing, listing charter documents $25.00
(11) issuing a certificate of availability of corporate name (one to three names) $25.00
(12) filing a certificate of registration of alternate name $50.00
(13) filing a certificate of renewal of registration of alternate name $25.00
(14) filing a certificate of correction, in addition to any applicable license fee $10.00
(15) filing and issuing a reinstatement of charter $75.00
(16) corporate status reports -- per name $5.00
(17) accepting service of process against corporation pursuant to N.J.S.2A:15-26 et seq. $25.00
(18) filing a termination of alternate name $75.00

22. N.J.S.14A:4-5 is amended to read as follows:

Annual report to State Treasurer.

14A:4-5. Annual report to State Treasurer.

(1) Every domestic corporation and every foreign corporation authorized to transact business in this State shall file in the Department of the Treasury, within the time prescribed by this section, an annual report, executed on behalf of the corporation, or executed by the registered agent, setting forth

(a) The name of the corporation and, in the case of a foreign corporation, the jurisdiction of its incorporation;

(b) The address of the registered office of the corporation in this State, and the name of its registered agent in this State at such address;

(c) The names and addresses of the directors and officers of the corporation;

(d) (Deleted by amendment, P.L.1988, c.94.)

(e) The address of its main business or headquarters office; and

(f) The address of its principal business office in New Jersey, if any.

(2) The State Treasurer shall designate a date for filing annual reports for each corporation required to submit a report pursuant to this section and shall annually notify the corporation of the date so designated not less than 60 days prior to such date. The corporation shall file the report within 30 days before or 30 days after the date so designated. If the date so designated is not more than six months after the date on which an annual report pursuant to the provisions of prior law was filed or on which the certificate of incorporation became effective, the corporation shall not be required to file an annual report until one year after the first occurrence of the date so designated.

(3) (Deleted by amendment, P.L.1997, c.139.)

(4) The State Treasurer shall furnish annual report forms, shall keep in his office all such reports and shall prepare an alphabetical index thereof, which reports and index shall be open to public inspection at proper hours.

(5) In the event a domestic corporation fails to file an annual report for two consecutive years with the State Treasurer, then, after written notice by certified mail to the corporation at its last known main business or headquarters office or at the address of its registered agent, the State Treasurer may issue a proclamation declaring that the certificate of incorporation of the corporation has been revoked and that all powers conferred by law upon it shall thereafter be inoperative and void. The proclamation of the State Treasurer shall be filed in the office of the State Treasurer. No corporation's certificate of incorporation shall be revoked pursuant to this subsection if, within 30 days after the giving of notice, it files the reports required by law and pays to the State Treasurer all of the fees due for the filing of the reports.

(6) In the event a foreign corporation fails to file an annual report for two consecutive years with the State Treasurer, then, after written notice by certified mail to the corporation at its last known main business or headquarters office or at the address of its registered agent, the State Treasurer may issue a proclamation declaring that the certificate of authority to do business of the corporation and the powers conferred by law upon it shall be revoked. The proclamation of the State Treasurer shall be filed in the office of the State Treasurer. No corporation's certificate of authority shall be revoked pursuant to this paragraph if, within 30 days after the giving of notice, it files the reports required by law and pays to the State Treasurer all of the fees due for the filing of the reports.

(7) If the certificate of incorporation of a domestic corporation or a certificate of authority of a foreign corporation has been revoked by proclamation, the certificate shall be reinstated by proclamation of the State

Treasurer upon: (a) payment by the corporation of all fees due to the State Treasurer, consisting of a reinstatement filing fee of $75.00, tax clearance filing fee of $20, current annual report fee, all delinquent annual report fees, and a reinstatement assessment of $200; and (b) certification of the Director of the Division of Taxation that no cause exists for revocation of the corporation's certificate of incorporation or certificate of authority pursuant to R.S.54:11-2. The reinstatement relates back to the date of issuance of the proclamation revoking the certificate of incorporation or the certificate of authority and shall validate all actions taken in the interim. In the event that in the interim the corporate name has become unavailable, the State Treasurer shall issue the certificate upon, in the case of a domestic corporation, the filing of an amendment to its certificate of incorporation to change the corporate name to an available name, and, in the case of a foreign corporation, the filing of an amended certificate of authority adopting an assumed name. The State Treasurer shall provide the forms necessary to effect annual report reinstatements.

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

Filing fees of the State Treasurer.

15A:15-1. Filing Fees of the State Treasurer. On filing any certificate or other papers relative to corporations in the Department of the Treasury, there shall be paid to the State Treasurer filing fees as follows:

a. Certificate of incorporation and amendments thereto:
(1) for filing the original certificate of incorporation $75.00
(2) for filing a certificate of amendment of the certificate of incorporation including any number of amendments .. $75.00
(3) for filing a certificate of abandonment of one or more amendments of the certificate of incorporation $75.00
(4) for filing a certificate of merger or a certificate of consolidation $75.00
(5) for filing a certificate of abandonment of a merger or consolidation $75.00
b. Restated certificate of incorporation: for filing a restated certificate of incorporation including any amendments of the certificate of incorporation concurrently adopted $75.00
c. Dissolution of corporation:
(1) for filing a certificate of dissolution $75.00
(2) for filing a certificate of revocation of dissolution proceedings $75.00

d. Admission and withdrawal of foreign corporation:
(1) for filing an application for a certificate of authority to conduct activities in this State and issuing a certificate of authority $125.00
(2) for filing an application for an amended certificate of authority to conduct activities in this State and issuing an amended certificate of authority $75.00
(3) for filing an application for withdrawal from this State and issuing a certificate of withdrawal $75.00
(4) for filing a certificate of change of post office address to which process may be mailed by the State Treasurer $25.00
(5) for filing a certificate, order or decree with respect to the dissolution of a foreign corporation, the termination of its existence, or the cancellation of its authority, and issuing a certificate of withdrawal $75.00
e. Registered office and registered agent:
(1) for filing a certificate of change of address of registered office, or change of registered agent or both $25.00
(2) for filing a certificate of change of address of registered agent where such certificate effects a change in the address of the registered office of one or more corporations, for each corporation named in the certificate $25.00
(3) for filing an affidavit of resignation of a registered agent $25.00
f. Annual report:
for each such report required to be filed $25.00
g. Reinstatement filing assessment:
payment of a reinstatement filing assessment . . . . . $75.00.

24. N.J.S.15A:15-2 is amended to read as follows:

Additional miscellaneous fees.

15A:15-2. Additional Miscellaneous Fees.
The State Treasurer shall also charge and collect for:
a. filing an application to reserve a specified

corporate name and issuing a certificate of reservation $50.00
(1) if application is for first name available for corporate use among not more than three specified names $50.00
b. filing a notice of transfer of a reserved corporate name $50.00
c. filing an application by a foreign corporation to register its corporate name $50.00
d. filing an application by a foreign corporation to renew the registration of its corporate name $50.00
e. issuing a certificate of standing, including registered agent and registered office $25.00
f. issuing a certificate of standing, same as above, but including incorporators, officers and trustees $25.00
g. issuing a certificate of standing, listing charter documents $25.00
h. issuing a certificate of availability of corporate name (1 to 3 names) $25.00
i. filing a certificate of registration of alternate name $50.00
j. filing a certificate of renewal of registration of alternate name $50.00
k. filing a certificate of correction $50.00
l. corporate status reports--per name $5.00

25. N.J.S.22A:2-1 is amended to read as follows:

Fees of clerk of supreme court.

22A:2-1. For services hereinafter mentioned, the Clerk of the Supreme Court shall be entitled to demand and receive the following fees:

Upon the filing or entering of the notice of appeal, notice of cross-appeal or notice of petition for certification, notice of cross-petition for certification or notice of petition for review, the appellant, cross-appellant, petitioner or cross-petitioner shall pay $200.00.

Upon the filing of the first paper in any motion, petition or application (including an order if it be the first paper), if not in a pending cause or if made after judgment entered, the moving party shall pay $30.00 shall cover all fees payable on such motion, petition or application down to and including filing and entering the order therein and taxation of costs.

26. N.J.S.22A:2-6 is amended to read as follows:

Filing first paper in Law Division; motions; clerk's fees.

22A:2-6. Upon the filing or entering of the first paper or proceeding in any action or proceeding in the Law Division of the Superior Court, the plaintiff shall pay to the clerk $200.00 for the first paper filed by him, which shall cover all fees payable therein down to, and including entry of final judgment, taxation of costs, copy of costs and the issuance and recording of final process, except such as may be otherwise provided herein, or provided by law, or the rules of court. Any person filing an answer setting forth a counterclaim or a third party claim in such cause shall pay to the clerk $200.00 for the first paper filed by him. Any person other than the plaintiff filing any other paper in any such cause shall pay to the clerk $135.00 for the first paper filed by him.

Any person filing a motion in any action or proceeding shall pay to the clerk $30.00.

27. N.J.S.22A:2-7 is amended to read as follows:

Law division of Superior Court; other fees; use.

22A:2-7. a. Upon the filing, entering, docketing or recording of the following papers, documents or proceedings by either party to any action or proceeding in the Law Division of the Superior Court, the party or parties filing, entering, docketing or recording the same shall pay to the clerk of said court the following fees:

Filing of the first paper in any motion, petition or application, if not in a pending action or proceeding under section 22A:2-6 of this Title, or if made after dismissal or judgment entered other than withdrawal of money deposited in court, the moving party shall pay $30.00 which shall cover all fees payable on such motion, petition or application down to and including filing and entering of order therein and taxation of costs.

For withdrawal of money deposited in court where the sum to be withdrawn is less than $100.00, no fee; where the sum is $100.00 or more but less than $1,000.00, a fee of $5.00; where such sum is $1,000.00 or more, a fee of $10.00.

Entering judgment on bond and warrant by attorney and issuance of one final process, $15.00 in lieu of the fee required by section 22A:2-6 of this Title.

Recording of judgment in the civil judgment and order docket, $35.00 shall be paid to the clerk for use by the State, except as provided in subsection b. of this section.

Docketing judgments or orders from other courts or divisions except from the Special Civil Part, including Chancery Division judgments, $35.00 shall be paid to the clerk for use by the State, except as provided in subsection b. of this section and except that no fee shall be paid by any municipal court

to docket a judgment of conviction and amount of assessment, restitution, fine, penalty or fee pursuant to subsection a. of N.J.S.2C:46-1.

Docketing judgments or orders from the Special Civil Part, $10.00 shall be paid to the clerk for use by the State, except as provided in subsection b. of this section.

Satisfaction of judgment or other lien, $35.00.

Recording assignment of judgment or release, $5.00.

Issuing of executions and recording same, except as otherwise provided in this article, $5.00.

Recording of instruments not otherwise provided for in this article, $5.00.

Filing and entering recognizance of civil bail, $5.00.

Signing and issuing subpoena, $5.00.

b. Moneys collected under the provisions of subsection a. of this section for the recording and docketing of judgments and satisfactions of judgments or other liens shall be deposited in the temporary reserve fund created by section 25 of P.L.1993, c.275. After December 31, 1994, the moneys collected under the provisions of subsection a. shall be for use by the State.

28. N.J.S.22A:2-12 is amended to read as follows:

Payment of fees in Chancery Division of Superior Court upon filing of first paper.

22A:2-12. Upon the filing of the first paper in any action or proceeding in the Chancery Division of the Superior Court, there shall be paid to the clerk of the court, for the use of the State, the following fees, which, except as hereinafter provided, shall constitute the entire fees to be collected by the clerk for the use of the State, down to the final disposition of the cause:

Receivership and partition, $200.00.

All other actions and proceedings except in probate cases and actions and proceedings for divorce, $200.00.

Actions and proceedings for divorce, $200.00, $25.00 of which shall be forwarded by the Clerk of the Superior Court as provided in section 2 of P.L.1993, c.188 (C.52:27D-43.24a).

Any person filing a motion in any action or proceeding shall pay to the clerk $30.00.

29. Section 2 of P.L.1993, c.188 (C.52:27D-43.24a) is amended to read as follows:

C.52:27D-43.24a Forwarding of filing fee.

2. The Clerk of the Superior Court shall forward $25.00 of the $200.00 filing fee for divorce provided for in N.J.S.22A:2-12 on a quarterly basis to the Department of Community Affairs.

30. N.J.S.22A:2-13 is amended to read as follows:

Answering, pleading or paper, fee.

22A:2-13. Each person other than the plaintiff filing an answering pleading or other answering paper in the Chancery Division of the Superior Court shall at the time of filing the first paper, pay to the clerk the sum of $135.00; which shall cover all fees payable therein except such as may be otherwise provided herein or by law or the rules of court.

31. N.J.S.22A:2-29 is amended to read as follows:

County clerk, deputy clerk of Superior Court, fees.

22A:2-29. Upon the filing, indexing, entering or recording of the following documents or papers in the office of the county clerk or deputy clerk of the Superior Court, such parties, filing or having the same recorded or indexed in the county clerk's office or with the deputy clerk of the Superior Court in the various counties in this State in all civil or criminal causes, shall pay the following fees in lieu of the fees heretofore provided for the filing, recording or entering of such documents or papers:

In general--

Issuing county clerk's certificate, any instrument $5.00
Comparing and making copies, per sheet. $2.00
Copies of all papers, typing and comparing of photostat, per page $2.00
Marking as a true copy, any instrument $2.00
Exemplification, any instrument $10.00
Plus $1.00 per page of instrument.
Recording or filing all instruments not herein stated. $7.50

Bonds, bail, recognizances--

Recording all official bonds with acknowledgment and proof of the execution thereof $9.00
Filing all papers related to recognizance or civil bail $18.00
Filing discharge, attachment bond $9.00
Filing and recording filiation bond $9.00
Filing satisfaction of or order discharging filiation bond $9.00
Recording or discharging sheriff's bond $9.00

Nonbusiness corporation, recording:

Certificates of incorporation of churches, religious societies and congregations. $25.00
Amendments to certificates of incorporation of churches, religious societies and congregations, recording $25.00

Bank merger agreements, recording:
First sheet $25.00
Each additional sheet .....
Certificates, each $5.00
Tradenames, firms, partnerships:
Certificate of name, filing (see R.S.56:1-1 et seq.) $50.00
Certificate of dissolution of tradename
(see R.S.56:1-6 et seq.) $25.00
Partnership agreement (see R.S.42:1-1 et seq.) $50.00
Building and loan or savings and loan associations:
Change of name $25.00
Dissolution $25.00
Certificates for limited-dividend housing associations, recording:
First page $20.00
Each additional page $5.00
Certificates for urban renewal associations, recording:
First page $20.00
Each additional page ..... $ 5.00
Judgments, et cetera--
Recording judgments $15.00
Filing, entering and recording judgment on bond
and warrant by attorney $37.50
Certificate for docketing Superior Court transcript $9.00
Recording assignment of judgment $15.00
Issuing transcript of judgment $7.50
Filing or entering on the record of discharge,
cancellation, release or satisfaction of a judgment
by satisfaction piece, execution returned satisfied
or otherwise $15.00
For recording and indexing postponement of the lien
of judgment. $20.00
Filing, indexing and recording mechanic's lien claim $9.00
Recording, filing and noting on the record the
discharge, release or satisfaction of a
mechanic's lien claim $9.00
Extension of lien claim $3.00
Filing statement in mechanic's lien proceeding $9.00
Filing, recording and indexing mechanic's notice
of intention $4.50
Filing a certificate discharging a mechanic's notice
of intention and noting the discharge on the
record thereof $4.50

Filing certificate from court of commencement of suit $4.50
Filing a court order amending a mechanic's notice of intention $9.00
Construction lien $15.00
Notice of unpaid balance, discharge $15.00
Notation $5.00
Bond $25.00
Filing a court order to discharge notice of intention and noting the discharge on the record thereof $15.00
Filing, recording and indexing stop notice ..... $ 4.50
Filing a certificate discharging a stop notice and noting the discharge on the record thereof. ..... $ 4.50
Filing a court order discharging a stop notice and noting the discharge on the record thereof ..... $ 9.00
Filing building contract $25.00
Filing discharge of building contract $15.00
Notation ..... $ 5.00
Filing building specifications. $25.00
Filing building plans $25.00
Filing each notice of physician's lien $15.00
Entering upon the record the discharge of a physician's lien $15.00
Filing each hospital lien claim $15.00
Discharge of hospital lien $15.00
Filing satisfaction or order for discharge of attachment $15.00
Recording collateral inheritance waiver or receipt $15.00
Recording inheritance tax waiver. $15.00
Subordination, release, partial release or postponement of a lien to lien of mortgage $20.00
Notation ..... $ 5.00

Commissions and oaths--
Administering oaths to notaries public and commissioners of deeds $15.00
For issuing certificate of authority of notary to take proof, acknowledgment of affidavit ..... $ 5.00
For issuing each certificate of the commission and qualification of notary public for filing with other county clerks $15.00
For filing each certificate of the commission and qualification of notary public, in

office of county clerk of county other than
where such notary has qualified $15.00
Miscellaneous--
Filing and recording proceedings for laying out,
vacating or dedicating roads $25.00
Recording firemen's certificates. ..... No charge.
Registering physician $25.00
Issuing alcoholic beverage identification card $10.00
Issuing of nonalcoholic beverage identification
card to persons under twenty-one years of age $10.00

32. N.J.S.22A:2-37.1 is amended to read as follows:

Special Civil part of Superior Court, Law Division, fees; use.

22A:2-37.1. a. In all civil actions and proceedings in the Special Civil Part of the Superior Court, Law Division, only the following fees shall be charged by the clerk and no service shall be performed until the specified fee has been paid:

(1) Filing of small claim, one defendant $15.00
Each additional defendant $2.00
(2) Filing of complaint in tenancy,
one defendant $25.00
Each additional defendant $2.00
(3) (a) Filing of complaint or other initial
pleading containing a counterclaim, cross-claim
or third party complaint in all other civil actions,
whether commenced without process or by summons,
capias, replevin or attachment where the amount
exceeds the small claims monetary limit $50.00
Each additional defendant $2.00
(b) Filing of complaint or other initial
pleading containing a counterclaim, cross-claim
or third party complaint in all other civil actions,
whether commenced without process or by summons,
capias, replevin or attachment where the amount
does not exceed the small claims monetary limit $32.00
Each additional defendant ..... $ 2.00
(4) Filing of appearance or answer to a
complaint or third party complaint in all
matters except small claims $15.00
(5) Service of Process:
Summons by mail, each defendant $4.00
Summons by mail, each defendant at place of

business or employment with postal instructions
to deliver to addressee only, additional fee $4.00
Reservice of summons by mail, each defendant $4.00
Reservice of summons or other original process
by court officer, one defendant $3.00
plus mileage
Each additional defendant $2.00
plus mileage
Substituted service of process by the clerk
upon the Director of the Division of
Motor Vehicles $10.00
Plus postage $4.00

(6) Mileage of court officer in serving or executing any process, writ, order, execution, notice, or warrant, the distance to be computed by counting the number of miles in and out, by the most direct route from the place where process is issued, at the same rate per mile set by the State for other State employees and the total mileage fee rounded upward to the nearest dollar

(7) Jury of six persons $50.00

(8) Warrant for possession in tenancy $15.00

(9) Warrant to arrest, commitment or writ
of capias ad respondendum, each defendant $15.00

(10) Writ of execution or an order in
the nature of execution, writs of replevin and
attachment issued subsequent to summons $5.00
Wage execution by mail to a federal agency
additional fee $4.00

(11) For advertising property under
execution or any order $10.00

(12) For selling property under
execution or any order $10.00

(13) Exemplified copy of judgment
(two pages) $5.00
each additional page $1.00

b. (Deleted by amendment, P.L.2002, c.34).

c. (Deleted by amendment, P.L.2002, c.34).

C.2B:1-6 "Court Technology Improvement Fund."

33. Revenue derived from the increase in fees collected by the Judiciary pursuant to sections 25 through 32 of P.L.2002, c.34 (N.J.S.22A:2-1 et al.) and related increases provided by operation of N.J.S.22A:2-5 and section 2 of P.L.1993, c.74 (C.22A:5-1), shall be deposited into a non-lapsing "Court Technology Improvement Fund," which is hereby established as a dedicated

fund in the General Fund. The fund shall be administered by the Administrative Office of the Courts and dedicated to the development, establishment, operation and maintenance of computerized court information systems in the Judiciary.

34. Section 11 of P.L.1987, c.435 (C.22A:4-1a) is amended to read as follows:

C.22A:4-1a Fees for miscellaneous documents.

11. For services herein enumerated the State Treasurer shall collect the following fees:

a. For filing any original business certificate for which no other fee is fixed by statute or regulation, $125.

For filing any change or amendment to a previously filed document for which no other fee is fixed by statute or regulation, $75.

For issuing any certificate or filing any other document for which no other fee is fixed by statute or regulation, $25.00, except that the provisions of this subsection shall not apply to:

(1) certificates of appointments for gubernatorial appointees;

(2) documents filed by public bodies under the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.);

(3) financial disclosures filed by State officials;

(4) oaths of office;

(5) resignation of office holders;

(6) documents filed by other State government entities indexed in the department's miscellaneous file.

b. For certification or exemplification of any document on file, $25.00.

c. For certification or exemplification of any signature on file, including the issuance of a certificate for proving a document outside the United States, also known as an apostille, $25.00; except that in cases of adoption of a child, the fee for an apostille shall be $5.00.

d. For filing a certified copy of an order of change of name, $50.00.

e. For a paper copy of any document on file, $1.00 per page. If a roll of microfilm images is requested, the State Treasurer shall collect a fee of $1.00 for each image on the microfilm roll. If a microfiche copy of a microfiche is requested, $3.00.

f. For filing a proof of publication, $10.00.

35. Section 65 of P.L.1983, c.489 (C.42:2A-68) is amended to read as follows:

C.42:2A-68 Filing fees of the State Treasurer.

65. Filing fees of the State Treasurer. On filing any certificate or other papers relative to limited partnerships in the Department of the Treasury, there

shall be paid to the State Treasurer, filing fees, in addition to any applicable recording fees:

a. Filing an application to reserve a specified limited partnership name and issuing a certificate of reservation $50.00
If application is for the first name available for limited partnership use among not more than three specified names $50.00
b. Filing a notice of transfer of a reserved limited partnership name $50.00
c. Filing original certificate of limited partnership $125.00
d. Filing a certificate of amendment to the certificate of limited partnership, including any number of amendments $75.00
e. Filing certificate of cancellation $75.00
f. Filing order or judgment amending certificate of limited partnership or cancellation $75.00
g. Filing application by a foreign limited partnership to transact business in this State and issuing a certificate of authority $125.00
h. Filing application by a foreign limited partnership for amended certificate to transact business in this State and issuing an amended certificate of authority $75.00
i. Filing annual report $50.00
j. Filing a certificate or registration of an alternate name $50.00
k. Filing a renewal of registration of alternate name $50.00
l. Limited partnership status reports--per name $5.00
m. Filing a change of agent or office, or both $25.00
n. All other certificates issued or papers filed but not otherwise provided for $125.00
o. Issuing a standing certificate $25.00
p. Issuing a certificate or providing name availability up to three names $25.00
q. Filing a certificate of correction $50.00

36. Section 66 of P.L.1983, c.489 (C.42:2A-69) is amended to read as follows:

C.42:2A-69 Annual report to the State Treasurer by domestic limited partnerships.

66. Annual report to the State Treasurer by domestic limited partnerships.

a. Every domestic limited partnership authorized in this State shall file in the Department of the Treasury, within the time prescribed by this section, an annual report, executed on behalf of the limited partnership or executed by the registered agent setting forth:

1. The name of the limited partnership;

2. The address, including the actual location as well as the postal designation, if different, of the registered agent in this State; and

3. The name of the registered agent.

b. The State Treasurer shall designate a date of filing annual reports for each limited partnership required to submit a report pursuant to this section.

c. If the report is not filed for two consecutive years, the certificate of limited partnership shall, after written demand for the reports by the State Treasurer by mail addressed to the limited partnership at the last address appearing of record in the office of the State Treasurer, remain filed but be transferred to an inactive list. A limited partnership shall not have its certificate of limited partnership transferred to the inactive list if it shall, within 60 days after the written demand, file the reports required by law and pay to the State Treasurer the fee provided by law for the filing of each report.

d. (1) Any domestic limited partnership on the inactive list may return to active status by:

(a) Paying to the State Treasurer the current annual report fee, all delinquent annual report fees, a reinstatement filing fee of $75 and a reinstatement filing assessment of $200; and

(b) Submitting a certificate of amendment adopting a name which complies with paragraph (4) of subsection a. of section 6 of P.L.1983, c.489 (C.42:2A-6), if the name of the inactive limited partnership does not comply with paragraph (4) of subsection a. of section 6.

(2) The State Treasurer shall provide the forms necessary to effect annual report reinstatements.

e. A limited partnership whose certificate has been transferred to the inactive list shall remain a limited partnership formed under this chapter or under R.S.42:2-1 et seq., but no name reservations, transfers of reserved names, or certificates of amendment may be filed until the limited partnership whose certificate has been placed on the inactive list regains active status. A limited partner of a limited partnership is not liable as a general partner of the limited partnership solely by reason of the transfer of the certificate of limited partnership to the inactive list.

f. The State Treasurer shall furnish annual report forms, shall keep all the reports and shall prepare an index thereof. The reports shall be open to public inspection at proper hours.

37. Section 67 of P.L.1983, c.489 (C.42:2A-70) is amended to read as follows:

C.42:2A-70 Annual report to State Treasurer by foreign limited partnership.

67. Annual report to State Treasurer by foreign limited partnership.

a. Every foreign limited partnership authorized to transact business in this State shall file in the office of the State Treasurer, within the time prescribed by this section, an annual report, executed on behalf of the foreign limited partnership setting forth:

1. The name of the foreign limited partnership;

2. The address, including the actual location as well as postal designation, if different, of the registered agent in this State; and

3. The name of the registered agent.

b. The State Treasurer shall designate a date for filing annual reports for each foreign limited partnership required to submit a report pursuant to this section.

c. If the report is not filed for two consecutive years, the certificate of a foreign limited partnership to transact business in this State shall, after written demand for the reports by the State Treasurer by certified mail addressed to the foreign limited partnership at the last address appearing of record in the office of the State Treasurer, be revoked for the failure to file reports. A foreign limited partnership shall not be subject to the revocation of its certificate to transact business in this State if it shall, within 60 days after the written demand, file the reports required by law and pay to the State Treasurer the fee provided by law for the filing of each report.

d. Any foreign limited partnership may, within two years of the revocation of its certificate to transact business in this State, cause a reinstatement of the certificate upon:

(1) payment to the State Treasurer of the current annual report fee, all delinquent annual report fees, a reinstatement filing fee of $75 and a reinstatement filing assessment of $200; and

(2) compliance with the requirements of subsection c. of section 6 of P.L.1983, c.489 (C.42:2A-6), if the name of the inactive foreign limited partnership does not comply with the provisions of paragraph (4) of subsection a. of section 6 of P.L.1983, c.489 (C.42:2A-6).

e. A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of the

revocation, pursuant to this section, of the certificate of authority to transact business in this State.

f. The State Treasurer shall furnish annual report forms, including the forms necessary to effect annual report reinstatements, shall keep all the reports and shall prepare an index thereof. The reports shall be open to public inspection at proper hours.

38. Section 65 of P.L.1993, c.210 (C.42:2B-65) is amended to read as follows:

C.42:2B-65 Fees.

65. 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 4 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 5 of this act, a fee in the amount of $50.

(3) Upon the receipt for filing of a certificate under subsection b. of section 6 of this act, a fee in the amount of $25, upon the receipt for filing of a certificate under subsection b. of section 7 of this act, a fee in the amount of $25 and a further fee of $10 for each limited liability company affected by such certificate.

(4) Upon the receipt for filing of a notice of resignation and affidavit pursuant to subsection c. of section 7 of this act, a fee in the amount of $25 and upon the receipt for filing of a certificate of change pursuant to subsection c. of section 7 of this act, a fee in the amount of $25.

(5) Upon the receipt for filing of a certificate of formation under section 11 of this act a fee in the amount of $125; and upon receipt for filing, a certificate of correction under section 12 of this act, a certificate of amendment under section 13 of this act, a certificate of cancellation under section 14 of this act, a certificate of merger or consolidation under section 20 of this act or a restated certificate of formation under section 19 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 photocopies 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 registration as a foreign limited liability company under section 53 of this act or a certificate of cancellation under section 56 of this act, a fee in the amount of $125.

(11) For preclearance of any document for filing, a fee in the amount of $50.

(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 (6) 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 and/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 the Treasurer's 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.

39. Section 6 of P.L.1982, c.150 (C.52:16A-40) is amended to read as follows:

C.52:16A-40 $15 additional fees.

6. The State Treasurer shall charge a $15 fee for use of telephone and expedited over the counter corporate services, which shall be in addition to the fee for the service provided by law. The statutory fee and the additional

fee shall be paid by the person requesting the information and documents by the method of payment as established by the State Treasurer.

40. Section 7 of P.L.1982, c.150 (C.52:16A-41) is amended to read as follows:

C.52:16A-41 Rules and regulations; data processing service fees.

7. The State Treasurer may promulgate rules and regulations necessary to establish guidelines for the use of telephone and expedited over the counter corporate services and the use of electronic data processing for direct access to the information provided under this act by persons so authorized and for the method of payment for the use of telephone and expedited over the counter corporate services. The State Treasurer shall establish fees for electronic data processing services which cover the cost of those services.

C.54:49-12.6 Division of Taxation fee for returned check.

41. The Director of the Division of Taxation may in the director's discretion charge a fee of $50 for each check, received for payment of any State tax or any penalty under the State Uniform Tax Procedure Law (R.S.54:48-1 et seq.), that is returned due to insufficient funds or as the result of a stop payment order.

C.52:18A-8.4 Fee for returned check collected by Department of the Treasury.

42. The State Treasurer may in the Treasurer's discretion charge a fee of $50 for each check, received for payment of any fee, fine, penalty or other charge collected by the Department of the Treasury, that is returned due to insufficient funds or as the result of a stop payment order, provided that no fee shall be imposed under this section that is in addition to or in lieu of a fee that the Treasurer or any agency or employee of the Department of the Treasury is required or authorized under any other law to collect due to such a return of check payment.

43. Section 12 of P.L.1981, c.302 (C.26:2D-48) is amended to read as follows:

C.26:2D-48 Assessment against operator of nuclear electric generating facility; levy and payment.

12. a. In order to defray the expenses of local, county and State agencies in discharging their responsibilities under this act, including those costs associated with the development, testing and updating of the Emergency Radiation Response Plans and for the acquisition and maintenance of any equipment necessary to carry out their responsibilities, the State Treasurer shall annually make an assessment against each operator of a nuclear electric generating facility located in New Jersey;

b. The assessment to each operator of a nuclear electric generating facility shall not exceed $2,750,000 (in 2003 dollars adjusted by the CPI), and shall be assessed in an amount equal to the sum of the amounts in paragraphs (1) and (2) of this subsection and determined annually by the State Treasurer on or before June 30 in the following manner:

(1) The total amount appropriated to the various local, county and State agencies by law for the purpose of discharging their responsibilities under P.L.1981, c.302 (C.26:2D-37 et seq.) for the State's next fiscal year for costs related directly to a particular nuclear electric generating facility shall be assessed against the operator of that particular nuclear electric generating facility.

(2) All other amounts appropriated to the State agencies by law for the purpose of discharging their responsibilities under P.L.1981, c.302 (C.26:2D-37 et seq.) for the next fiscal year shall be assessed equally against each operator of a nuclear electric generating facility.

The assessment prescribed above shall be levied by the State Treasurer not later than July 1, and shall be paid within 30 days after mailing by first class mail to the affected operator of the nuclear electric generating facility notice thereof and a statement of the amount;

c. The assessments shall be appropriated through the regular appropriation process in accordance with a joint budget to be submitted by the division and the department;

d. Any costs of a local, county or State agency incurred in discharging its responsibilities under P.L.1981, c.302 (C.26:2D-37 et seq.), not reasonably required to carry out the purposes of P.L.1981, c.302 (C.26:2D-37 et seq.) or not generally associated with or related to the operation of nuclear electric generating facilities located in New Jersey, shall not be included in any such assessment or appropriation;

e. "CPI" means the annual Consumer Price Index for a calendar year as determined year to year using the decimal increase in the September through August, 12-month average for the previous year of the Consumer Price Index for All Urban Consumers (CPI-U), as published by the United States Department of Labor.

44. Section 5 of P.L.1977, c. 74 (C.58:10A-5) is amended to read as follows:

C.58:10A-5 Powers of department.

5. The department is empowered to:

a. Exercise general supervision of the administration and enforcement of this act and all rules, regulations and orders promulgated hereunder;

b. Assess compliance of a discharger with applicable requirements of State and federal law pertaining to the control of pollutant discharges and the

protection of the environment and, also, to issue certification with respect thereto as required by section 401 of the federal act;

c. Assess compliance of a person with applicable requirements of State and federal law pertaining to the control of the discharge of dredged and fill material into the waters of the State and the protection of the environment and, also, to issue, deny, modify, suspend, or revoke permits with respect thereto as required by section 404 of the "Federal Water Pollution Control Act Amendments of 1972," as amended by the "Clean Water Act of 1977," (33 U.S.C.s.1344), and implementing regulations;

d. Advise, consult, and cooperate with other agencies of the State, the federal government, other states and interstate agencies, including the State Soil Conservation Committee, and with affected groups, political subdivisions and industries in furtherance of the purposes of this act;

e. Administer State and federal grants and other forms of financial assistance to municipalities, counties and other political subdivisions, or any recipient approved by the commissioner according to terms and conditions approved by him in order to meet the goals and objectives of this act. The department shall establish, charge and collect reasonable loan origination and annual administrative fees, which shall be based upon, and shall not exceed the estimated cost of processing, monitoring and administering the financial assistance programs. Said fees shall be deposited in a separate fund, administered by the department, and the funds used for the sole purpose of administering the financial assistance programs authorized and established by State law, including, but not limited to, the costs of administering the "Wastewater Treatment Fund - State Revolving Fund Accounts" established pursuant to P.L.1988, c.133.

45. Section 9 of P.L.1977, c.224 (C.58:12A-9) is amended to read as follows:

C.58:12A-9 General powers and duties of commissioner.

9. The commissioner is authorized, in order to carry out the provisions and purposes of this act, to:

a. Perform any and all acts necessary to carry out the purposes and requirements of this act relating to the adoption and enforcement of any regulations authorized pursuant to this act;

b. Administer and enforce the provisions of this act and all rules, regulations, and orders promulgated, issued, or effective hereunder;

c. Enter into agreements, contracts, or cooperative arrangements, under such terms and conditions as he deems appropriate, with the Department of Health and Senior Services and any other state agency, federal agencies,

municipalities, counties, educational institutions, municipal or county health departments, or other organizations or individuals;

d. Receive financial and technical assistance from the federal government and other public or private agencies;

e. Participate in related programs of the federal government, other states, interstate agencies, or other public or private agencies or organizations;

f. Establish adequate fiscal controls and accounting procedures to assure proper disbursement of and accounting for funds appropriated or otherwise provided for the purpose of carrying out the provisions of this act;

g. Delegate those responsibilities and duties as deemed appropriate for the purpose of administering the requirements of this act;

h. Establish and collect fees, in accordance with a fee schedule adopted as a rule or regulation, for conducting inspections and laboratory analyses and certifications as may be necessary;

i. Prescribe such regulations and issue such orders as are necessary or appropriate to carry out his functions under this act;

j. Conduct research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, and control of contaminants in drinking water;

k. Provide for the education of the public as to the causes, effects, extent, prevention, and control of contaminants in drinking water;

l. Collect and make available, through publications, a data management system and other appropriate means, the results of and other information, including appropriate recommendations by the institute in connection therewith, pertaining to such research and other activities;

m. Cooperate with and contract with other public and private agencies, institutions, and organizations and with any industries involved, in the preparation and conduct of such research and other activities;

n. Review treatment methods used for removal of contaminants from drinking water;

o. Provide for the education and training of departmental personnel in those areas relating to the causes, effects, extent, prevention and control of contaminants in drinking water;

p. Establish and collect reasonable fees, in accordance with a fee schedule adopted as a rule or regulation, for the estimated costs of administering and enforcing the programs pursuant to this amendatory and supplementary act, to the extent that the costs are not available from the fund, including but not limited to conducting inspections, laboratory analyses and certifications as may be necessary;

q. The authority to collect fees pursuant to this section may be delegated by the commissioner to the appropriate county agency consistent with a delegation, pursuant to the provisions of the "County Environmental Health

Act," P.L.1977, c.443 (C.26:3A2-21 et seq.), of any authority to administer the provisions of this act;

r. Administer State and federal grants and other forms of financial assistance to municipalities, counties and other political subdivisions, or any recipient approved by the commissioner according to the terms and conditions approved by him in order to meet the goals and objectives of this act. The commissioner shall establish, charge and collect reasonable loan origination and annual administrative fees, which shall be based upon, and shall not exceed the estimated cost of processing, monitoring and administering the financial assistance programs. Said fees shall be deposited in a separate fund, administered by the Department of Environmental Protection, and the funds used for the sole purpose of administering the financial assistance programs authorized and established by State law, including, but not limited to, the costs of administering the "Drinking Water - State Revolving Fund Accounts".

46. Section 5 of P.L.1995, c.188 (C.26:2C-9.5) is amended to read as follows:

C.26:2C-9.5 Emission fees.

5. a. (1) Each major facility shall pay to the department a fee or fees as calculated pursuant to this subsection and subsection d. of this section. The per-ton emission fees shall be based on the actual annual emissions of each regulated air contaminant, reported in the emission statement for that major facility, or, in the absence of such information, on permitted emissions, or where a permit has not been issued, on the potential to emit.

(2) Emission fees for each State fiscal year shall be based on the information reported in the emission statement year two years prior thereto.

(3) The amount of any emission fee payable pursuant to this section shall be adjusted for each State fiscal year by the percentage, if any, by which the CPI exceeds the CPI for calendar year 1989.

b. (Deleted by amendment, P.L.2002, c.34).

c. (Deleted by amendment, P.L.2002, c.34).

d. (1) For the State fiscal year 2003 and each fiscal year thereafter, each major facility shall pay the following fees:

(a) An emission fee of $60 (in 1989 dollars adjusted by the CPI) per ton of each regulated air contaminant;

(b) An initial and renewal operating permit application fee per facility not to exceed $50,000. For the purpose of calculating the initial and renewal operating permit application fee, the significant equipment listed in the operating permit application shall be assessed at $125 per piece of equipment. The operating permit application fee shall be submitted at the time of submission of the operating permit application; and

(c) A fee for any significant modification in an amount calculated using a fee schedule therefor to be set forth in rules and regulations to be adopted by the department, except that no fee for a significant modification review shall exceed $50,000.

(2) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, no major facility shall pay an emission fee less than $3,000 for each of the State fiscal years 2003 and thereafter.

e. (Deleted by amendment, P.L.2002, c.34).

f. (Deleted by amendment, P.L.2002, c.34).

g. The provisions of P.L.1993, c.361 (C.13:1D-120 et seq.) shall not apply to the assessment or payment of emission fees required pursuant to this section.

h. (Deleted by amendment, P.L.2002, c.34).

47. Section 8 of P.L.1995, c.188 (C.26:2C-9.8) is amended to read as follows:

C.26:2C-9.8 Rules, regulations; fees.

8. a. Within 90 days after the effective date of this act, the department shall propose, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations that establish emissions trading and banking programs that use economic incentives to make progress toward the attainment or maintenance of the National Ambient Air Quality Standards (NAAQS), reduce or prevent emissions of air contaminants, ensure healthful air quality, or otherwise contribute to the protection of human health, welfare and the environment from air pollution. The department shall adopt those rules and regulations within 90 days after proposal.

b. The emissions trading rules and regulations shall be designed so that emissions reductions shall be realized earlier or at a more accelerated rate than would otherwise be achieved in accordance with applicable air quality mandates, and so that compliance with air quality mandates can be achieved with greater flexibility or at lower cost. The rules and regulations shall establish criteria for the generation and use of emissions reduction credits, including the use of emissions reduction credits in lieu of granting exemptions or waivers from compliance with emissions reduction requirements, and shall require that 10% of the emissions reduction credits gained shall be permanently retired for the public benefit when a trade occurs. The rules and regulations may include, but need not be limited to, provisions designating the pollutants to be involved in the program, designating the persons who may participate in the program, establishing emissions limitations and methods for projecting and verifying emissions, and establishing enforcement mechanisms, including emissions tracking, periodic program audits, and penalties.

For any emissions trading program adopted for the purpose of making progress toward attaining the National Ambient Air Quality Standard (NAAQS) for ozone, the department may allow reductions of volatile organic compounds (VOCs) to be substituted for required reductions of oxides of nitrogen (NOx) or reductions of oxides of nitrogen (NOx) to be substituted for required reductions of volatile organic compounds (VOCs). Any such substitution shall occur at a ratio established by the department by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which shall be developed in recognition of the role of each pollutant in the formation of ground level ozone.

c. The emissions trading rules and regulations adopted by the department shall not conflict with applicable federal law and shall constitute, contribute to, or be consistent with one or more strategies that result in quantifiable emissions reductions and are creditable under the State Implementation Plan (SIP) required pursuant to the federal Clean Air Act. These may be emission limiting or market-response strategies for mobile, stationary, or area sources, and shall include the creation, trading, and use of emissions reduction credits.

d. The department may establish the emissions trading programs as State, multi-state, or regional programs as long as the programs contribute to the goal of improving the air quality in New Jersey.

e. The department shall involve in the development of the rules and regulations for emissions trading programs representatives of the affected industry, environmental, and public interest groups as well as governmental entities with affected or related jurisdictions.

f. The department shall consider the role of a third party in the banking, verification, validation of use, enforcement, and program audits associated with emissions reduction credits, and, to the maximum extent possible, create and preserve opportunities for private sector participation in any emissions trading program established by the department.

g. The Department of Environmental Protection may establish by rule fees for administrative services provided to implement emission trading programs.

48. N.J.S.22A:4-14 is amended to read as follows:

Acknowledgments, proof, affidavits and oaths.

22A:4-14. For a service specified in this section, foreign commissioners of deeds, notaries public, judges and other officers authorized by law to perform such service, shall receive a fee as follows:

For administering an oath or taking an affidavit, $2.50.

For taking proof of a deed, $2.50.

For taking all acknowledgments, $2.50.

For administering oaths, taking affidavits, taking proofs of a deed, and taking acknowledgments of the grantors in the transfer of real estate, regardless of the number of such services performed in a single transaction to transfer real estate, $15.00.

For administering oaths, taking affidavits and taking acknowledgments of the mortgagors in the financing of real estate, regardless of the number of such services performed in a single transaction to finance real estate, $25.00.

Repealer.

49. N.J.S.22A:4-13 is repealed.

C.2C:25-29.4 Surcharge for domestic violence offender to fund grants.

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

C.2C:43-3.7 Surcharge for certain sexual offenders to fund grants, programs, certain.

51. In addition to any other penalty, fine or charge imposed pursuant to law, a person convicted of an act of aggravated sexual assault or sexual assault under N.J.S.2C:14-2, or aggravated criminal sexual contact or criminal sexual contact under N.J.S.2C:14-3, shall be subject to a surcharge in the amount of $100 payable to the Treasurer of the State of New Jersey for use by the Department of Community Affairs to fund programs and grants for the prevention of violence against women.

C.52:27D-138.1 Surcharge for violation of State Uniform Construction Code.

52. In addition to any other penalty, fine or charge imposed pursuant to law, a person convicted of a violation of the State Uniform Construction Code adopted pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), shall be subject to a surcharge in the amount of $100, of which amount $50 shall be payable to the municipality in which the violation shall have occurred and $50 shall be payable to the Treasurer of the State of New Jersey for deposit into the General Fund; except that in the case of a violation occurring in a municipality in which the enforcement of the State Uniform Construction Code is performed exclusively by the State, the entire amount of the surcharge shall be payable to the State Treasurer for deposit into the General Fund.

C.17:33A-5.1 Surcharge for insurance fraud.

53. In addition to any other penalty, fine or charge imposed pursuant to law, a person who is found in any legal proceeding to have committed insurance

fraud shall be subject to a surcharge in the amount of $1,000. If a person is charged with insurance fraud in a legal proceeding and the charge is resolved through a settlement requiring the person to pay a sum of money, the person shall be subject to a surcharge in an amount equal to 5 percent of the settlement payment. The amount of any surcharge under this section shall be payable to the Treasurer of the State of New Jersey for use by the Department of Banking and Insurance to fund the department's insurance fraud prevention programs and activities.

C.App.A:9-78 Definitions relative to fees charged in renting motor vehicles; fees to fund Domestic Security Account.

54. a. As used in this section:

"Rental company" means a person engaged in the business of renting motor vehicles.

"Rental motor vehicle" means a passenger automobile, truck or semitrailer that is rented without a driver and used in the transportation of persons or property other than commercial freight.

b. Each rental company doing business in this State shall pay a fee for each rental motor vehicle that the company shall have rented from a location in this State under the terms of a rental agreement for a period of not more than 28 days. The amount of the fee shall be $2 for each day or part thereof that each such vehicle was rented. The fee shall be separately stated to the person to whom the motor vehicle is rented and shall not be included in the receipts subject to the taxes imposed pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

The director of the Division of Taxation in the Department of the Treasury shall collect and administer the fee; in so doing, the director shall have all the powers granted pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.). The director may, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), make, adopt, amend or repeal such rules and regulations as the director finds necessary to carry out the provisions of this subsection.

c. There is established in the General Fund the New Jersey Domestic Security Account, which shall be a dedicated nonlapsing account. Amounts paid to the State Treasurer pursuant to subsection b. of this section shall be deposited into the account upon receipt. Moneys in the account, including interest thereon, shall be available exclusively for appropriation to support medical emergency disaster preparedness for bioterrorism, security coverage at nuclear power facilities, State Police salaries related to Statewide security services, and counter-terrorism programs.

55. From fees collected by the Department of Health and Senior Services under the provisions of subsection c. of section 23 of P.L.1973, c.337 (C.26:2J-23), there is appropriated, pursuant to that section, the sum of $100,000 to the Department of Health and Senior Services to fund a grant to the community health law project for the provision of information and assistance to senior citizens with respect to their rights and benefits as enrollees in or beneficiaries of health plans administered by health maintenance organizations.

56. This act shall take effect July 1, 2002.

Approved July 1, 2002.

CHAPTER 35

AN ACT concerning the escheat of unclaimed property to the State, amending and supplementing chapter 30B of Title 46 of the Revised Statutes and repealing R.S.46:30B-35.

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

1. R.S.46:30B-1 is amended to read as follows:

Short title.

46:30B-1. Short title. This chapter shall be known and may be cited as the "Uniform Unclaimed Property Act."

2. R.S.46:30B-4 is amended to read as follows:

Effect of chapter on duty of holder to report, pay and deliver property under prior law.

46:30B-4. Effect of chapter on duty of holder to report, pay and deliver property under prior law. This chapter does not relieve a holder of a duty that arose before the effective date of this chapter to report, pay, or deliver property. A holder who did not comply with the law in effect before the effective date of this chapter is subject to the applicable enforcement and penalty provisions that then existed and they are continued in effect for the purpose of this section, subject to R.S.46:30B-89; however, after the effective date of this chapter, the interest and penalties set forth in article 34 of this chapter shall be assessed against the holder for failure to report, pay or deliver the property presumed abandoned in accordance with the prior statutory provisions.

3. R.S.46:30B-6 is amended to read as follows:

Definitions.

46:30B-6. Definitions.

As used in this chapter:

a. "Administrator" means the Treasurer of the State of New Jersey, any individual serving as the Acting Treasurer in the absence of the appointed Treasurer, and any State employee to whom the Treasurer has delegated authority to administer the provisions of this chapter and to execute any pertinent documents;

b. "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder;

c. (Deleted by amendment, P.L.2002, c.35).

d. "Business association" means a corporation, joint stock company, investment company, business trust, partnership, unincorporated association, joint venture, limited liability company, safe deposit company, safekeeping depository, financial organization, insurance company, mutual fund, utility or other business entity consisting of one or more persons, whether or not for profit;

e. "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of an unincorporated person;

f. "Financial organization" means a savings and loan association, building and loan association, credit union, savings bank, industrial bank, bank, banking organization, trust company, safe deposit company, private banker, or any organization defined by other law as a bank or banking organization;

g. "Holder" means a person, wherever organized or domiciled, who is the original obligor indebted to another on an obligation;

h. "Insurance company" means an association, corporation, fraternal or mutual benefit organization, whether or not for profit, which is engaged in providing insurance coverage, including accident, burial, casualty, credit life, contract performance, dental, fidelity, fire, health, hospitalization, illness, life (including endowments and annuities), malpractice, marine, mortgage, surety, and wage protection insurance;

i. (Deleted by amendment, P.L.2002, c.35).

j. (Deleted by amendment, P.L.2002, c.35).

k. "Owner" means a person having a legal or equitable interest in property subject to this chapter or the person's legal representative and includes, but is not limited to, a depositor in the case of a deposit, a beneficiary in the case of a trust other than a deposit in trust, and a creditor, claimant, or payee in the case of other property;

l. "Person" means an individual, business association, state or other government, governmental subdivision or agency, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity;

m. "State" means any state in the United States, district, commonwealth, territory, insular possession, or any other area subject to the jurisdiction of the United States;

n. "Utility" means a person who owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas;

o. "Mineral" means gas, oil, coal, other gaseous, liquid and solid hydrocarbons, oil shale, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resources, or any other substance defined as a mineral by the law of this State;

p. "Mineral proceeds" means amounts payable for the extraction, production, or sale of minerals, or, upon the abandonment of those payments, all payments that become payable thereafter, and includes, but is not limited to, amounts payable:

for the acquisition and retention of a mineral lease, including bonuses, royalties, compensatory royalties, shut-in royalties, minimum royalties, and delay rentals;

for the extraction, production, or sale of minerals, including net revenue interests, royalties, overriding royalties, extraction payments, and production payments; and

under an agreement of option, including a joint operating agreement, pooling agreement, and farm-out agreement;

q. "Money order" means an express money order and a personal money order, on which the remitter is the purchaser;

r. "Property" means tangible property described in R.S.46:30B-45 or a fixed and certain interest in intangible property that is held, issued, or owed in the course of a holder's business, or by a government, government subdivision, agency, or instrumentality, and all income or increments therefrom, and includes property that is referred to as or evidenced by:

money, a check, draft, deposit, interest, or dividend;

credit balance, customer's overpayment, security deposit, refund, credit memorandum, unpaid wage, unused ticket, mineral proceeds or unidentified remittance;

stock or other evidence of ownership of an interest in a business association or financial organization;

a bond, debenture, note, or other evidence of indebtedness;

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money deposited to redeem stock, bonds, coupons, or other securities or distributions;

an amount due and payable under the terms of an annuity or insurance policy, including policies providing life insurance, property and casualty insurance, workers compensation insurance, or health and disability insurance; and

an amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death stock purchase, profit sharing, employee savings, supplemental unemployment, insurance, or similar benefits; and

s. "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.

4. R.S.46:30B-7 is amended to read as follows:

When property presumed abandoned generally.

46:30B-7. When property presumed abandoned generally. Except as otherwise provided by this chapter, all property, including any income or increment derived therefrom, less any lawful charges, whether located in this State or another state, that is held, issued, owing in the ordinary course of a holder's business and has remained unclaimed by the owner for more than three years after it became payable or distributable is presumed abandoned.

At the time that an interest is presumed abandoned under this section, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

5. R.S.46:30B-7.1 is amended to read as follows:

Communication between holder and apparent owner.

46:30B-7.1. Communication between holder and apparent owner. Property shall not be presumed abandoned if within the period that the property remains unclaimed the apparent owner communicated in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning property or the account in which the property is held, or has otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner. An indication of an owner's interest in property includes:

the presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case

of a distribution made by electronic or similar means, evidence that the distribution has been received;

owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease, or change the amount or type of property held in the account; or

the payment of a premium with respect to a property interest in an insurance policy.

The application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

C.46:30B-7.2 Limitation on holder's power to impose charges.

6. Limitation on holder's power to impose charges. A holder may not deduct from the amount due a person who has a legal or equitable interest in any property subject to chapter 30 B of Title 46 of the Revised Statutes any charges due to dormancy or inactivity, unless:

there is an enforceable written contract between the holder and the owner of the property pursuant to which the holder may impose a charge; and

the holder regularly imposes charges and does not regularly reverse or otherwise cancel those charges with respect to the property, the amount of any charges is not unconscionable, and no additional charges are imposed as a result of escheatment of the property.

7. R.S.46:30B-9 is amended to read as follows:

When property subject to custody.

46:30B-9. When property subject to custody. Unless otherwise provided in this chapter or by other statute of this State, property is subject to the custody of this State as unclaimed property if the conditions raising a presumption of abandonment under Articles 2 and 5 through 16 of this chapter are satisfied and the conditions under R.S.46:30B-10 are satisfied. The common law doctrine of bona vacantia shall remain viable with respect to unclaimed property not covered by this chapter or another statute of this State.

8. R.S.46:30B-10 is amended to read as follows:

Further conditions to be satisfied to subject property to custody.

46:30B-10. Further conditions to be satisfied to subject property to custody. To subject property to the custody of this State as unclaimed property, the following conditions shall be also satisfied:

a. The last known address, as shown on the records of the holder, of the apparent owner is in this State;

b. The records of the holder do not reflect the identity of the person entitled to the property and it is established that the last known address of the person entitled to the property is in this State;

c. The records of the holder do not reflect the last known address of the apparent owner, and it is established that:

(1) The last known address of the person entitled to the property is in this State, or

(2) The holder is a domiciliary or a government or governmental subdivision or agency of this State and has not previously paid or delivered the property to the state of the last known address of the apparent owner or other person entitled to the property;

d. The last known address, as shown on the records of the holder, of the apparent owner is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property and the holder is a domiciliary or a government or governmental subdivision or agency of this State;

e. The last known address, as shown on the records of the holder, of the apparent owner is in a foreign nation and the holder is a domiciliary or a government or governmental subdivision or agency of this State; or

f. The transaction out of which the property arose occurred in this State, and

(1) The last known address of the apparent owner or other person entitled to the property is unknown, or

(2) The last known address of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property, and

(3) The holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

C.46:30B-10.2 Presumption of abandonment after issuance.

9. Presumption of abandonment after issuance. A record of the issuance of a check, draft, or similar instrument is prima facie evidence of an obligation. In claiming property from a holder who is also the issuer, the administrator's burden of proof as to the existence and amount of the property and its abandonment is satisfied by showing issuance of the instrument and passage of the requisite period of abandonment. Defenses of payment, satisfaction, discharge, and want of consideration are affirmative defenses that shall be established by the holder.

10. R.S.46:30B-11 is amended to read as follows:

Presumption of abandonment of travelers check.

46:30B-11. Presumption of abandonment of travelers check. Subject to R.S.46:30B-14, any sum payable on a travelers check that has been outstanding for more than 15 years after its issuance is presumed abandoned unless the owner, within 15 years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a contemporaneous memorandum or other record on file prepared by an employee of the issuer.

11. R.S.46:30B-12 is amended to read as follows:

Presumption of abandonment of money order.

46:30B-12. Presumption of abandonment of money order. Subject to R.S.46:30B-14, any sum payable on a money order or similar written instrument that has been outstanding for more than seven years after its issuance is presumed abandoned unless the owner, within seven years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a contemporaneous memorandum or other record on file prepared by an employee of the issuer.

12. R.S.46:30B-13 is amended to read as follows:

Limitation on holder's power to impose service charges.

46:30B-13. Limitation on holder's power to impose service charges. A holder may not deduct from the amount of a travelers check or money order any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the issuer and the owner of the instrument pursuant to which the issuer may impose a charge and the issuer regularly imposes the charges and does not regularly reverse or otherwise cancel them. The amount of the deduction shall be limited to an amount that is not unconscionable.

13. R.S.46:30B-16 is amended to read as follows:

Presumption of abandonment.

46:30B-16. Presumption of abandonment. Any sum payable on a check, draft, or similar instrument, except those subject to R.S.46:30B-11 and R.S.46:30B-12, on which a financial organization is directly liable, including a cashier's check and a certified check, which has been outstanding for more than three years after it was payable on demand, is presumed abandoned, unless the owner, within three years, has communicated in writing with the financial organization concerning it or otherwise indicated an interest as evidenced

by a contemporaneous memorandum or other record on file prepared by an employee thereof.

14. R.S.46:30B-17 is amended to read as follows:

Limitation on holder's power to impose charges.

46:30B-17. Limitation on holder's power to impose charges. A holder may not deduct from the amount of any instrument subject to R.S.46:30B-16 any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the holder and the owner of the instrument pursuant to which the holder may impose a charge, and the holder regularly imposes the charges and does not regularly reverse or otherwise cancel them. The amount of the deduction shall be limited to an amount that is not unconscionable.

15. R.S.46:30B-18 is amended to read as follows:

Presumption of abandonment.

46:30B-18. Presumption of abandonment. A demand, savings, or time deposit, including a deposit that is automatically renewable, and any funds paid toward the purchase of a share, a mutual fund investment certificate, or any other interest in a financial organization is presumed abandoned three years after the earlier of maturity or the date of the last indication by the owner of interest in the property, but a deposit that is automatically renewable is deemed matured for the purposes of this section upon its initial date of maturity, unless the owner has consented to a renewal at or about the time of renewal and the consent is in writing or is evidenced by a contemporaneous memorandum or other record on file with the holder, provided, however, that such abandonment shall not be deemed to have occurred if the owner, within the time period stated above has:

a. In the case of a deposit, increased or decreased its amount or presented the passbook or other similar evidence of the deposit for the crediting of interest;

b. Communicated in writing with the financial organization concerning the property;

c. Otherwise indicated an interest in the property as evidenced by a contemporaneous memorandum or other record on file prepared by an employee of the financial organization;

d. Owned other property to which subsection a., b., or c. applies and if the financial organization communicates in writing with the owner with regard to the property that would otherwise be presumed abandoned under this section at the address to which communications regarding the other property regularly are sent; or

e. Had another relationship with the financial organization concerning which the owner has:

(1) Communicated in writing with the financial organization, or

(2) Otherwise indicated an interest as evidenced by a contemporaneous memorandum or other record on file prepared by an employee of the financial organization and if the financial organization communicates in writing with the owner with regard to the property that would otherwise be abandoned under this section at the address to which communications regarding the other relationship regularly are sent.

16. R.S.46:30B-20 is amended to read as follows:

Limitation on holder's power to impose charges.

46:30B-20. Limitation on holder's power to impose charges. A holder may not impose with respect to property described in R.S.46:30B-18 any charge due to dormancy or inactivity or cease payment of interest unless:

a. There is an enforceable written contract between the holder and the owner of the property pursuant to which the holder may impose a charge or cease payment of interest;

b. For property in excess of $2.00, the holder, no more than three months before the initial imposition of those charges or cessation of interest, has given written notice to the owner of the amount of those charges at the last known address of the owner stating that those charges will be imposed or that interest will cease, but the notice provided in this subsection need not be given with respect to charges imposed or interest ceased before the effective date of this chapter; and

c. The holder regularly imposes the charges or ceases payment of interest and does not regularly reverse or otherwise cancel them or retroactively credit interest with respect to the property. The amount of the deduction shall be limited to an amount that is not unconscionable. Also, no additional charges shall be assessed as the result of escheatment of the property.

17. R.S.46:30B-21 is amended to read as follows:

When automatically renewable property is matured.

46:30B-21. When automatically renewable property is matured. Any property described in R.S.46:30B-18 that is automatically renewable is matured for purposes of R.S.46:30B-18 upon the expiration of its initial time period, but in the case of any renewal by communicating in writing with the financial organization or otherwise indicating consent as evidenced by a contemporaneous memorandum or other record on file prepared by an employee of the organization, the property is matured upon the expiration of the last time period for which consent was given. If, at the time provided for delivery in Article

19 of this chapter, a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time for delivery is extended until the time when a penalty or forfeiture would not result.

18. R.S.46:30B-22 is amended to read as follows:

Presumption of abandonment.

46:30B-22. Presumption of abandonment. Funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated are presumed abandoned if unclaimed for more than three years after the funds became due and payable as established from the records of the insurance company holding or owing the funds, but property described in subsection b. of R.S.46:30B-24 is presumed abandoned if unclaimed for more than two years.

19. R.S.46:30B-24 is amended to read as follows:

Determining maturity of insurance policy or annuity contract.

46:30B-24. Determining maturity of insurance policy or annuity contract. For purposes of this article, a life or endowment insurance policy or annuity contract not matured by actual proof of death of the insured or annuitant according to the records of the company is matured and the proceeds due and payable if:

a. The company knows that the insured or annuitant has died; or

b. The insured has attained, or would have attained if he were living, the limiting age under the mortality table on which the reserve is based;

c. The policy was in force at the time the insured attained, or would have attained, the limiting age specified in subsection b.; and

d. Neither the insured nor any other person appearing to have an interest in the policy within the preceding two years, according to the records of the company, has assigned, readjusted, or paid premiums on the policy, subjected the policy to a loan, corresponded in writing with the company concerning the policy, or otherwise indicated an interest as evidenced by a contemporaneous memorandum or other record on file prepared by an employee of the company.

C.46:30B-28.1 Property distributable by insurance company.

20. Property distributable by insurance company. Property distributable in the course of demutualization or related reorganization of an insurance company which remains unclaimed is deemed abandoned three years after the earlier of:

the date of the distribution of the property; or

the date of last contact with a policyholder.

21. R.S.46:30B-31 is amended to read as follows:

Presumption of abandonment.

46:30B-31. Presumption of abandonment. Stock or other interest in a business association, including a debt obligation other than a bearer bond or original issue discount bond, is presumed abandoned:

three years after the earlier of the date of an unpresented instrument issued to pay interest or a dividend or other cash distribution, or the date of issue of an undelivered stock certificate issued as a stock dividend, split, or other distribution; or

if a dividend or other distribution has not been paid on the stock or other interest for three consecutive years, or the stock or other interest is held pursuant to a plan that provides for the automatic reinvestment of dividends or other distributions, three years after the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable, or after the holder discontinued mailings to the apparent owner, whichever is earlier.

22. R.S.46:30B-32 is amended to read as follows:

Presumption of abandonment for failure to claim dividend or distribution.

46:30B-32. Presumption of abandonment for failure to claim dividend or distribution. At the expiration of a three- year period following the failure of the owner to claim a dividend, distribution, or other sum payable to the owner as a result of the interest, the interest is not presumed abandoned unless there have been at least three dividends, distributions, or other sums paid during the period, none of which has been claimed by the owner. If three dividends, distributions, or other sums are paid during the three-year period, the period leading to a presumption of abandonment commences on the date payment of the first unclaimed dividend, distribution, or other sum became due and payable.

23. R.S.46:30B-33 is amended to read as follows:

When period of abandonment ceases.

46:30B-33. When period of abandonment ceases. The running of the three-year period of abandonment ceases immediately upon the occurrence of a communication referred to in R.S.46:30B-31. If any future dividend, distribution, or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period of abandonment commences and relates back to the time a subsequent dividend, distribution, or other sum became due and payable.

24. R.S.46:30B-34 is amended to read as follows:

Items presumed abandoned when interest presumed abandoned.

46:30B-34. Items presumed abandoned when interest presumed abandoned. At the time an interest is presumed abandoned under chapter 30B of Title 46 of the Revised Statutes, any other property right accrued or accruing to the owners as a result of the interest, and not previously presumed abandoned, is presumed abandoned.

25. R.S.46:30B-36 is amended to read as follows:

Presumption of abandonment.

46:30B-36. Presumption of abandonment. Property distributable in the course of a dissolution of a business association which remains unclaimed by the owner for more than one year after the date specified for final distribution is presumed abandoned.

26. R.S.46:30B-37 is amended to read as follows:

Presumption of abandonment.

46:30B-37. Presumption of abandonment. Property and any income or increment derived therefrom held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner, within three years after it has become payable or distributable, has increased or decreased the principal, accepted payment of principal or income, communicated concerning the property, or otherwise indicated an interest as evidenced by a contemporaneous memorandum or other record on file prepared by the fiduciary.

27. R.S.46:30B-37.1 is amended to read as follows:

Presumption of abandonment: unclaimed estate assets.

46:30B-37.1 Presumption of abandonment: unclaimed estate assets. Except as otherwise provided in this section, property held by a fiduciary as defined in N.J.S.3B:1-1 or an assignee under N.J.S.2A:19-1 et seq. and remaining unclaimed for 90 days after the account of that fiduciary or assignee is judicially allowed by the courts or settled informally is presumed abandoned. Unclaimed property held by a fiduciary of an intestate estate payable to the unknown heirs of an intestate decedent shall be presumed abandoned 90 days after publication by the fiduciary of the notice required in N.J.S.3B:5-5.

C.46:30B-37.2 Debt of business association.

28. Debt of business association. The debt of a business association, other than bearer bonds or an original issue discount bond, is presumed abandoned

three years after the date of the earliest interest payment unclaimed by the apparent owner.

29. R.S.46:30B-38 is amended to read as follows:

Funds in retirement account or plan.

46:30B-38. Funds in retirement account or plan. Property in an individual retirement account, defined benefit plan, or other account or plan that is qualified for tax deferral under the income tax laws of the United States becomes abandoned three years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan, or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty.

C.46:30B-38.1 Funds in non-traditional retirement account or plan.

30. Funds in non-traditional individual retirement account or plan. Property in individual retirement accounts for which no distribution is required under the income tax laws of the United States becomes abandoned three years after the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable, or after the holder discontinued mailings to the apparent owner, whichever is earlier.

31. R.S.46:30B-41 is amended to read as follows:

Presumption of abandonment: Superior Court and surrogate.

46:30B-41. Presumption of abandonment: Superior Court and surrogate. Property deposited or paid into the Superior Court or to the surrogate of any county in this State to the credit of a specific cause or account under the provisions of any law, order, rule, judgment, or decree and remaining unclaimed for a period of 10 years, shall be presumed abandoned.

32. R.S.46:30B-41.1 is amended to read as follows:

Presumption of abandonment: minor's funds.

46:30B-41.1. Presumption of abandonment: minor's funds. Property deposited or paid into the Superior Court or to the surrogate of any county of this State for the benefit of a person who is a minor at the time of the deposit and remaining unclaimed by that person for two years after that person reaches majority is presumed abandoned.

33. R.S.46:30B-41.2 is amended to read as follows:

Presumption of abandonment: governmental entity.

46:30B-41.2. Presumption of abandonment: governmental entity. Except as otherwise provided in this article, any property where the obligor is the executive, legislative, or judicial branch of the United States Government, or a state, or a county or municipal subdivision of a state, or any of their authorities, agencies, instrumentalities, administrations, services or other organizations, and remaining unclaimed for more than one year after it became payable or distributable is presumed abandoned.

C.46:30B-41.3 Presumption of abandonment; class actions.

34. Presumption of abandonment; class actions. Property received by a court as proceeds of a class action and not distributed pursuant to the judgment is presumed abandoned one year after the initial distribution date.

35. R.S.46:30B-42 is amended to read as follows:

Presumption of abandonment.

46:30B-42. Presumption of abandonment. A credit balance, customer overpayment, security deposit, refund, credit memorandum, unused ticket, or similar instrument that occurs or is issued in the ordinary course of business which remains unclaimed by the owner for more than three years after becoming payable or distributable is presumed abandoned.

36. R.S.46:30B-43 is amended to read as follows:

Amounts presumed abandoned.

46:30B-43. Amounts presumed abandoned. In the case of credit balances, customer overpayments, security deposits, refunds, credit memoranda, unused tickets, or similar instruments, the amount presumed abandoned is the amount credited to the recipient.

C.46:30B-43.1 Limitation on holder's power to impose charges.

37. Limitation on holder's power to impose charges. A holder may not deduct from the amount of any instrument subject to R.S.46:30B-43 any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the issuer and owner of the instrument pursuant to which the issuer may impose a charge and the issuer regularly imposes the charges and does not regularly reverse or otherwise cancel them. The amount of the deduction shall be limited to an amount that is not unconscionable.

38. R.S.46:30B-47 is amended to read as follows:

Form and contents of report.

46:30B-47. Form and contents of report. The report shall be verified and shall include:

a. Except with respect to travelers checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of property of the value of $50 or more presumed abandoned under this chapter. Dividends, interest and mineral proceeds that accrue shall not be aggregated and shall be reported separately;

b. In the case of unclaimed funds of $50 or more held or owing under any life or endowment insurance policy or annuity contract, the full name and last known address of the insured or annuitant and of the beneficiary according to the records of the insurance company holding or owing the funds;

c. In the case of the contents of a safe deposit box or other safekeeping repository or of other tangible property, a description of the property, its estimated value and the place where it is held and may be inspected by the administrator and any amounts owing to the holder;

d. The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, but items of value under $50 each may be reported in the aggregate;

e. The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property;

f. The Social Security account number or federal identification number, if available, of each person appearing to be the owner of the reported unclaimed property; and

g. Other information the administrator prescribes by rule as necessary for the administration of this chapter.

39. R.S.46:30B-49 is amended to read as follows:

Time to file report; postponement.

46:30B-49. Time to file report; postponement. The report shall be filed before November 1 of each year as of the preceding June 30, but the report of any life insurance company shall be filed before May 1 of each year as of the preceding December 31.

Before the date for filing the report, the holder of property presumed abandoned may request of the administrator an extension of the time for filing the report. The administrator may grant the extension for good cause. The holder, upon receipt of the extension, shall make an interim payment on the amount the holder estimates will ultimately be due, which terminates the accrual of additional interest on the estimated amount paid.

40. R.S.46:30B-50 is amended to read as follows:

Notice to apparent owner.

46:30B-50. Notice to apparent owner. Not more than 120 days nor less than 60 days before filing the report required by this article, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under this chapter shall send by certified mail, and with return receipt requested, written notice to the apparent owner at the last known address informing the owner that the holder is in possession of property subject to this chapter if:

a. The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate;

b. The claim of the apparent owner is not barred by the statute of limitations; and

c. The property has a value of $50.00 or more.

41. R.S.46:30B-51 is amended to read as follows:

Publication of notice by administrator.

46:30B-51. Publication of notice by administrator. The administrator shall cause a notice to be published not later than November 30 of the year next following the year in which abandoned property has been paid or delivered to the administrator, or in the case of property reported by life insurance companies, September 1, of the year in which abandoned property has been paid or delivered to the administrator following the report required by Article 17 of this chapter at least once a week for two consecutive weeks in a newspaper of general circulation in the county of this State in which is located the last known address of any person to be named in the notice. If the address is outside this State, the notice shall be published in the county in which the holder of the property has its principal place of business within this State.

The administrator is not required to advertise the name and address or location of an owner of property having a total value of less than $100.

42. R.S.46:30B-52 is amended to read as follows:

Form and contents of notice to be published.

46:30B-52. Form and contents of notice to be published. The published notice shall contain:

a. The names in alphabetical order and last known addresses, if any, of persons listed in the report and entitled to notice within the county as specified in R.S.46:30B-51;

b. A statement that information concerning the unclaimed property may be obtained by any person having legal or beneficial interest in that property by making a written inquiry to the administrator; and

c. A statement explaining that property of the owner is presumed to be abandoned and has been taken into the protective custody of the administrator.

43. R.S.46:30B-53 is amended to read as follows:

Items which need not be included in published notice.

46:30B-53. Items which need not be included in published notice. The administrator is not required to publish in the notice any items of less than $100 unless the administrator considers their publication to be in the public interest.

44. R.S.46:30B-57 is amended to read as follows:

Payment or delivery with report.

46:30B-57. Payment or delivery with report. At the time of the filing of the report as established by R.S.46:30B-49, a holder shall pay or deliver to the administrator all of the unclaimed property set forth in its report and all accretions thereon, except for the property provided for in R.S.46:30B-58.

Tangible property held in a safe deposit box or other safekeeping repository shall not be delivered to the administrator until 120 days after filing the report required by R.S.46:30B-47.

The administrator may decline to receive property reported under this chapter which the administrator considers to have value less than the expenses of notice and sale.

45. R.S.46:30B-60.1 is amended to read as follows:

Transfer of ownership after delivery with report.

46:30B-60.1. Transfer of ownership after delivery with report. When a certificate or other evidence of ownership, or a bond or other debt security, registered in the name of a person is delivered to the administrator pursuant to any provision of this chapter and is presented by the administrator to the issuer thereof or its agent, the issuer shall transfer and register it in the name of "Treasurer, State of New Jersey," and a new certificate or security, so registered, shall be delivered to the administrator. The issuer and its transfer agent, registrar, or other person acting on behalf of the issuer in executing and delivering the certificate or security shall be fully and automatically relieved from any liability to any person for any loss or damage caused by the transfer, issuance, and delivery of the certificate or security to the administrator.

A record of the issuance of a check, draft, or similar instrument is prima facie evidence of an obligation. In claiming property from a holder who is also the issuer, the administrator's burden of proof as to the existence and amount of the property and its abandonment is satisfied by showing issuance of the

instrument and passage of the requisite period of abandonment. Defenses of payment, satisfaction, discharge, and want of consideration are affirmative defenses that shall be established by the holder.

If the property reported to the administrator is a security or security entitlement under Subchapter 8 of the Uniform Commercial Code-Investment Securities, N.J.S.12A:8-101 et seq., the administrator is an appropriate person to make an endorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the security or the security entitlement in accordance with Subchapter 8 of the Uniform Commercial Code-Investment Securities.

If the holder of the property reported to the administrator is the issuer of a certified security, the administrator has the right to obtain a replacement certificate pursuant to N.J.S.12A:8-405 of the Uniform Commercial Code-Investment Securities, but an indemnity bond is not required.

An issuer, the holder, any transfer agent or other person acting pursuant to the instructions of and on behalf of the issuer or holder in accordance with this section is not liable to the apparent owner and shall be indemnified against claims of any person in accordance with R.S.46:30B-65.

46. R.S.46:30B-65 is amended to read as follows:

Defending and indemnifying holder against claims for property paid or delivered.

46:30B-65. Defending and indemnifying holder against claims for property paid or delivered. If the holder pays or delivers property to the administrator in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the administrator, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim to the extent of the property paid or delivered to the administrator on behalf of the apparent owner.

47. R.S.46:30B-72 is amended to read as follows:

Securities to be held one year before sale; rights of claimant if securities sold before or after end of one-year period.

46:30B-72. Securities to be held one year before sale; rights of claimant if securities sold before or after end of one-year period. Unless the administrator considers it to be in the best interest of the State to do otherwise, all securities presumed abandoned under Article 10 of this chapter and delivered to the administrator shall be held for one year before the administrator may sell them. If the administrator sells any securities delivered pursuant to Article 10 of this chapter before the expiration of the one-year period, any person making

a claim pursuant to this chapter before the end of the one-year period is entitled to either the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever amount is greater, less any deduction for fees pursuant to R.S.46:30B-75. If the value of the securities is less than the cost of re-registration, then the owner shall have the option to pay the re-registration fee and receive the security or be paid the present value of the security. A person making a claim under this chapter after the expiration of this period is entitled to receive either the securities delivered to the administrator by the holder, if they still remain in the hands of the administrator, or the proceeds received from sale, less any amounts deducted pursuant to R.S.46:30B-75, but no person has any claim under this chapter against the State, the holder, any transfer agent, registrar, or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the administrator.

48. R.S.46:30B-76 is amended to read as follows:

Record to be maintained by administrator.

46:30B-76. Record to be maintained by administrator. Before making any deposit of funds as provided in R.S.46:30B-74, the administrator shall record the name and last known address of each person appearing from the holder's reports to be entitled to the property. However, the administrator shall not include in this record any information deemed confidential under R.S.46:30B-76.1. The record of the name and last known address only shall be available for the public inspection at all reasonable business hours.

49. R.S.46:30B-76.1 is amended to read as follows:

Confidentiality of certain records.

46:30B-76.1. Confidentiality of certain records. Any record or information other than name and address is deemed confidential when revealed or delivered to the administrator and shall not be considered a public record under section 2 of P.L.1963, c.73 (C.47:1A-2).

50. R.S.46:30B-76.2 is amended to read as follows:

Disclosure of confidential information.

46:30B-76.2. Disclosure of confidential information. Confidential information concerning any aspect of unclaimed property shall be disclosed only to an apparent owner or an administrator or official of another state for escheat or unclaimed or abandoned property, if that other state accords substantially reciprocal privileges to the administrator.

Documents and working papers may be:

used by the administrator in the course of an action to collect unclaimed property or otherwise enforce chapter 30B of Title 46 of the Revised Statutes;

used in joint examinations conducted with or pursuant to an agreement with another state, the federal government, or any other governmental subdivision, agency, or instrumentality;

produced pursuant to subpoena or court order; or

disclosed to the abandoned property office of another state for that state's use in circumstances equivalent to those described in this section, if the state is bound to keep the documents and papers confidential.

51. R.S.46:30B-77 is amended to read as follows:

Filing claim; another state excluded.

46:30B-77. Filing claim; another state excluded. a. A person, excluding another state, claiming an interest in any property paid or delivered to the administrator may file with the administrator a claim on a form prescribed by the administrator and verified by the claimant.

b. The administrator shall allow the claim of persons asserting entitlement as heirs to the property of an intestate decedent paid or delivered to the administrator pursuant to N.J.S.3B:5-5 only upon receipt of (1) substantial credible evidence of heirship, (2) satisfactory evidence that a diligent investigation to locate all heirs of the decedent has been concluded, (3) the names, last known addresses, and a description of the relationships of all of the heirs of the decedent discovered as a result of that investigation, or otherwise, and (4) a release and refunding bond or other instrument satisfactory to the administrator, providing the administrator and the State with full indemnity for claims by other heirs of the decedent. The administrator shall make payment or delivery as otherwise provided in this article to the heirs in shares as prescribed in N.J.S.3B:5-3 through N.J.S.3B:5-14.

If the holder has filed an inaccurate or incomplete report and an owner makes a claim for the return of the property and the administrator is unable to determine if the property was reported or delivered, then the holder shall either file an amended accurate and complete report within 120 days of notice by the administrator or directly pay the owner and thereafter make a claim for reimbursement in accordance with R.S.46:30B-62. It shall be the holder's burden to establish that the owner's property was delivered with the original report.

52. R.S.46:30B-78 is amended to read as follows:

Time to consider claim; notice of denial.

46:30B-78. Time to consider claim; notice of denial. The administrator shall consider each claim within 120 days after it is filed or, in the case of

a claim of a person asserting an entitlement as an heir to the property of an intestate decedent, within 120 days of the claimant's submission of the matters (1) through (4) required in subsection b. of R.S.46:30B-77, and give written notice to the claimant if the claim is denied in whole or in part. The notice may be given by mailing it to the last address, if any, stated in the claim as the address to which notices are to be sent. If an address for notices is not stated in the claim, the notice may be mailed to the last address, if any, of the claimant as stated in the claim. A notice of denial need not be given if the claim fails to state either the last address to which notices are to be sent or the address of the claimant.

53. R.S.46:30B-79 is amended to read as follows:

Payment of claim.

46:30B-79. Payment of claim. If a claim is allowed, the administrator shall pay over or deliver to the claimant the property or the amount the administrator actually received or the net proceeds if it has been sold by the administrator, together with any additional amount required by Article 21 of this chapter. If the claim is for property presumed abandoned under Article 10 of this chapter which was sold by the administrator within one year after the date of delivery, the amount payable for that claim is the net proceeds of sale. At the time a claim is allowed, the administrator shall pay to the claimant interest upon the monies of the claimant for the period during which those monies were in the custody of the administrator, but interest shall not be payable for any period before the effective date of this chapter. The rate of interest shall be periodically fixed by the administrator.

54. R.S.46:30B-81 is amended to read as follows:

Grounds for recovery of property by another state.

46:30B-81. Grounds for recovery of property by another state. After property has been paid or delivered to the administrator under this chapter another state may recover the property if:

a. The property was paid or delivered to the custody of this State because the records of the holder did not reflect a last known location of the apparent owner within the borders of the other state and the other state establishes that the apparent owner or other person entitled to the property was last known to be located within the borders of that state and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state;

b. The property was paid or delivered to the custody of this State because the laws of the other state did not provide for the escheat or custodial taking

of the property and under the laws of that state subsequently enacted the property has escheated to or become subject to a claim of abandonment by that state;

c. The records of the holder were erroneous in that they did not accurately identify the owner of the property and the last known location of the owner within the borders of another state and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state;

d. The property was subjected to custody by this State under R.S.46:30B-1 et seq. and under the laws of the state of domicile of the holder of the property has escheated or become subject to a claim of abandonment by that state; or

e. The property is the sum payable on a travelers check, money order, or similar instrument that was purchased in the other state and delivered into the custody of this state under R.S.46:30B-14, and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state.

55. R.S.46:30B-82 is amended to read as follows:

Form of claim; allowance.

46:30B-82. Form of claim; allowance. The claim of another state to recover escheated or abandoned property shall be presented in a form prescribed by the administrator, who shall decide the claim within 120 days after it is presented. The administrator shall allow the claim if the administrator determines that the other state is entitled to the abandoned property under R.S.46:30B-81.

56. R.S.46:30B-89 is amended to read as follows:

Time within which administrator may bring action against holder.

46:30B-89. Time within which administrator may bring action against holder. An action or proceeding may not be commenced by the administrator to enforce chapter 30B of Title 46 of the Revised Statutes in regard to the reporting, delivery, or payment of property more than ten years after the holder specifically identified the property in a report filed with the administrator or gave express notice to the administrator of a dispute regarding the property. In the absence of such a report or other express notice, the period of limitation is tolled. The period of limitation is also tolled by the filing of a report that is fraudulent.

57. R.S.46:30B-90 is amended to read as follows:

Administrator may require filing of reports.

46:30B-90. Administrator may require filing of reports. The administrator may require any person who has not filed a report, or a person who the

administrator believes has filed an inaccurate, incomplete, or false report, to file a verified report in a form specified by the administrator. The report shall state whether the person is holding property reportable under chapter 30B of Title 46 of the Revised Statutes, describe property not previously reported or as to which the administrator has made inquiry, and specifically identify and state the amounts of property that may be in issue.

58. R.S.46:30B-91 is amended to read as follows:

Examination of records by administrator; generally.

46:30B-91. Examination of records by administrator; generally. The administrator, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with the provisions of this chapter. The administrator may conduct the examination even if the person believes it is not in possession of any property reportable or deliverable under this chapter. The administrator may contract with any other person to conduct the examination on behalf of the administrator.

59. R.S.46:30B-92 is amended to read as follows:

Examination of records by administrator; agents and fiduciaries for business association.

46:30B-92. Examination of records by administrator; agents and fiduciaries for business association. If a person is treated under Article 12 of this chapter as the holder of the property only insofar as the interest of a business association in the property is concerned, the administrator, pursuant to R.S.46:30B-91, may examine the records of the person if the administrator has given the notice required by R.S.46:30B-91 to both the person and the business association at least 90 days before the examination.

The administrator at reasonable times may examine the records of an agent, including a dividend disbursing agent or transfer agent, of a business association that is the holder of property presumed abandoned if the administrator has given notice to both the association and the agent at least 90 days before the examination.

60. R.S.46:30B-93 is amended to read as follows:

Assessment of costs for examination.

46:30B-93. Assessment of costs for examination. If an examination of the records of a person results in the disclosure of property reportable and deliverable under this chapter, the administrator may assess the cost of the examination against the holder at the rate of $50 per hour for each examiner, but in no case may the charges exceed the value of the property found to be reportable and deliverable. The cost of examination made pursuant to R.S.46:30B-93 may be imposed only against the business association.

61. R.S.46:30B-94 is amended to read as follows:

Assessing estimated costs for examination when records are insufficient.

46:30B-94. Assessing estimated costs for examination when records are insufficient. If, after the effective date of P.L.2002, c.35, a holder does not maintain the records required by R.S.46:30B-95 and the records of the holder available for the periods subject to this chapter are insufficient to permit the preparation of a report, the administrator may require the holder to report and pay to the administrator the amount the administrator reasonably estimates, on the basis of any available records of the holder, or by any other reasonable means of estimation acceptable to the administrator, that should have been but was not reported.

In the event property was delivered to the administrator based upon an estimate or statistical method, the holder shall be required to indemnify the administrator for any amounts claimed by owners in excess of the estimated amount remitted.

62. R.S.46:30B-95 is amended to read as follows:

Maintaining records; generally.

46:30B-95. Maintaining records; generally. Every holder required to file a report under Article 17 of this chapter, as to any property for which it has obtained the last known address of the owner, shall maintain a record of the name and last known address of the owner for five years after the holder files the report, except to the extent that a shorter time is provided in R.S.46:30B-96 or by rule of the administrator.

63. R.S.46:30B-96 is amended to read as follows:

Maintaining records; travelers checks, money orders, etc.

46:30B-96. Maintaining records; travelers checks, money orders, etc. Any business association that sells in this State its travelers checks, money orders, or other similar written instruments, other than third-party bank checks on which the business association is directly liable, or that provides those instruments to others for sale in this State, shall maintain a record of those instruments while they remain outstanding, indicating the state and date of issue for three years after the date the holder files the report.

64. R.S.46:30B-98 is amended to read as follows:

Interstate agreements.

46:30B-98. Interstate agreements. The administrator may enter into agreements with other states to exchange information relating to abandoned property or its possible existence needed to enable this or another state to audit

or otherwise determine unclaimed property that it or another state may be entitled to subject to a claim of custody. The agreement may permit the other state, or another person acting on behalf of a state, to examine records as authorized by R.S.46:30B-1 et seq. The administrator by rule may require the reporting of information needed to enable compliance with agreements made pursuant to this section and prescribe the form.

65. R.S.46:30B-104 is amended to read as follows:

Penalty for failure to render report or perform other duties.

46:30B-104. Penalty for failure to render report or perform other duties. Except as otherwise provided in R.S.46:30B-105 or 46:30B-105.1, a holder who fails to report, pay or deliver property within the time prescribed by chapter 30B of Title 46 of the Revised Statutes, or fails to perform other duties imposed by that chapter, shall pay to the administrator, in addition to the interest as provided in R.S.46:30B-103, a civil penalty of $200 for each day the report, payment, or delivery is withheld, or the duty is not performed, up to a maximum of $100,000.

66. R.S.46:30B-105 is amended to read as follows:

Penalty for willful failure to report, pay or deliver property.

46:30B-105. Penalty for willful failure to report, pay or deliver property. A holder who willfully fails to report, pay, or deliver property within the time prescribed by chapter 30B of Title 46 of the Revised Statutes, shall pay to the administrator, in addition to the interest provided in R.S.46:30B-103, a penalty of $1,000 for each day the report, payment, or delivery is withheld, or the duty is not performed, up to a maximum of $250,000, plus 25% of the value of any property that should have been but was not reported.

For the purpose of this section, a willful failure to report includes the filing of a report which is plainly inaccurate, incomplete, or out of balance and the same is not corrected by the holder within six months after its original due date.

67. R.S.46:30B-105.1 is amended to read as follows:

Penalty for fraudulent report.

46:30B-105.1. Penalty for fraudulent report. A holder who makes a fraudulent report shall pay to the administrator, in addition to interest as provided in R.S.46:30B-103, a civil penalty of $1,000 for each day the report is withheld up to a maximum of $250,000, plus 25% of the value of any property that should have been but was not reported.

68. R.S.46:30B-14 is amended to read as follows:

Conditions subjecting property to custody of State.

46:30B-14. Conditions subjecting property to custody of State. A sum payable on a travelers check, money order, or similar written instrument, described in R.S.46:30B-11 and R.S.46:30B-12 may not be subjected to the custody of this State as unclaimed property unless:

a. The records of the issuer show that the travelers check, money order, or similar written instrument was purchased in this State;

b. The issuer has its principal place of business in this State and the records of the issuer do not show the state in which the travelers check, money order, or similar written instrument was purchased; or

c. The issuer has its principal place of business in this State, the records of the issuer show the state in which the travelers check, money order, or similar written instrument was purchased and the laws of the state of purchase do not provide for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

69. R.S.46:30B-45 is amended to read as follows:

Presumption of abandonment.

46:30B-45. Presumption of abandonment. All property held in a safe deposit box or any other safekeeping repository in this State in the ordinary course of the holder's business and proceeds resulting from the sale of the property permitted by other law, which remain unclaimed by the owner for more than five years after the lease or rental period or other custodial agreement on the box or other repository has expired, are presumed abandoned.

70. R.S.46:30B-46 is amended to read as follows:

Duty of holder to report property presumed abandoned.

46:30B-46. Duty of holder to report property presumed abandoned. A person holding property presumed abandoned and subject to custody as unclaimed property under this chapter shall report to the administrator concerning the property as provided in this article.

Repealer.

71. R.S.46:30B-35 is repealed.

Titles of articles amended.

72. Amend titles of Articles 5, 10 and 14 of R.S.46:30B-1 et seq. to read as follows:

Article 5. Checks, Drafts and Similar Instruments Issued or Certified by Financial Organizations

Article 10. Stock and other Interests in Business Associations

Article 14. Credits, Overpayments, Deposits, Refunds, Unused Tickets

73. Waiver of penalty and interest. The administrator shall have discretion to waive the payment of penalties and interest or to reduce the amount of the interest in an appropriate circumstance.

74. This act shall take effect immediately.

Approved July 1, 2002.

CHAPTER 36

AN ACT providing for the transfer of funds by the New Jersey Housing and Mortgage Finance Agency to the State for housing and related purposes, supplementing P.L.1983, c.530 (C.55:14K-1 et seq.).

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

1. Notwithstanding the provisions of any law to the contrary, the New Jersey Housing and Mortgage Finance Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.) shall transfer, on or before the fifth day after enactment of this supplementary act, from unencumbered reserves in the funds of the agency, an amount not to exceed $25,000,000, as shall be determined by the State Treasurer, to the State Treasury for deposit in the State General Fund. The amount deposited in the State General Fund shall be available to pay for appropriations made from the General Fund for housing and related needs of New Jersey residents.

2. This act shall take effect immediately.

Approved July 1, 2002.

CHAPTER 37

AN ACT concerning oversight fees for hazardous substance cleanups and remediations, supplementing P.L.1993, c.139 (C.58:10B-1 et al.), and amending P.L.1976, c.141.

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

1. a. In the case of an owner or operator of an industrial establishment or any other person required to perform remediation activities pursuant to

P.L.1983, c.330 (C.13:1K-6 et al.), or a discharger, a person in any way responsible for a hazardous substance, or a person otherwise liable for cleanup and removal costs pursuant to subsection c. of 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, the fees for department oversight of the cleanup and removal of a discharge of a hazardous substance performed after the effective date of P.L.2002, c.37 may include indirect costs.

b. In the case of the remediation of a contaminated site performed by any person not subject to the provisions of subsection a. of this section, the fees for department oversight of the remediation performed after the effective date of P.L.2002, c.37 shall not include any indirect costs, but may include only those program costs directly related to the oversight of the remediation.

c. In the case of the cleanup and removal of a discharged hazardous substance at a person's primary residence, the fees for department oversight of the remediation performed after the effective date of P.L.2002, c.37 shall not include any indirect costs, but may include only those program costs directly related to the oversight of the remediation.

d. The department shall not establish or impose a fee for the oversight of any cleanup and removal of a discharged hazardous substance or for the remediation of a contaminated site that includes direct program costs and indirect costs which together exceed seven and one-half percent of the cost of the remediation of a contaminated site or the cleanup and removal of a discharged hazardous substance.

2. Section 3 of P.L.1976, c.141 (C.58:10-23.11b) is amended to read as follows:

C.58:10-23.11b Definitions.

3. Unless the context clearly indicates otherwise, the following terms shall have the following meanings:

"Act of God" means an act exclusively occasioned by an unanticipated, grave natural disaster without the interference of any human agency;

"Administrator" means the chief executive of the New Jersey Spill Compensation Fund;

"Barrel" means 42 United States gallons or 159.09 liters or an appropriate equivalent measure set by the director for hazardous substances which are other than fluid or which are not commonly measured by the barrel;

"Board" means a board of arbitration convened by the administrator to settle disputed disbursements from the fund;

"Cleanup and removal costs" means all costs associated with a discharge, incurred by the State or its political subdivisions or their agents or any person with written approval from the department in the: (1) removal or attempted

removal of hazardous substances, or (2) taking of reasonable measures to prevent or mitigate damage to the public health, safety, or welfare, including, but not limited to, public and private property, shorelines, beaches, surface waters, water columns and bottom sediments, soils and other affected property, including wildlife and other natural resources, and shall include costs incurred by the State for the indemnification and legal defense of contractors pursuant to sections 1 through 11 of P.L.1991, c.373 (C.58:10-23.11f8 et seq.). For the fiscal year beginning on July 1, 2004, for the purposes of this definition, costs incurred by the State shall not include any indirect costs for department oversight performed after June 30, 2004, but may include only those program costs directly related to the cleanup and removal of the discharge; however, whenever the State or the fund have expended money for the cleanup and removal of a discharge and are seeking to recover the costs incurred in that cleanup and removal action from a responsible party, costs incurred by the State shall include any indirect costs;

"Commissioner" means the Commissioner of Environmental Protection;

"Contamination" or "contaminant" means any discharged hazardous substance, hazardous waste as defined pursuant to section 1 of P.L.1976, c.99 (C.13:1E-38), or pollutant as defined pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3);

"Department" means the Department of Environmental Protection;

"Director" means the Director of the Division of Taxation in the Department of the Treasury;

"Discharge" means any intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous substances into the waters or onto the lands of the State, or into waters outside the jurisdiction of the State when damage may result to the lands, waters or natural resources within the jurisdiction of the State;

"Emergency response action" means those activities conducted by a local unit to clean up, remove, prevent, contain, or mitigate a discharge that poses an immediate threat to the environment or to the public health, safety, or welfare;

"Fair market value" means the invoice price of the hazardous substances transferred, including transportation charges; but where no price is so fixed, "fair market value" shall mean the market price as of the close of the nearest day to the transfer, paid for similar hazardous substances, as shall be determined by the taxpayer pursuant to rules of the director;

"Fund" means the New Jersey Spill Compensation Fund;

"Hazardous substances" means the "environmental hazardous substances" on the environmental hazardous substance list adopted by the department pursuant to section 4 of P.L.1983, c.315 (C.34:5A-4); such elements and compounds, including petroleum products, which are defined as such by the

department, after public hearing, and which shall be consistent to the maximum extent possible with, and which shall include, the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 311 of the federal Water Pollution Control Act Amendments of 1972, Pub.L.92-500, as amended by the Clean Water Act of 1977, Pub.L.95-217 (33 U.S.C.s.1251 et seq.); the list of toxic pollutants designated by Congress or the EPA pursuant to section 307 of that act; and the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 101 of the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," Pub.L.96-510 (42 U.S.C.s.9601 et seq.); provided, however, that sewage and sewage sludge shall not be considered as hazardous substances for the purposes of P.L.1976, c.141 (C.58:10-23.11 et seq.);

"Local unit" means any county or municipality, or any agency or other instrumentality thereof, or a duly incorporated volunteer fire, ambulance, first aid, emergency, or rescue company or squad;

"Major facility" includes, but is not limited to, any refinery, storage or transfer terminal, pipeline, deep-water port, drilling platform or any appurtenance related to any of the preceding that is used or is capable of being used to refine, produce, store, handle, transfer, process or transport hazardous substances. "Major facility" shall include a vessel only when that vessel is engaged in a transfer of hazardous substances between it and another vessel, and in any event shall not include a vessel used solely for activities directly related to recovering, containing, cleaning up or removing discharges of petroleum in the surface waters of the State, including training, research, and other activities directly related to spill response.

A facility shall not be considered a major facility for the purpose of P.L.1976, c.141 unless it has total combined aboveground or buried storage capacity of:

(1) 20,000 gallons or more for hazardous substances which are other than petroleum or petroleum products, or

(2) 200,000 gallons or more for hazardous substances of all kinds.

In determining whether a facility is a major facility for the purposes of P.L.1976, c.141 (C.58:10-23.11 et seq.), any underground storage tank at the facility used solely to store heating oil for on-site consumption shall not be considered when determining the combined storage capacity of the facility.

For the purposes of this definition, "storage capacity" shall mean only that total combined capacity which is dedicated to, used for or intended to be used for storage of hazardous substances of all kinds. Where appropriate to the nature of the facility, storage capacity may be determined by the intended or actual use of open land or unenclosed space as well as by the capacities of tanks or other enclosed storage spaces;

"Natural resources" means all land, fish, shellfish, wildlife, biota, air, waters and other such resources owned, managed, held in trust or otherwise controlled by the State;

"Owner" or "operator" means, with respect to a vessel, any person owning, operating or chartering by demise such vessel; with respect to any major facility, any person owning such facility, or operating it by lease, contract or other form of agreement; with respect to abandoned or derelict major facilities, the person who owned or operated such facility immediately prior to such abandonment, or the owner at the time of discharge;

"Person" means public or private corporations, companies, associations, societies, firms, partnerships, joint stock companies, individuals, the United States, the State of New Jersey and any of its political subdivisions or agents;

"Petroleum" or "petroleum products" means oil or petroleum of any kind and in any form, including, but not limited to, oil, petroleum, gasoline, kerosene, fuel oil, oil sludge, oil refuse, oil mixed with other wastes, crude oils, and substances or additives to be utilized in the refining or blending of crude petroleum or petroleum stock in this State; however, any compound designated by specific chemical name on the list of hazardous substances adopted by the department pursuant to this section shall not be considered petroleum or a petroleum product for the purposes of P.L.1976, c.141, unless such compound is to be utilized in the refining or blending of crude petroleum or petroleum stock in this State;

"Preliminary assessment" means the first phase in the process of identifying areas of concern and determining whether contaminants are or were present at a site or have migrated or are migrating from a site, and shall include the initial search for and evaluation of, existing site specific operational and environmental information, both current and historic, to determine if further investigation concerning the documented, alleged, suspected or latent discharge of any contaminant is required. The evaluation of historic information shall be conducted from 1932 to the present, except that the department may require the search for and evaluation of additional information relating to ownership and use of the site prior to 1932 if such information is available through diligent inquiry of the public records;

"Remedial action" means those actions taken at a site or offsite if a contaminant has migrated or is migrating therefrom, as may be required by the department, including the removal, treatment, containment, transportation, securing, or other engineering or treatment measures, whether to an unrestricted use or otherwise, designed to ensure that any discharged contaminant at the site or that has migrated or is migrating from the site, is remediated in compliance with the applicable health risk or environmental standards;

"Remedial investigation" means a process to determine the nature and extent of a discharge of a contaminant at a site or a discharge of a contaminant

that has migrated or is migrating from the site and the problems presented by a discharge, and may include data collected, site characterization, sampling, monitoring, and the gathering of any other sufficient and relevant information necessary to determine the necessity for remedial action and to support the evaluation of remedial actions if necessary;

"Remediation" or "remediate" means all necessary actions to investigate and clean up or respond to any known, suspected, or threatened discharge, including, as necessary, the preliminary assessment, site investigation, remedial investigation, and remedial action, provided, however, that "remediation" or "remediate" shall not include the payment of compensation for damage to, or loss of, natural resources;

"Site investigation" means the collection and evaluation of data adequate to determine whether or not discharged contaminants exist at a site or have migrated or are migrating from the site at levels in excess of the applicable remediation standards. A site investigation shall be developed based upon the information collected pursuant to the preliminary assessment;

"Taxpayer" means the owner or operator of a major facility subject to the tax provisions of P.L.1976, c.141;

"Tax period" means every calendar month on the basis of which the taxpayer is required to report under P.L.1976, c.141;

"Transfer" means onloading or offloading between major facilities and vessels, or vessels and major facilities, and from vessel to vessel or major facility to major facility, except for fueling or refueling operations and except that with regard to the movement of hazardous substances other than petroleum, it shall also include any onloading of or offloading from a major facility;

"Vessel" means every description of watercraft or other contrivance that is practically capable of being used as a means of commercial transportation of hazardous substances upon the water, whether or not self-propelled;

"Waters" means the ocean and its estuaries to the seaward limit of the State's jurisdiction, all springs, streams and bodies of surface or groundwater, whether natural or artificial, within the boundaries of this State.

3. This act shall take effect immediately, and section 1 shall expire on June 30, 2004.

Approved July 1, 2002.

CHAPTER 38

Note: In approving the following act, certain items were deleted or reduced by the Governor. For a statement of those items, see the Governor's statement appended to Senate Bill No. 2003, dated July 1, 2002.

AN ACT making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 2003 and regulating the disbursement thereof.

ANTICIPATED RESOURCES FOR THE FISCAL YEAR 2002 - 2003

GENERAL FUND

Undesignated Fund Balance, July 1, 2002	$100,000,000

Major Taxes

Sales	$6,172,000,000
Corporation Business	1,823,000,000
Corporation Business - Energy	6,500,000
Transfer Inheritance	530,000,000
Motor Fuels	536,000,000
Motor Vehicle Fees	424,876,000
Cigarette	487,000,000
Insurance Premiums	345,000,000
Petroleum Products Gross Receipts	225,000,000
Realty Transfer	96,000,000
Alcoholic Beverage Excise	79,000,000
Corporation Banks and Financial Institutions	52,000,000
Tobacco Products Wholesale Sales	13,000,000
Public Utility Excise (Reform)	8,700,000
Savings Institutions	5,000,000
Total -- Major Taxes	$10,803,076,000

Miscellaneous Taxes, Fees, Revenues

Executive Branch --	
Department of Agriculture:	
Fertilizer Inspection Fees	$438,000
Miscellaneous Revenue	4,000
Subtotal, Department of Agriculture	$442,000
Department of Banking and Insurance:	
Actuarial Services	$52,000
Bank Assessments	3,525,000

Material within summary of appropriations is not enacted as part of the law and is intended for the purpose of displaying summaries of the items of appropriations set forth elsewhere.

Banking -- Examination Fees	2,262,000
Banking -- Licenses and Other Fees	5,000,000
FAIR Act Administration	14,000,000
Insurance -- Special Purpose Assessment	16,525,000
Insurance -- Examination Billings	2,000,000
Insurance Fraud Prevention	33,686,000
Insurance Licenses and Other Fees Fees	11,020,000
Real Estate Commission	4,607,000
Subtotal, Department of Banking and Insurance	$92,677,000
Department of Community Affairs:	
Affordable Housing and Neighborhood Preservation --	
Fair Housing.	$19,072,000
Boarding Home Fees	368,000
Construction Fees	6,893,000
Fire Safety	14,065,000
Housing Inspection Fees	7,025,000
New Jersey Meadowlands Development Commission	61,500,000
Plan Review Additional	1,758,000
Planned Real Estate Development Fees	828,000
Workplace Standards -- Licenses, Permits and Fines	1,138,000
Subtotal, Department of Community Affairs	$112,647,000
Department of Education:	
Audit Recoveries	$1,800,000
Audit of Enrollments	1,882,000
Local School District Loan Recoveries -- NJEDA	9,372,000
Miscellaneous Revenue	125,000
Nonpublic Schools Handicapped and Auxiliary Recoveries	5,000,000
Nonpublic Schools Textbook Recoveries	900,000
School Construction Inspection Fees	574,000
State Board of Examiners	2,350,000
Subtotal, Department of Education	$22,003,000
Department of Environmental Protection:	
Air Pollution Fees and Fines	$21,710,000
Clean Water Enforcement Act	1,500,000
Coastal Area Development Review Act	1,120,000
Endangered Species Tax Check-Off	230,000
Environmental Infrastructure Financing Program -- Administrative Fee	1,000,000
Excess Diversion	240,000
Freshwater Wetlands Fees	2,400,000
Freshwater Wetlands Fines	45,000
Hazardous Waste Fees	2,250,000
Hazardous Waste Fines	450,000
Hunters' and Anglers' Licenses	12,303,000

Industrial Site Recovery Act	1,200,000
Laboratory Certification Fees	1,200,000
Laboratory Certification Fines	.25,000
Marina Rentals	840,000
Marine Lands -- Preparation and Filing Fees	200,000
Medical Waste	3,700,000
New Jersey Pollutant Discharge Elimination System/ Stormwater Permits	15,900,000
New Jersey Water Supply Authority Debt Service Repayments	770,000
Parks Management Fees and Permits	3,870,000
Parks Management Fines	165,000
Pesticide Control Fees	.3,920,000
Pesticide Control Fines	30,000
Radiation Protection Fees	4,375,000
Radiation Protection Fines	35,000
Radon Testers Certification	275,000
Shellfish and Marine Fisheries	7,000
Solid Waste -- Utility Regulation Assessments	2,533,000
Solid Waste Fines -- DEP	850,000
Solid Waste Management Fees -- DEP	9,235,000
Solid and Hazardous Waste Disclosure	3,708,000
Spring Meadow Golf Course	300,000
Stream Encroachment	1,700,000
Toxic Catastrophe Prevention Fees	1,300,000
Toxic Catastrophe Prevention Fines	25,000
Treatment Works Approval	1,312,000
Underground Storage Tanks Fees	750,000
Water Allocation	2,200,000
Water Supply Management Regulations	1,600,000
Water/Wastewater Operators Licenses	215,000
Waterfront Development Fees	1,600,000
Well Permits/Well Drillers/Pump Installers Licenses	1,200,000
Wetlands	22,000
Worker and Community Right to Know -- Fines	60,000
Subtotal, Department of Environmental Protection	$108,370,000
Department of Health and Senior Services:	
Admission Charge Hospital Assessment	$6,000,000
Animal Control Act	300,000
HMO Covered Lives	2,550,000
Health Care Reform	1,200,000
Licenses, Fines, Permits, Penalties, and Fees	790,000
Miscellaneous Revenue	371,000
Rabies Control	460,000

Subtotal, Department of Health and Senior Services	$11,671,000
Department of Human Services:	
Child Care Licensing/Adoption Law	$300,000
Early Periodic Screening and Diagnostic Testing	29,850,000
HMO Recoveries and Rebates -- NJ ACCESS	300,000
Marriage License Fees	1,309,000
Medicaid Uncompensated Care -- Acute	218,517,000
Medicaid Uncompensated Care -- Mental Health	27,465,000
Medicaid Uncompensated Care -- Psychiatric	168,214,000
Medical Assistance -- Federal Match on PAAD/ Medicaid Dual Eligibles.	1,000,000
Miscellaneous Federal Revenue Initiatives	20,828,000
Miscellaneous Revenue	4,112,000
Patients' and Residents' Cost Recoveries:	
Developmental Disability	17,395,000
Psychiatric Hospitals	46,020,000
Purchased Institutional Care	2,200,000
School Based Medicaid	39,000,000
Subtotal, Department of Human Services	$576,510,000
Department of Labor:	
Special Compensation Fund	$1,975,000
Workers' Compensation Assessment	11,759,000
Workplace Standards -- Licenses, Permits and Fines	1,875,000
Subtotal, Department of Labor	$15,609,000
Department of Law and Public Safety:	
Beverage Licenses	$2,000,000
Division of Consumer Affairs:	
General Revenues:	
Charities Registration Section	695,000
Controlled Dangerous Substances	100,000
Legalized Games of Chance Control	1,390,000
Private Employment Agencies	258,000
Weights and Measures -- General	2,612,000
Professional Examining Board Fees:	
New Jersey Cemetery Board	126,000
State Board of Architects	130,000
State Board of Audiology and Speech -- Language Pathology Advisory	66,000
State Board of Certified Psychoanalysts	50,000
State Board of Certified Public Accountants	422,000
State Board of Chiropractors	461,000
State Board of Cosmetology and Hairstyling	1,984,000
State Board of Dentistry	1,521,000
State Board of Electrical Contractors	420,000
State Board of Marriage Counselor Examiners	236,000
State Board of Master Plumbers	430,000

State Board of Medical Examiners	3,816,000
State Board of Mortuary Science	36,000
State Board of Nursing	3,456,000
State Board of Occupational Therapists and Assistants	50,000
State Board of Ophthalmic Dispensers and Ophthalmic Technicians	61,000
State Board of Optometrists	255,000
State Board of Orthotics and Prosthesis	15,000
State Board of Pharmacy	948,000
State Board of Physical Therapy	27,000
State Board of Professional Engineers and Land Surveyors	763,000
State Board of Professional Planners	31,000
State Board of Psychological Examiners	143,000
State Board of Real Estate Appraisers	611,000
State Board of Respiratory Care	119,000
State Board of Shorthand Reporting	21,000
State Board of Social Workers	570,000
State Board of Veterinary Medical Examiners	273,000
EDA School Construction Recoveries	3,759,000
Pleasure Boat Licenses	5,000,000
Securities Enforcement	5,398,000
State Police -- Fingerprint Fees	1,014,000
State Police -- Other Licenses	185,000
State Police -- Private Detective Licenses	220,000
Violent Crime Compensation	3,930,000
Subtotal, Department of Law and Public Safety	$43,602,000
Department of Military and Veterans' Affairs:	
Soldiers' Homes	$28,839,000
Subtotal, Department of Military and Veterans' Affairs	$28,839,000
Department of Transportation:	
Air Safety Fund	$965,000
Applications and Highway Permits	1,300,000
Auto Body Repair Shop Licensing	703,000
Autonomous Transportation Authorities	24,500,000
Drunk Driving Fines	650,000
Good Driver	61,000,000
Graduated Driver's License	1,067,000
Heavy Duty Diesel Fines	660,000
Interest on Purchase of Right-of-Way	20,000
Logo Sign Program Fees	300,000
Motor Vehicle Database -- Automated Access	50,327,000
Motor Vehicle Inspection Fund	75,350,000

Motor Vehicle Security -- Responsibility Law Administration	11,329,000
Outdoor Advertising	740,000
Parking Offenses	360,000
Photo Licensing	1,517,000
Salvage Title Program	975,000
Special Plate Fees	750,000
Uninsured Motorists Program	3,400,000
Subtotal, Department of Transportation	$235,913,000
Department of the Treasury:	
Assessments -- Cable TV	$3,789,000
Assessments -- Public Utility	24,153,000
Coin Operated Telephones	5,274,000
Commercial Recording -- Expedited	2,853,000
Commissions	1,000,000
Dormitory Safety Trust Fund -- Debt Service Recovery	5,270,000
Equipment Leasing Fund -- Debt Service Recovery	3,339,000
Escrow Interest -- Construction Accounts	41,000
General Revenue -- Fees	31,580,000
Higher Education Bond Interest Recoveries	221,000
Higher Education Capital Improvement Fund -- Debt Service Recovery	10,520,000
Lease Lease-Back Technology Equipment	10,000,000
Miscellaneous Revenue	230,000
Nuclear Emergency Response Assessment	3,112,000
ODS Mediation Fees	158,000
Proceeds for New Jersey Police Professional Learning Centers	5,000,000
Sale of State Property	31,000,000
Public Defender Client Receipts	4,800,000
Public Utility -- Customer Specific Tax	1,998,000
Public Utility Fines	1,100,000
Public Utility Gross Receipts and Franchise Taxes (Water/Sewer)	69,000,000
Railroad Tax -- Class II	3,290,000
Railroad Tax -- Franchise	800,000
Ratepayer Advocate	6,646,000
Surplus Property	.944,000
Transitional Energy Facilities Assessment	226,241,000
Subtotal, Department of the Treasury	$452,359,000
Other Sources:	
Miscellaneous Revenue	.$500,000
Subtotal, Other Sources	$500,000
Inter-Departmental Accounts:	
Administration and Investment of Pension and Health Benefit Funds - Recoveries	$45,500,000

County Solid Waste -- Debt Service	17,790,000
Employee Maintenance Deductions	300,000
Fringe Benefit Recoveries from Colleges and Universities	73,000,000
Fringe Benefit Recoveries from Federal and Other Funds	97,000,000
Fringe Benefit Recoveries from School Districts	13,000,000
Indirect Cost Recovery -- DEP Other Funds	11,300,000
MTF Revenue Fund	52,547,000
NJ Surplus Lines Insurance Guaranty Fund	40,000,000
Rent of State Building Space	1,900,000
Social Security Recoveries from Federal and Other Funds	43,000,000
Subtotal, Inter-Departmental Accounts	$395,337,000
The Judiciary:	
Court Fees	$58,374,000
Subtotal, Judicial Branch	$58,374,000
Total -- Miscellaneous Taxes, Fees, Revenues	$2,154,853,000

Interfund Transfers

Beaches and Harbor Fund	$40,000
Clean Waters Fund	66,000
Correctional Facilities Construction Fund	16,000
Correctional Facilities Construction Fund -- 1987	9,000
Cultural Center and Historic Preservation Fund -- 1987	145,000
Developmental Disabilities Waiting List Reduction Fund	320,000
Emergency Flood Control Fund	6,000
Emergency Services Fund	2,900,000
Enterprise Zone Assistance Fund	52,000,000
Fund for the Support of Free Public Schools	4,900,000
Garden State Farmland Preservation Trust Fund	1,762,000
Garden State Green Acres Preservation Trust Fund	5,092,000
Garden State Historic Preservation Trust Fund	502,000
Hazardous Discharge Site Cleanup Fund	8,800,000
Housing Assistance Fund	140,000
Human Services Facilities Construction Fund	1,000
Institutions Construction Fund	1,000
Jobs, Education and Competitiveness Fund.	35,000
Jobs, Science and Technology Fund	2,000
Judiciary Bail Fund	975,000
Judiciary Child Support and Paternity Fund	875,000
Judiciary Probation Fund	275,000
Judiciary Special Civil Fund	90,000
Judiciary Superior Court Miscellaneous Fund	140,000
Legal Services Trust Fund	10,026,000

Mortgage Assistance Fund	911,000
Motor Vehicle Security Responsibility Fund	3,000
Mutual Workers' Compensation Security Fund	5,000,000
Natural Resources Fund	93,000
New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-Way Preservation Fund	260,000
New Jersey Coastal Blue Acres Trust Fund	250,000
New Jersey Green Acres Fund (Act of 1983)	632,000
New Jersey Green Acres Fund (Act of 1989)	400,000
New Jersey Green Acres Fund (Act of 1992)	500,000
New Jersey Inland Blue Acres Fund -- 1995	250,000
New Jersey Insolvent Health Maintenance Organization	907,000
New Jersey Spill Compensation Fund	14,279,000
Pineland Infrastructure Trust Fund	600,000
Pollution Prevention Fund	2,269,000
Public Purpose Buildings Construction Fund	1,000
Public Purpose and Community-Based Facilities Construction Fund.	90,000
Safe Drinking Water Fund	2,168,000
School Fund Investment Account	2,824,000
Shore Protection Fund	440,000
Solid Waste Services Tax Fund	50,000
State Disability Benefit Fund General Account	26,304,000
State Land Acquisition and Development Fund	10,000
State Lottery Fund	797,000,000
State Lottery Fund Administration	23,438,000
State Recreation and Conservation Land Acquisition and Development (Act of 1974)	39,000
State Recycling Fund	83,000
State of New Jersey Cash Management Fund	2,400,000
Statewide Transportation and Bridge Fund -- 1999	1,000,000
Stormwater Management and Combined Sewer Overflow Abatement Fund.	500,000
Supplemental Workforce Fund for Basic Skills	2,000,000
Tobacco Settlement Fund	.1,351,706,000
Transportation Rehabilitation and Improvement Fund of 1979	10,000
UMDNJ Self Insurance Reserve Fund	77,000,000
Unclaimed Insurance Payments	100,000
Unclaimed Personal Property Trust Fund	255,000,000
Unclaimed Utility Deposit	55,000
Unemployment Compensation Tax Auxiliary Fund	17,386,000
Unsatisfied Claim and Judgment Fund	2,408,000
Wage and Hour Trust Fund	75,000
Water Conservation Fund	41,000
Water Supply Fund	4,505,000
Worker and Community Right to Know Fund	2,362,000

Workforce Development Partnership Fund	43,753,000
Total -- Interfund Transfers	$2,729,170,000
Total State Revenues, General Fund	$15,687,099,000
Total Resources, General Fund	$15,787,099,000

Surplus Revenue Fund

Undesignated Fund Balance, July 1, 2002	$0
Total Resources, Surplus Revenue Fund	$0

Property Tax Relief Fund

Undesignated Fund Balance, July 1, 2002	$0
Gross Income Tax	7,297,500,000
Total Resources, Property Tax Relief Fund	$7,297,500,000

Casino Control Fund

Undesignated Fund Balance, July 1, 2002	$0
License Fees	62,737,000
Total Resources, Casino Control Fund	$62,737,000

Casino Revenue Fund

Undesignated Fund Balance, July 1, 2002	$0
Casino Simulcasting Fund	2,000,000
Gross Revenue Tax	361,800,000
Investment Earnings	1,000,000
Total Resources, Casino Revenue Fund	$364,800,000

Gubernatorial Elections Fund

Undesignated Fund Balance, July 1, 2002	$0
Taxpayers' Designations	1,500,000
Total Resources, Gubernatorial Elections Fund	$1,500,000

Total Resources, All State Funds	$23,513,636,000

Federal Revenue

Executive Branch --	
Department of Agriculture:	
Child Nutrition -- Administration	$3,278,000
Child Nutrition -- Child Care	39,920,000
Child Nutrition -- School Lunch	145,000,000
Child Nutrition -- Special Milk	1,500,000
Child Nutrition -- Summer Programs	8,662,000
Cooperative Gypsy Moth Suppression	610,000
Farm Risk Management Education Program	117,000
Farmland Preservation	552,000
Fish Inspection Services	100,000
Jobs Bill	1,300,000

School Breakfast	28,000,000
Team Nutrition Training	225,000
Various Federal Programs and Accruals	529,000
Subtotal, Department of Agriculture	$229,793,000
Department of Community Affairs:	
Community Services Block Grant	$17,839,000
Emergency Shelter Grants Program	1,467,000
Moderate Rehabilitation Housing Assistance	9,565,000
National Affordable Housing -- HOME Investment Partnerships	7,357,000
National Fire Academy Training Program	30,000
Section 8 Housing Voucher Program	155,000,000
Shelter Plus Care Program	302,000
Small Cities Block Grant Program	10,086,000
Weatherization Assistance Program	5,167,000
Various Federal Programs and Accruals	236,000
Subtotal, Department of Community Affairs	$207,049,000
Department of Corrections:	
Project In-Side	$482,000
State Criminal Alien Assistance Program	12,681,000
Subtotal, Department of Corrections	$13,163,000
Department of Education:	
AIDS Prevention Education	$750,000
Adult Basic Education -- Administration/ Discretionary	18,024,000
Bilingual and Compensatory Education -- Homeless Children and Youth	1,235,000
Byrd Scholarship Program	1,150,000
Character Education Partnership	500,000
Deaf/Blind Children Services -- Administration/Discretionary	225,000
Drug-Free Schools and Communities -- Administration	8,530,000
Educational Technology	14,250,000
Even Start Family Literacy Grant -- Discretionary	5,325,000
IASA Consolidated Administration	5,310,000
IDEA -- Handicapped	245,462,000
IDEA -- Preschool Incentive Grant Administration -- Discretionary	11,621,000
Innovative Education, Title VI -- Discretionary	10,439,000
Language Acquisition State Grants	12,488,000
Migrant Education -- Administration/Discretionary	2,127,000
National Community Service -- Learn and Serve America	961,000
National Community Service -- Disability Funds	172,000
National Community Service -- State Commission	347,000

National Community Service --	
Urban School Services Corp	4,772,000
Public Charter Schools	2,805,000
Refugee Children School Impact Program	1,050,000
Safe & Drug-Free Schools --	
Governor's Portion Discretionary	2,674,000
State Assessments	8,895,000
State Grants for Improving Teacher Quality.	64,610,000
State Improvement Grant, Administration	1,259,000
Teacher Quality Enhancements	4,000,000
Title I -- Accountability Grants	6,000,000
Title I -- Administration Program Improvement	5,890,000
Title I -- Comprehensive School Reform	7,419,000
Title I -- LEA Disadvantaged	248,368,000
Title I, Part D -- Neglected & Delinquent	3,011,000
Title I -- Reading First State Grant	18,427,000
Twenty-First Century Schools	7,253,000
Vocational Education -- Basic Grants,	
Administration	23,972,000
Vocational Education Technical Preparation	2,250,000
Various Federal Programs and Accruals	2,702,000
Subtotal, Department of Education	$754,273,000
Department of Environmental Protection:	
Air Pollution Maintenance Program	$6,319,000
Americorps	300,000
Appalachian Trail Improvement (ISTEA)	50,000
Appalachian Trail Viewshed Acquisition (ISTEA)	500,000
Archaeological & History/GIS Inventory (ISTEA)	500,000
Artificial Reef Program	325,000
Atlantic Coastal Cooperative Program	150,000
Boat Access (Fish and Game)	1,000,000
Cape May Point State Park Bikeway (ISTEA)	200,000
Clean Lakes Program	500,000
Clean Vessels	1,100,000
Climate Change Action Plan	
(Recycling of Landfill Gases)	100,000
Coastal Zone Management -- Federal Grant	1,000,000
Coastal Zone Management Implementation	4,960,000
Community Assistance Program	200,000
Conashank Point	215,000
Consolidated Forest Management	926,000
Construction Grants Program	57,600,000
Delaware and Raritan Canal Route 1	
Crossing (ISTEA)	1,575,000
Delaware and Raritan Canal State Park	
Bordentown Outlet (ISTEA)	1,250,000

Delaware and Raritan East Side Path (ISTEA)	565,000
Endangered Species	70,000
Environmental Justice	100,000
Fish and Wildlife Health	140,000
Forest Legacy	8,010,000
Forest Resource Management -- Cooperative Forest Fire Control.	425,000
Good Luck Point Land Acquisition	480,000
Hazardous Waste -- Resource Conservation Recovery Act	4,281,000
Historic Preservation Survey & Planning	2,000,000
Hunters' and Anglers' License Fund	8,420,000
Land and Water Conservation Fund	5,000,000
Liberty State Park Ferry Slip Restoration (ISTEA)	1,600,000
Liberty State Park Train Sheds -- Structural Report (ISTEA)	500,000
Marine Fisheries Investigation and Management	1,150,000
Multi-Media	750,000
Multi-Media Enforcement Grant	1,000,000
National Coastal Wetlands Conservation	2,000,000
National Dam Safety Program (FEMA)	90,000
National Geologic Mapping Program	160,000
National Pollutant Discharge Elimination System Implementation Support Program	600,000
National Recreational Trails	1,250,000
Non-Point Source Implementation (319H)	2,400,000
Non-Point Source Implementation (319H) Supplemental	2,000,000
Particulate Monitoring Grant	1,500,000
Paulinskill Valley Trail Improvements (ISTEA)	605,000
Pesticide Recording Program	20,000
Pesticide Technology	730,000
Pinelands Grant -- Acquisition	6,000,000
Pollution Prevention Incentive	100,000
Preliminary Assessments/Site Inspections	4,000,000
Radon Program	500,000
Safe Drinking Water Act	23,700,000
Seashore Line	500,000
Sloop/Maple Creek Acquisition	350,000
State Wetlands Conservation Plan	492,000
State/EPA Data Management Grant	2,300,000
Stout's Creek Land Acquisition	750,000
Strathmere Parcels	565,000
Superfund Grants	30,450,000
Sussex Branch Trail Improvements	575,000
Toxic Substance Compliance	50,000
Underground Storage Tanks	2,055,000

Various Federal Programs and Accruals	1,649,000
Voluntary Clean-up -- Site Specific	350,000
Voluntary Clean-up Program	500,000
Water Monitoring and Planning	1,000,000
Water Pollution Control Program	4,250,000
Subtotal, Department of Environmental Protection	$204,752,000
Department of Health and Senior Services:	
AIDS Incarcerated Individuals in Corrections	$1,231,000
Abstinence Education -- FHS	843,000
Alternate Family Care	1,000,000
Assisted Living Program	1,000,000
Assisted Living Residence	10,000,000
Asthma Surveillance and Coalition Building	256,000
Behavior Risk Factor Surveillance Survey	261,000
Bioterrorism Hospital Emergency Preparedness.	14,000,000
Center for Birth Defects Research and Prevention	1,600,000
Childhood Lead Poisoning	1,045,000
Clinical Laboratory Improvement Amendments Program	505,000
Comprehensive AIDS Resources Grant	63,000,000
Comprehensive Breast and Cervical Cancer	3,700,000
Comprehensive Personal Care Home.	8,000,000
Comprehensive State Based Tobacco Use Prevention Programs	1,300,000
Demonstration Program to Conduct Health Assessments.	880,000
Design and Validation -- Silica Exposure Study.	150,000
Early Hearing Detection and Intervention (EHDI) Tracking, Research	334,000
Early Intervention Program for Infants and Toddlers with Disabilities (Part H)	11,000,000
Essex County Healthy Start Initiative	500,000
Evaluation of Lead Dust Study	250,000
Evaluation of the Performance of Integrated HIV/AIDS	253,000
Family Planning Program -- Title X	3,500,000
Federal Lead Abatement Program	375,000
Food Inspection	290,000
Geographic Research Project	289,000
HIV/AIDS Prevention and Education Grant	18,000,000
HIV/AIDS Surveillance Grant	6,593,000
Housing Opportunities for Persons with AIDS	.4,953,000
Immunization Project	7,322,000
Lyme Disease Research	491,000
Maternal and Child Health Block Grant	16,700,000

Medicare/Medicaid Inspections of Nursing Facilities	10,811,000
Minority AIDS Demo	150,000
Morbidity & Mortality Review Program	150,000
National Cancer Prevention and Control -- Public Health	5,500,000
National Family Caregiver Program	4,100,000
National Program of Cancer Registries	1,900,000
Nurse Aide Certification Program	1,958,000
Nursing Facilities Transition Grant	600,000
Older Americans Act -- Title III	34,068,000
Pediatric AIDS Health Care Demonstration Project	2,850,000
Pharmaceutical Assistance to the Aged and Disabled -- Federal Waiver	147,808,000
Pregnancy Risk Assessment Monitoring System	750,000
Preventative Health and Health Services Block Grant	5,431,000
Research on Ecology of Lyme Disease in US	85,000
Senior Farmers Market Nutrition Program	420,000
State Regulation on Immunization Rates of Older Adults	160,000
Substance Abuse Block Grant	56,286,000
Supplemental Food Program -- W.I.C.	90,000,000
Surveillance, Epidemiology and End Results (SEER)	1,900,000
Tools For School Implementation Project	60,000
Traumatic Brain Injury Surveillance	105,000
Tuberculosis Control Program	15,496,000
Universal Newborn Hearing Screening	250,000
USDA Incentive	250,000
USDA Older Americans Act -- Title III	3,900,000
Venereal Disease Project	3,865,000
Violence Related Injury Prevention	160,000
Vital Statistics Component	850,000
WIC Farmer's Market Nutrition Program	600,000
West Nile Virus -- Laboratory	264,000
West Nile Virus -- Public Health	2,000,000
Various Federal Programs and Accruals	6,376,000
Subtotal, Department of Health and Senior Services	$578,724,000
Department of Human Services:	
Block Grant Mental Health Services	$12,113,000
Child Care Block Grant	106,976,000
Child Support Enforcement Program	117,529,000
Community Based Residential Program Grant	1,000,000
Developmental Disabilities Council	1,577,000
Federal Independent Living	892,000
Food Stamp Program	74,864,000
Foster Grandparents Program	2,102,000

Low Income Energy Assistance Block Grant	71,098,000
Projects for Assistance in Transition from Homelessness (PATH)	1,285,000
Refugee Resettlement Program	5,556,000
Restricted Grant	10,053,000
Social Service Block Grant	51,430,000
Temporary Assistance to Needy Families Block Grant	533,369,000
Title IV-B Child Welfare Services	5,700,000
Title IV-E Foster Care	106,820,000
Title XIX Child Residential	29,774,000
Title XIX Community Care Waiver	202,219,000
Title XIX ICF/MR	208,173,000
Title XIX Medical Assistance	3,273,618,000
Title XXI Children's Health Insurance Program	238,392,000
Various Federal Programs and Accruals	6,317,000
Vocational Rehabilitation Act -- Section 120	9,520,000
Subtotal, Department of Human Services	$5,070,377,000
Department of Labor:	
Comprehensive Services for Independent Living	$700,000
Current Employment Statistics	2,752,000
Disability Determination Services	45,623,000
Disabled Veterans' Outreach Program	2,300,000
Employment Services	24,131,000
Employment Services -- One Stop Shopping	325,000
Employment Services Cost Reimbursable Grants -- Migrant Housing	50,000
Employment Services Grants -- Alien Labor Certification	2,319,000
Employment Services -- Reemployment Services	1,000,000
Federal Public Employees Occupational Safety and Health Act	1,900,000
Local Veterans Employment Representatives	1,500,000
National Council on Aging - Senior Community Services Employment Project	3,000,000
OASI (DDS) Intelligent Workstation Activities	1,000,000
OSHA Data Collection Survey	81,000
Occupational Informational Coordinating Program	159,000
Occupational Safety Health Act, On-Site Consultation	2,000,000
One Stop Labor Market Information	988,000
Redesigned Occupational Safety and Health (ROSH)	231,000
Rehabilitation of Supplemental Security Income Beneficiaries	2,000,000
Supported Employment	1,200,000
Technical Assistance Training	1,700,000

Technology Related Assistance Project	700,000
Trade Adjustment Assistance Project	7,000,000
Unemployment Insurance	100,446,000
Vocational Rehabilitation Act of 1973	44,000,000
WIA Title IIID Discretionary Funding	6,000,000
Work Opportunity Tax Credit	725,000
Workforce Investment Act	59,512,000
Workforce Investment Act - Title III Dislocated Workers	18,000,000
Various Federal Programs and Accruals	145,000
Subtotal, Department of Labor	$331,487,000
Department of Law and Public Safety:	
BJA Communications Grant	$30,000,000
Bulletproof Vest Partnership	550,000
Challenge Grant	300,000
Child Passenger Protection Education	250,000
Combat Underage Drinking -- Discretionary	400,000
Combating Underage Drinking	360,000
Community Prosecutors Block Grant	1,000,000
COPS MORE 2000	400,000
Domestic Marijuana Eradication Suppression Program	280,000
Domestic Preparedness Training	8,000,000
Drug Enforcement Administration and Grants	14,000,000
Drunk Driver Prevention	1,000,000
Election Reform Grant	12,000,000
EMPG -- Non-Terrorism	3,540,000
EMPG -- Terrorism	1,000,000
Equal Employment Opportunity Commission	630,000
FEMA Pre-Disaster Mitigation	750,000
FEMA State Police Emergency Operations Center Grant	25,000,000
FFY01 Domestic Preparedness Grant	1,740,000
FFY03 Domestic Preparedness Communications Grant	25,000,000
FFY03 Domestic Preparedness Equipment Grant	25,000,000
Forensic Crime Laboratory Improvement Program	2,500,000
Forensic DNA Testing Program	500,000
Hazardous Materials Transportation	350,000
High Intensity Drug Trafficking Area (HIDTA)	250,000
Incident Command	750,000
Innovative Seat Belt Use	900,000
Juvenile Accountability Incentive Block Grant	5,900,000
Juvenile Justice Delinquency Prevention	2,434,000
Local Law Enforcement Block Grant	1,400,000
Medicaid Fraud Unit	2,550,000
National Criminal History Program -- OAG	2,000,000
NHTSA Section 405	600,000

NHTSA Section 411	125,000
NHTSA Section 402	5,579,000
Northeast Hazardous Waste Project -- RCRA	250,000
Recreational Boating Safety	2,000,000
Residential Treatment for Substance Abuse	1,600,000
Safety Incentive Grants	5,000,000
Title V Funding	1,500,000
Victim Assistance Grants	12,000,000
Victim Compensation Award	4,800,000
Violence Against Women Act	4,000,000
WTC Victim Counseling	8,600,000
Various Federal Programs and Accruals	1,100,000
Subtotal, Department of Law and Public Safety	$217,888,000
Department of Military and Veterans' Affairs:	
Armory Renovations and Improvements	$1,600,000
Army Facilities Service Contracts	3,200,000
Army National Guard Statewide Security Agreement	1,300,000
Army Training Technology Lab	600,000
Atlantic City Air Base -- Service Contracts	2,880,000
Atlantic City Operations and Maintenance	67,000
Cemetery New Construction	5,300,000
Combined Logistics Facility	22,000,000
Design and Construction of Vineland Memorial Veterans' Home	3,953,000
Facilities Support Contract	6,200,000
Federal VA Distance Learning Program	500,000
Fire Fighter/Crash Rescue Service Cooperative Funding Agreement	1,300,000
Hazardous Waste Environmental Protection Program	800,000
Maguire Air Force Base -- Service Contracts	2,300,000
Maguire Operations and Maintenance	76,000
Medicare Part A Receipts for Resident Care and Operational Costs	3,882,000
Menlo Adult Day Care Funds	725,000
National Guard Communications Agreement	1,350,000
New Jersey National Guard Challenge Youth Program	2,100,000
New Jersey National Guard Counter Drug Program Interservice State - Federal	12,000
Training and Equipment -- Pool Sites	600,000
Transitional Housing	800,000
Veterans' Education Monitoring	651,000
Various Federal Programs and Accruals	57,000
Subtotal, Department of Military and Veterans' Affairs	$62,253,000

Department of State:	
Leveraging Educational Assistance Partnership	$1,756,000
NJ GEAR UP	2,264,000
National Endowment for the Arts Partnership	750,000
National Health Service Corps -- Student Loan Repayment Program	240,000
National Telecommunications Information Agency	1,250,000
Student Loan Administrative Cost Deduction and Allowance	17,675,000
Various Federal Programs and Accruals	350,000
Subtotal, Department of State	$24,285,000
Department of Transportation:	
Airport Fund	$21,000,000
Highway Planning and Research	15,367,000
Metropolitan Planning Funds	10,586,000
Motor Carrier Safety Assistance Program	7,308,000
New Jersey Transportation Planning Assistance	3,000,000
Supportive Services Highway Construction Training Program	500,000
Subtotal, Department of Transportation	$57,761,000
Department of the Treasury:	
Diamond Shamrock Oil Overcharge Settlement	$500,000
Division of Gas Expansion	600,000
State Energy Conservation Program	1,525,000
Subtotal, Department of the Treasury	$2,625,000
The Judiciary	
Drug Court -- OJP -- Direct	$100,000
Juvenile Mentoring Program	200,000
Juvenile Drug Court Grant	1,425,000
Various Federal Programs and Accruals	833,000
Subtotal, The Judiciary	$2,558,000
Special Transportation Fund -- Federal	
Department of Transportation:	
Federal Highway Administration	$795,214,353
Federal Transit Administration	484,870,000
Subtotal, Special Transportation Fund -- Federal	$1,280,084,353
Total -- Federal Revenue	$9,037,072,353
Grand Total Resources, All Funds	$32,550,708,353

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

1. The appropriations herein or so much thereof as may be necessary are hereby appropriated out of the General Fund, or such other sources of funds specifically indicated or as may be applicable, for the respective public officers and spending

agencies and for the several purposes herein specified for the fiscal year ending on June 30, 2003. Unless otherwise provided, the appropriations herein made shall be available during said fiscal year and for a period of one month thereafter for expenditures applicable to said fiscal year. Unless otherwise provided, at the expiration of said one-month period, all unexpended balances shall lapse into the State Treasury or to the credit of trust, dedicated or non-State funds as applicable, except those balances held by encumbrances on file as of June 30, 2003 with the Director of the Division of Budget and Accounting or held by pre-encumbrances on file as of June 30, 2003 as determined by the Director of the Division of Budget and Accounting. The Director of the Division of Budget and Accounting shall provide the Legislative Budget and Finance Officer with a listing of all pre-encumbrances outstanding as of July 31, 2003 together with an explanation of their status. Nothing contained in this section or in this act shall be construed to prohibit the payment due upon any encumbrance or pre-encumbrance made under any appropriation contained in any appropriation act of the previous year or years. Furthermore, balances held by pre-encumbrances as of June 30, 2002 are available for payments applicable to fiscal year 2002 as determined by the Director of the Division of Budget and Accounting. The Director of the Division of Budget and Accounting shall provide the Legislative Budget and Finance Officer with a listing of all pre-encumbrances outstanding as of July 31, 2002 together with an explanation of their status. On or before December 1, 2002, the State Treasurer, in accordance with the provisions of section 37 of article 3 of P.L.1944, c.112 (C.52:27B-46), shall transmit to the Legislature the Annual Financial Report of the State of New Jersey for the fiscal year ending June 30, 2002, depicting the financial condition of the State and the results of operation for the fiscal year ending June 30, 2002.

31 LEGISLATURE
70 Government Direction, Management and Control
71 Legislative Activities
0001 Senate
DIRECT STATE SERVICES

01-0001 Senate	$11,167,000
Total Direct State Services Appropriation, Senate	$11,167,000

Direct State Services:

Personal Services:	
Senators (40)	($1,990,000)
Salaries and Wages.	(3,977,000)
Members' Staff Services	(4,400,000)
Materials and Supplies	(150,000)
Services Other Than Personal	(540,000)
Maintenance and Fixed Charges	(80,000)
Additions, Improvements and Equipment	(30,000)

The unexpended balance as of June 30, 2002 in this account is appropriated for the same purpose.

0002 Assembly
DIRECT STATE SERVICES

01-0002 General Assembly. $17,511,000
Total Direct State Services Appropriation,
General Assembly $17,511,000

Direct State Services:

Personal Services:
Assemblypersons (80) . . . . . ($3,937,000)
Salaries and Wages . . . . . (3,909,000)
Members' Staff Services . . . . . (8,800,000)
Materials and Supplies . . . . . (125,000)
Services Other Than Personal . . . . . (620,000)
Maintenance and Fixed Charges . . . . . (110,000)
Additions, Improvements and Equipment . . . (10,000)

The unexpended balance as of June 30, 2002 in this account is appropriated for the same purpose.

0003 Office of Legislative Services
DIRECT STATE SERVICES

01-0003 Legislative Support Services $26,797,000
Total Direct State Services Appropriation,
Office of Legislative Services. $26,797,000

Direct State Services:

Personal Services:
Salaries and Wages. . . . . ($19,368,000)
Materials and Supplies. . . . . (1,015,000)
Services Other Than Personal . . . . . (2,577,000)
Maintenance and Fixed Charges . . . . . (3,707,000)
Special Purpose:
03 Affirmative Action and Equal
Employment Opportunities . . . . . (29,000)
03 Henry J. Raimondo New Jersey
Legislative Fellows Program . . . . . (69,000)
Additions, Improvements and Equipment . . . (32,000)

The unexpended balance as of June 30, 2002 in this account is appropriated for the same purpose.

Such sums as may be required for the cost of information system audits performed by the State Auditor are funded from the departmental data processing accounts of the department in which the audits are performed.

In addition to the amounts appropriated hereinabove, there is appropriated an amount not to exceed $3,300,000, and any remaining balance of funds previously appropriated for this purpose, as determined by the Computer Executive Group of the Legislative Information Systems Committee of the Legislative Services Commission, for the continuation and expansion of data processing systems for the Legislature in order to plan, acquire and install a comprehensive electronic data processing system, including software acquisition and training in connection with the system. No amounts so determined shall be obligated, expended or

otherwise made available without the written prior authorization of the Senate President and the Speaker of the General Assembly.

Receipts derived from fees and charges for public access to legislative information systems and the unexpended balance as of June 30, 2002 of such receipts are appropriated and shall be credited to a non-lapsing revolving fund established in and administered by the Office of Legislative Services for the purpose of continuing to modernize, maintain, and expand the dissemination and availability of legislative information.

Such sums as are required for Master Lease payments, subject to the approval of the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer, are appropriated.

Such sums as are required to provide for payment of the legal defense of challenges to statutes passed into law by the Legislature in which matters the Attorney General does not provide the legal defense, are appropriated subject to the approval of the Speaker of the General Assembly and the President of the Senate. Such payments may be expended for costs incurred in current and prior fiscal years.

The Office of Legislative Services shall monitor, review and report to both houses of the Legislature on each new anti-smoking initiative funded in fiscal years 2001, 2002 and 2003 from the Tobacco Settlement Fund.

77 Legislative Commissions and Committees

DIRECT STATE SERVICES

09-0010	Intergovernmental Relations Commission	$413,000
09-0014	Joint Committee on Public Schools.	350,000
09-0018	State Commission of Investigation	3,981,000
09-0026	Commission on Business Efficiency in the Public Schools.	115,000
09-0053	New Jersey Law Revision Commission	335,000
09-0058	State Capital Joint Management Commission	9,400,000
09-0061	Clean Ocean and Shore Trust Committee	150,000
	Total Direct State Services Appropriation, Legislative Commissions and Committees.	$14,744,000

Intergovernmental Relations Commission

09	Expenses of Commission	($30,000)
09	The Council of State Governments	(151,000)
09	National Conference of State Legislatures	(171,000)
09	Northeast States Association for Agriculture Stewardship, Council of State Governments.	(25,000)
09	Eastern Trade Council - The Council of State Governments	(36,000)

Joint Committee on the Public Schools
09 Expenses of Commission . . . . . (350,000)

State Commission of Investigation
09 Expenses of Commission. . . . . (3,981,000)

Commission on Business Efficiency in the Public Schools
09 Expenses of Commission. . . . . (115,000)

New Jersey Law Revision Commission
09 Expenses of Commission . . . . . (335,000)

State Capital Joint Management Commission
09 Expenses of Commission. . . . . (9,400,000)

Clean Ocean and Shore Trust Committee
09 Expenses of Commission . . . . . (150,000)

The unexpended balances as of June 30, 2002 in these accounts are appropriated for the same purposes.

Such sums as are required for the establishment and operation of the Apportionment Commission are appropriated, subject to the approval of the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer.

Such sums as are required for the establishment and operation of the New Jersey Redistricting Commission are appropriated, subject to the approval of the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer.

Receipts from the rental of the Cafeteria and the Welcome Center and any other facility under the jurisdiction of the State Capitol Joint Management Commission are appropriated to defray custodial, security, maintenance and other related costs of these facilities.

The Legislature, Total State Appropriation $70,219,000

Summary of Legislature Appropriations
(For Display Purposes Only)

Appropriations by Category:
Direct State Services. $70,219,000
Appropriations by Fund:
General Fund $70,219,000

06 OFFICE OF THE CHIEF EXECUTIVE
70 Government Direction, Management and Control
76 Management and Administration
DIRECT STATE SERVICES

01-0300 Executive Management $5,424,000
Total Direct State Services Appropriation,
The Office of the Chief Executive $5,424,000

Direct State Services:
Personal Services:
Salaries and Wages ..... ($4,318,000)
Materials and Supplies ..... .(96,000)
Services Other Than Personal ..... (458,000)
Maintenance and Fixed Charges ..... (91,000)
Special Purpose:
01 National Governors' Association .... .(175,000)
01 Coalition of Northeastern Governors .. (48,000)
01 Education Commission of the States... (91,000)
01 National Conference of Commissioners On Uniform State Laws ..... (42,000)
01 Brian Stack Intern Program ..... (10,000)
01 Allowance to the Governor of Funds Not Otherwise Appropriated, For Official Reception on Behalf of the State, Operation of an Official Residence and Other Expenses. ..... (95,000)
The unexpended balance as of June 30, 2002 in this account is appropriated for the same purpose.

Office of the Chief Executive, Total State Appropriation . $5,424,000

Summary of The Office of the Chief Executive Appropriations
(For Display Purposes Only)
Appropriations by Category:
Direct State Services $5,424,000
Appropriations by Fund:
General Fund $5,424,000

10 DEPARTMENT OF AGRICULTURE
40 Community Development and Environmental Management
49 Agricultural Resources, Planning and Regulation
DIRECT STATE SERVICES

01-3310 Animal Disease Control 1,358,000
02-3320 Plant Pest and Disease Control 1,910,000
03-3330 Resource Development Services 1,070,000
04-3340 Dairy and Commodity Regulation 861,000
06-3360 Marketing Services 2,408,000
08-3380 Farmland Preservation 1,750,000
99-3370 Administration and Support Services 1,246,000
Total Direct State Services Appropriation, Agricultural Resources, Planning and Regulation $10,603,000
Direct State Services:
Personal Services:

Salaries and Wages ..... ($6,064,000)
Materials and Supplies ..... (156,000)
Services Other Than Personal ..... (312,000)
Maintenance and Fixed Charges ..... (271,000)
Special Purpose:
01 Expanded Johne's Disease Control Program. ..... (75,000)
01 West Nile Virus Enhancement ..... (170,000)
02 Plant Pest Detection Program. ..... (100,000)
02 Gypsy Moth Control ..... (95,000)
03 Aquaculture Development ..... (170,000)
06 Promotion/Market Development ... (1,026,000)
06 Wine Promotion Program ..... (30,000)
06 Temporary Emergency Food Assistance Program. ..... (338,000)
08 Agricultural Right-to-Farm Program (100,000)4
08 Open Space Administrative Costs. .. (1,650,000)
99 Expenses of State Board of Agriculture ..... (18,000)
99 Affirmative Action and Equal Employment Opportunity. ..... (28,000)

Receipts from laboratory test fees are appropriated to support the Animal Health Laboratory program. The unexpended balance as of June 30, 2002 in the Animal Health Laboratory receipt account is appropriated for the same purpose.

Receipts from the seed laboratory testing and certification programs are appropriated for program costs. The unexpended balance as of June 30, 2002 in the seed laboratory testing and certification receipt account is appropriated for the same purpose.

Receipts from Nursery Inspection fees are appropriated for Nursery Inspection program costs. The unexpended balance as of June 30, 2002 in the Nursery Inspection program is appropriated for the same purpose.

Receipts from the sale or studies of beneficial insects are appropriated to support the Beneficial Insect Laboratory. The unexpended balance as of June 30, 2002 in the Sale of Insects account is appropriated for the same purpose.

Receipts from Stormwater Discharge Permit program fees are appropriated for program costs. The unexpended balance as of June 30, 2002 in the Stormwater Discharge Permit Program account is appropriated for the same purpose.

Receipts from dairy licenses and inspections are appropriated for program costs.

Receipts in excess of the amount anticipated from feed, fertilizer, and liming material registrations and inspections are appropriated for program costs.

Receipts from inspection fees derived from fruit, vegetable, fish, red meat, and poultry inspections are appropriated for the cost of conducting fruit, vegetable, fish, and poultry inspections.

Receipts in excess of those anticipated, generated at the rate of $.47 per gallon of wine, vermouth and sparkling wines sold by plenary winery and farm winery licenses issued pursuant to R.S.33:1-10, and certified by the Director of the Division of Taxation, are appropriated to the Department of Agriculture from the

alcoholic beverage excise tax for expenses of the Wine Promotion Program. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

Receipts derived from the distribution of commodities, sale of containers, and salvage of commodities, in accordance with applicable federal regulations, are appropriated for Commodity Distribution expenses.

Notwithstanding any other law to the contrary, an amount not to exceed $1,650,000 shall be transferred from the Garden State Farmland Preservation Trust Fund to the General Fund and is appropriated to the Department of Agriculture for Open Space Administrative Costs.

GRANTS-IN-AID

03-3330Resource Development Services	$564,000
06-3360Marketing Services.	165,000
08-3380Farmland Preservation	1,180,000
Total Grants-in-Aid Appropriation, Agricultural Resources, Planning and Regulation	$1,909,000

Grants-in-Aid:

03 Farm Management and Training Initiative.	($24,000)
03 Conservation Cost Share Program	(540,000)
06 Promotion/Market Development	(75,000)
06 New Jersey Museum of Agriculture	(90,000)
08 Soil and Water Conservation Grants	(1,180,000)

The expenditure of funds for the Conservation Cost Share program shall be based upon an expenditure plan subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove for the Conservation Cost Share program, such sums as may be necessary shall be transferred from the Department of Environmental Protection's Water Resources Monitoring and Planning - Constitutional Dedication account to support non-point source pollution control programs in the Department of Agriculture, pursuant to an agreement between the Department of Environmental Protection and the Department of Agriculture and based upon an expenditure plan to be prepared by the Department of Agriculture, subject to the approval of the Director of the Division of Budget and Accounting. The unexpended balance of this program as of June 30, 2002 is appropriated for the same purpose.

Notwithstanding the provisions of any other law to the contrary, the State Agriculture Development Committee, in determining eligibility for funding from the amount hereinabove for Soil and Water Conservation projects, shall give consideration to applications pursuant to the following priority: a. lands from which a development easement has been permanently conveyed pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24), section 5 of P.L.1988, c.4 (C.4:1C-31.1), section 39 of P.L.1999, c.152 (C.13:8C-39), section 40 of P.L.1999, c.152 (C.13:8C-40) or section 1 of P.L.1999, c.180 (C.4:1C-43.1); b.

lands certified by the State Agriculture Development Committee to be within a municipally approved program or other farmland preservation program on or before January 1, 2000 pursuant to P.L.1983, c.32; c. lands certified by the State Agriculture Development Committee to be within a municipally approved program or other farmland preservation program subsequent to January 1, 2000 pursuant to P.L.1983, c.32.

STATE AID

06-3360Marketing Services.	$8,592,000
08-3380Farmland Preservation	50,000
Total State Aid Appropriation, Agricultural Resources, Planning and Regulation	$8,642,000
State Aid:	
06 School Breakfast Program	($1,588,000)
06 Non-Public Nutrition Aid.	(439,000)
06 School Lunch Aid	(6,565,000)
08 Payments in Lieu of Taxes	(50,000)
Department of Agriculture, Total State Appropriation	$21,154,000

Summary of Department of Agriculture Appropriations
(For Display Purposes Only)

Appropriations by Category:	
Direct State Services.	$10,603,000
Grants-in-Aid	1,909,000
State Aid.	8,642,000
Appropriations by Fund:	
General Fund	$21,154,000

14 DEPARTMENT OF BANKING AND INSURANCE
50 Economic Planning, Development and Security
52 Economic Regulation
DIRECT STATE SERVICES

01-3110 Licensing and Regulatory Affairs.	$15,845,000
02-3120 Actuarial Services	5,511,000
03-3130 Regulation of the Real Estate Industry	3,004,000
04-3110 Public and Regulatory Services	1,743,000
05-3160 Unsatisfied Claims.	1,910,000
06-3110 Insurance Fraud Prevention	32,152,000
07-3170 Supervision and Examination of Financial Institutions	3,837,000
99-3150 Administration and Support Services.	4,121,000
Total Direct State Services Appropriation, Economic Regulation.	$68,123,000
Direct State Services:	
Personal Services:	
Salaries and Wages	($30,186,000)

Materials and Supplies ..... (342,000)
Services Other Than Personal. ..... (5,635,000)
Maintenance and Fixed Charges ..... (208,000)
Special Purpose:
01 Ombudsman Program ..... (801,000)
02 Actuarial Services. ..... (600,000)
06 Additional Investigators - Insurance Fraud Prevention ..... (2,250,000)
06 Insurance Fraud Prosecution Services ..... (27,627,000)
99 Affirmative Action and Equal Employment Opportunity..... (30,000)
Additions, Improvements and Equipment .. (444,000)

Receipts derived from extraordinary financial condition examinations or actuarial certifications of loss reserves are appropriated for the conduct of such examinations or certifications, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2002 in the Public Adjusters' Licensing account, together with receipts derived from the "Public Adjusters' Licensing Act," P.L.1993, c.66 (C.17:22B-1 et seq.), are appropriated for the administration of the act, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from the investigation of out-of-State land sales are appropriated for the conduct of those investigations.

There are appropriated from the Real Estate Guaranty Fund such sums as may be necessary to pay claims.

There are appropriated from the assessments imposed by the New Jersey Individual Health Coverage Program Board, created pursuant to the "Individual Health Insurance Reform Act," P.L.1992, c.161 (C.17B:27A-2 et seq.), and by the New Jersey Small Employer Health Benefits Program Board, created pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.), such sums as may be necessary to carry out the provisions of those acts, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated out of the New Jersey Automobile Insurance Guaranty Fund such sums as may be necessary to satisfy the financial obligations of the New Jersey Automobile Full Insurance Underwriting Association, as set forth in the "Fair Automobile Insurance Reform Act of 1990," P.L.1990. c.8 (C.17:33B-1 et al.), subject to the provisions of subsection e. of section 23 of P.L.1990, c.8 (C.17:33B-5).

Upon certification by the Commissioner of Banking and Insurance pursuant to subparagraph (b) of paragraph (9) of subsection a. of section 8 of P.L.1974, c.17 (C.17:30A-8) that loans in an amount less than $160,000,000 per calendar year will satisfy the current and anticipated financial obligations of the Market Transition Facility without reference to the amount of funds remaining from the sale of the Market Transition Facility Senior Lien Revenue Bonds, there is appropriated out of the New Jersey Automobile Insurance Guaranty Fund such

sums as may be necessary to satisfy the obligation of the New Jersey Property Liability Insurance Guaranty Fund to make refunds according to law in the amount of any exemption due pursuant to subparagraph (b) of paragraph (9) of subsection a. of section 8 of P.L.1974, c.17 (C.17:30A-8).

The amount hereinabove for Unsatisfied Claims is appropriated out of the Unsatisfied Claim and Judgment Fund and, in addition, there are appropriated out of that fund additional sums as may be necessary for the payment of claims pursuant to section 7 of P.L.1952, c.174 (C.39:6-67), and for such additional costs as may be required to administer the fund pursuant to P.L.1952, c.174 (C.39:6-61 et seq.).

Receipts in excess of anticipated revenues from examination and licensing fees, bank assessments, fines and penalties and the unexpended balances as of June 30, 2002, not to exceed $250,000, are appropriated to the Division of Banking, subject to the approval of the Director of the Division of Budget and Accounting.

Proceeds from the sale of credits by the Pinelands Development Credit Bank pursuant to P.L.1985, c.310 (C.13:18A-30 et seq.) shall be appropriated to the Pinelands Development Credit Bank for the same purpose.

The unexpended balance as of June 30, 2002 in the Pinelands Development Credit Bank account is appropriated for the same purpose.

In addition to the sum hereinabove, such other sums as the Director of the Division of Budget and Accounting shall determine, are appropriated from the assessments of the insurance industry pursuant to P.L.1995, c.156 (C.17:1C-19 et seq.).

The amount hereinabove for the Division of Insurance accounts is payable from receipts received from the Special Purpose Assessment of insurance companies pursuant to section 2 of P.L.1995, c.156 (C.17:1C-20). If the Special Purpose Assessment cap calculation is less than the amount herein appropriated for this purpose for the Division of Insurance, the appropriation shall be reduced to the level of funding supported by the Special Purpose Assessment cap calculation.

All monies deposited in the Division of Motor Vehicles Surcharge Fund are appropriated to the Market Transition Facility Revenue Fund in accordance with the provisions of P.L.1994, c.57 (C.34:1B-21.1 et seq.).

The amount appropriated hereinabove for FAIR Act Administration shall be funded from the additional taxes on the taxable premiums of insurers for the payment of Department of Banking and Insurance administrative costs related to its statutory duties, pursuant to P.L.1990, c.8 (C.17:33B-1 et al.).

Notwithstanding any provisions of law to the contrary, any surplus balance remaining in the New Jersey Medical Malpractice Reinsurance Recovery Fund after all financial obligations of the New Jersey Medical Malpractice Reinsurance Association are funded, as determined by the Director of the Division of Budget and Accounting, are appropriated for transfer to the General Fund as State revenue.

Department of Banking and Insurance,
Total State Appropriation $68,123,000

Summary of Department of Banking and Insurance Appropriations
(For Display Purposes Only)

Appropriations by Category:
Direct State Services $68,123,000
Appropriations by Fund:
General Fund $68,123,000

22 DEPARTMENT OF COMMUNITY AFFAIRS
40 Community Development and Environmental Management
41 Community Development Management
DIRECT STATE SERVICES

01-8010	Housing Code Enforcement	$5,036,000
02-8020	Housing Services	3,915,000
03-8040	Special Urban Services	1,325,000
06-8015	Uniform Construction Code	5,643,000
12-8025	Boarding Home Regulation and Assistance	1,233,000
13-8027	Codes and Standards	237,000
18-8017	Uniform Fire Code	5,108,000
32-8015	Workplace Standards	926,000
	Total Direct State Services Appropriation, Community Development Management	$23,423,000

Direct State Services:

Personal Services:	
Salaries and Wages	($16,412,000)
Materials and Supplies	(116,000)
Services Other Than Personal	(937,000)
Maintenance and Fixed Charges	(664,000)
Special Purpose:	
02 Prevention of Homelessness.	(243,000)
02 Neighborhood Preservation-Fair Housing (P.L.1985, c.222).	(1,477,000)
02 Council on Affordable Housing. ...	(1,670,000)
02 Main Street New Jersey	(200,000)
03 Office of Neighborhood Empowerment	(1,325,000)
18 Local Fire Fighters' Training	(375,000)
32 Carnival Amusement Ride Safety Advisory Board.	(1,000)
32 Safety Commission	(3,000)

The amount hereinabove for the Housing Code Enforcement program classification is payable out of the fees and penalties derived from bureau activities. If the receipts are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance as of June 30, 2002 in the Housing Code Enforcement program classification, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2002, in the several Uniform Construction Code program classification fee accounts, together with any receipts in excess of the amounts anticipated, is appropriated for expenses of code enforcement activities, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2002 in the Planned Real Estate Development Full Disclosure Act fees account, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts received by the Uniform Construction Code Revolving Fund attributable to that portion of the surcharge fee in excess of $0.0006, and to surcharges on other construction, shall be dedicated to the general support of the Uniform Construction Code Program, and, notwithstanding the provisions of section 2 of P.L.1979, c.121 (C.52:27D-124.1), shall be available for training and non-training purposes. Notwithstanding the provision of law to the contrary, unexpended balances as of June 30, 2002 in the Uniform Construction Code Revolving Fund are appropriated.

Such sums as may be required for the registration of builders and reviewing and paying claims under the "New Home Warranty and Builders' Registration Act," P.L.1977, c.467 (C.46:3B-1 et seq.), are appropriated from the New Home Warranty Security Fund in accordance with section 7 of P.L.1977, c.467 (C.46:3B-7), subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for the Workplace Standards program are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2002 in the Uniform Fire Code program classification, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts hereinabove for the Uniform Fire Code program classification are payable out of the fees and penalties derived from code enforcement activities. If these receipts are less than anticipated, the appropriations shall be reduced proportionately.

The amount hereinabove for the Council on Affordable Housing and Neighborhood Preservation-Fair Housing accounts shall be payable from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1968, c.49 (C.46:15-8) and from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1975, c.176 (C.46:15-10.1). Any receipts in excess of the amount anticipated, and any unexpended balance as of June 30, 2002 are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from the New Jersey Housing and Mortgage Finance Agency charges for Housing Affordability Service to municipalities and the unexpended balance as of June 30, 2002 are appropriated for the operation of the Housing Affordability Service within the Division of Housing.

Pursuant to section 15 of P.L.1983, c.530 (C.55:14K-15), the Commissioner shall determine, at least annually, the eligibility of each boarding house resident for rental assistance payments; and notwithstanding any provision of P.L.1983, c.530 (C.55:14K-1 et seq.) to the contrary, moneys held in the Boarding House Rental Assistance Fund that were originally appropriated from the General Fund may be used by the Commissioner for the purpose of providing life safety improvement loans, and any moneys held in the Boarding House Rental Assistance Fund may be used for the purpose of providing rental assistance for repayment of such loans. Notwithstanding any provision of P.L.1983, c.530 (C.55:14K-1 et seq.), the Commissioner of the Department of Community Affairs shall have authority to disburse funds from the Boarding House Rental Assistance Fund established pursuant to section 14 of P.L.1983, c.530 (C.55:14K-14) for the purpose of repaying, through rental assistance or otherwise, loans made to the boarding house owners for the purpose of rehabilitating boarding houses.

Any receipts from the sale of truth in renting statements, including fees, fines, and penalties, are appropriated.

There is appropriated from the Petroleum Overcharge Reimbursement Fund the sum of $300,000 for the expenses of the Green Homes Office in the Division of Housing and Community Resources, subject to the approval of the Director of the Division of Budget and Accounting.

GRANTS-IN-AID

01-8010	Housing Code Enforcement	$919,000
02-8020	Housing Services	6,460,000
03-8040	Special Urban Services.	1,000,000
18-8017	Uniform Fire Code.	8,571,000
	Total Grants-in-Aid Appropriation, Community Development Management	$16,950,000

Grants:

01	Cooperative Housing Inspection.	($919,000)
02	Shelter Assistance	(2,000,000)
02	Prevention of Homelessness.	(4,460,000)
03	Brownfields Redevelopment Grants	(1,000,000)
18	Uniform Fire Code -- Local Enforcement Agency Rebates	(8,425,000)
18	Uniform Fire Code -- Continuing Education	(146,000)

The amount hereinabove for the Housing Code Enforcement program classification is payable out of the fees and penalties derived from bureau activities. If these receipts are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance as of June 30, 2002, in the Housing Code Enforcement program classification, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Uniform Fire Code program classification is payable out of the fees and penalties derived from inspection and enforcement activities. If these receipts are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance as of June 30, 2002 in the Uniform Fire Code program classification together with any receipts in excess of the amount anticipated is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for Shelter Assistance is payable from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1968, c.49 (C.46:15-8) and from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1975, c.176 (C.46:15-10.1). If the receipts are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance as of June 30, 2002 in the Shelter Assistance account is appropriated.

Upon determination by the Commissioner that all eligible shelter assistance projects have received funding from the amount appropriated for Shelter Assistance from receipts of the portions of the realty transfer tax dedicated to the Neighborhood Preservation Nonlapsing Revolving Fund, any available balance in the Shelter Assistance account may be transferred to the Neighborhood Preservation - Fair Housing account, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated to the Revolving Housing Development and Demonstration Grant Fund an amount not to exceed 50% of the penalties derived from bureau activities in the Housing Code Enforcement program classification, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from repayment of loans from the Downtown Business Improvement Loan Fund, together with the unexpended balance of such loan fund as of June 30, 2002 and any interest thereon, are appropriated for the purposes of P.L.1998, c.115 (C.40:56-71.1 et seq.).

The amount appropriated hereinabove for Brownfields Redevelopment Grants shall be allocated to the New Jersey Redevelopment Authority to pay site acquisition, remediation and demolition costs of brownfield redevelopment projects in eligible municipalities, provided that the remediation plan for any brownfields site shall be subject to the approval of the Department of Environmental Protection and subject to the approval of the State Treasurer. Brownfields redevelopment moneys may take the form of grants, recoverable grants or loans, and all loans or recovered grants shall be repaid to the General Fund and reappropriated for the same purposes or reallocated subject to the approval of the State Treasurer. The authority shall develop project financing criteria that are consistent with the provisions and objectives of the "New Jersey Urban Redevelopment Act," P.L.1996, c.62 (C.55:19-20 et al.).

Notwithstanding the provisions of section 35 of P.L.1975, c.326 (C.13:17-10.1), sections 10 and 11 of P.L.1981, c.306 (C.13:1E-109 and C.13:1E-110), section 8 of P.L.1985, c.368 (C.13:1E-176), or any rules and regulations adopted

pursuant thereto, or any order issued by the Board of Public Utilities to the contrary, an amount equal to $3,205,000 of the calendar year 2002 interest shall be withdrawn from the escrow accounts by the New Jersey Meadowlands Commission and paid to the State Treasurer for deposit in the General Fund and the amount so deposited shall be appropriated to the New Jersey Meadowlands Commission for operational costs. Of the amount so deposited and appropriated to the New Jersey Meadowlands Commission, $110,000 shall be made available to the Hackensack Meadowlands Municipal Committee for operational costs.

Notwithstanding the provisions of section 35 of P.L.1975, c.326 (C.13:17-10.1), sections 10 and 11 of P.L.1981, c.306 (C.13:1E-109 and C.13:1E-110), section 8 of P.L.1985, c.368 (C.13:1E-176), or any rules and regulations adopted pursuant thereto, or any order issued by the Board of Public Utilities to the contrary, an amount equal to $164,000 of the calendar year 2002 interest earnings on the aggregate balance in the closure and post-closure monitoring of the sanitary landfill facilities operated by the New Jersey Meadowlands Commission shall be withdrawn from the escrow accounts by the commission and paid to the State Treasurer for deposit in the General Fund, and the amount so deposited is appropriated for payment to the New Jersey Meadowlands Tax Sharing Stabilization Fund and paid to the commission in accordance with the certification of the fund's requirements, for distribution by the commission to municipalities entitled to payments from the fund for 2002. Notwithstanding any provision of law to the contrary, the New Jersey Meadowlands Commission shall certify calendar 2003 tax sharing stabilization payments in amounts equal to those certified in calendar year 2002.

Notwithstanding any other law to the contrary, there is appropriated from the Sanitary Landfill Contingency Fund an amount equal to any moneys remaining in the escrow account of the Kingsland Sanitary Landfill, established pursuant to section 10 of P.L.1981, c.306 (C.13:1E-109), subsequent to its proper and complete closure pursuant to law, for the funding of the proper closure of sanitary landfills owned or to be acquired by the New Jersey Meadowlands Commission, subject to the approval of the Director of the Division of Budget and Accounting.

STATE AID

02-8020 Housing Services	$16,925,000
06-8015 Uniform Construction Code	46,000
Total State Aid Appropriation, Community Development Management	$16,971,000

State Aid:

02 Relocation Assistance	($250,000)
02 Neighborhood Preservation (P.L.1975, c.248 and c.249).	(2,750,000)
02 Neighborhood Preservation -- Fair Housing (P.L.1985, c.222)	(13,925,000)
06 Municipal Memberships in Building Codes Association	(46,000)

In addition to the sum hereinabove for Relocation Assistance, such amounts as may be required to fund relocation costs of boarding home residents are appropriated from the Boarding Home Rental Assistance Fund.

Of the sum hereinabove for Neighborhood Preservation -Fair Housing, a sum not to exceed $300,000 may be used for matching on a 50/50 basis for the administrative costs of the Federal Small Cities Block Grant.

Any receipts in excess of the amount anticipated in the Neighborhood Preservation-Fair Housing account are appropriated.

The amount hereinabove for Neighborhood Preservation-Fair Housing is payable from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1968, c.49 (C.46:15-8), and from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1975, c.176 (C.46:15-10.1). If the receipts are less than anticipated, the appropriation shall be reduced proportionately.

Of the amount hereinabove for Neighborhood Preservation-Fair Housing, an amount not to exceed $2,500,000 may be used to provide technical assistance grants to non-profit housing organizations and authorities for creating and supporting affordable housing and community development opportunities.

The unexpended balance as of June 30, 2002 in the Neighborhood Preservation-Fair Housing account is appropriated.

Notwithstanding any law to the contrary, funds appropriated for Neighborhood Preservation-Fair Housing may be provided directly to the housing project being assisted; provided however, that any such project have the support by resolution of the governing body of the municipality in which it is located.

51 Economic Planning, Development and Security
8049 Office of Smart Growth
DIRECT STATE SERVICES

49-8049 Office of Smart Growth	$1,970,000
Total Direct State Services Appropriation, Office of Smart Growth.	$1,970,000

Direct State Services:

Personal Services:	
Salaries and Wages	($1,529,000)
Materials and Supplies	(65,000)
Services Other Than Personal	(245,000)
Maintenance and Fixed Charges	(6,000)
Special Purpose:	
49 Governor's Smart Growth Policy Council	(125,000)

The Office of Smart Growth is authorized to collect reasonable fees for the distribution of its publications, and receipts derived from such fees are appropriated for the Office of Smart Growth.

GRANTS-IN-AID

49-8049 Office of Smart Growth. $2,700,000
Total Grants-in-Aid Appropriation,
Office of Smart Growth. $2,700,000

Grants-in-Aid:

49 Smart Growth Planning Grants. . . . . ($2,700,000)

55 Social Services Program

DIRECT STATE SERVICES

05-8050 Community Resources. $410,000
15-8051 Women's Programs 1,081,000
Total Direct State Services Appropriation,
Social Services Programs. $1,491,000

Direct State Services:

Personal Services:
Salaries and Wages. . . . . ($941,000)
Materials and Supplies . . . . . (70,000)
Services Other Than Personal . . . . . (174,000)
Maintenance and Fixed Charges . . . . . (6,000)
Special Purpose:
15 Address Confidentiality Program . . . . (93,000)
15 Expenses of the New Jersey
Commission on Women . . . . . (7,000)
15 Office on the Prevention of Violence
Against Women . . . . . (200,000)

There is appropriated from the Petroleum Overcharge Reimbursement Fund such amount as may be required to provide the State 25% cost share for the Low-Income Weatherization Assistance Program, subject to the approval of the Director of the Division of Budget and Accounting.

GRANTS-IN-AID

05-8050 Community Resources. $6,925,000
15-8051 Women's Programs 2,340,000
Total Grants-in-Aid Appropriation,
Social Services Programs $9,265,000

Grants-in-Aid:

05 Center for Hispanic Policy, Research
Research and Development . . . . . .($2,625,000)
05 Recreation for the Handicapped . . . . . (650,000)
05 Special Olympics. . . . . (450,000)
05 Trenton Urban Gardening Program . . . . . .(50,000)
05 Camden Urban Gardening Project . . . . . (50,000)
05 Faith-Based Community
Development Initiative. . . . . (3,000,000)
05 Grant to ASPIRA . . . . . (100,000)

15 Grants to Hispanic Women's Resource Centers. . . . . (400,000)
15 Women's Referral Central . . . . . (25,000)
15 Rape Prevention . . . . . (500,000)
15 Job Training Center for Urban Women Act. . . . . (315,000)
15 Grants to Women's Shelters. . . . . (25,000)
15 Grants to Displaced Homemaker Centers . . . . . (1,075,000)

70 Government Direction, Management and Control
75 State Subsidies and Financial Aid
DIRECT STATE SERVICES

04-8030 Local Government Services. $5,607,000
Total Direct State Services Appropriation, State Subsidies and Financial Aid. $5,607,000

Direct State Services:
Personal Services:
Local Finance Board Members (7@$12,000). . . . . ($84,000)
Salaries and Wages . . . . . (2,896,000)
Materials and Supplies . . . . . (50,000)
Services Other Than Personal . . . . . (320,000)
Maintenance and Fixed Charges . . . . . (18,000)
Special Purpose:
04 Special Municipal Aid Act - Administration. . . . . (1,309,000)
04 Local School Contracting Oversight and Assistance. . . . . (930,000)

Receipts from the Division of Local Government Services are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for school construction activities in the Division of Local Government Services in the Department of Community Affairs, there shall be credited against such amounts such monies as are received by the Department of Community Affairs pursuant to a memorandum of understanding between the Division of Local Government Services and the New Jersey Economic Development Authority for oversight services including employee benefit costs in connection with the school construction program.

GRANTS-IN-AID

04-8030 Local Government Services $4,876,000
Total Grants-in-Aid Appropriation, State Subsidies and Financial Aid. $4,876,000

Grants-in-Aid:
04 Hamilton Township (Mercer) - Scrap Tire Removal. . . . . ($56,000)
04 Bound Brook Borough - Flood Aid . . . (2,000,000)

04 Statewide Local ADA
Compliance. ..... (1,500,000)
04 Manville Borough - Flood Aid. ..... (1,320,000)

STATE AID

04-8030 Local Government Services. $968,593,000
(From General Fund. ..... $1,071,000)
(From Property Tax Relief Fund ..... 967,522,000)
Total State Aid Appropriation,
State Subsidies and Financial Aid $968,593,000
(From General Fund. ..... $1,071,000)
(From Property Tax Relief Fund ..... 967,522,000)

State Aid:

04 Extraordinary Aid (C.52:27D-
118.36) (PTRF) ..... ($30,500,000)
04 Consolidated Municipal Property Tax
Relief Aid (PTRF) ..... (835,200,000)
04 County Prosecutors Salary
Increase (P.L.1996, c.99) ..... (821,000)
04 Legislative Initiative Municipal Block
Grant Program (PTRF). ..... (34,825,000)
04 Domestic Violence Training Cost Reimbursement -
Local Law Enforcement Agencies. ..... (250,000)
04 Regional Efficiency Aid Program (PTRF) ..... (8,992,000)
04 Special Municipal Aid Act (PTRF) ..... (58,005,000)

Notwithstanding any provisions of the "Local Budget Law," P.L.1960, c.169 (C.40A:4-1 et seq.), to the contrary, the Director of the Division of Local Government Services may require any municipality which is determined to be experiencing fiscal distress pursuant to the provisions of the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), to anticipate and include in its annual budget any additional item or amount of revenue as the director deems to be appropriate and fiscally prudent.

Notwithstanding any provision of law to the contrary, municipal appropriations for "Reserve for Tax Appeals" may be made in exception to spending limitations pursuant to section 3 of P.L.1976, c.68 (C.40A:4-45.3).

Notwithstanding any provision of law to the contrary, any qualified municipality as defined in section 1 of P.L.1978, c.14 (C.52:27D-178) for fiscal year 2002, shall continue to be a qualified municipality thereunder for fiscal year 2003.

Notwithstanding any law to the contrary, whenever funds appropriated as State aid and payable to any municipality, which municipality requests and receives the approval of the Local Finance Board, such funds may be pledged as a guarantee for payment of principal and interest on any bond anticipation notes issued pursuant to N.J.S.40A:2-8 and any tax anticipation notes issued pursuant to N.J.S.40A:4-64 by such municipality. Such funds, if so pledged, shall be made available by the State Treasurer upon receipt of a written notification by the Director of the Division of Local Government Services that the municipality does

not have sufficient funds available for prompt payment of principal and interest on such notes, and shall be paid by the State Treasurer directly to the holders of such notes at such time and in such amounts as specified by the director, notwithstanding that payment of such funds does not coincide with any date for payment otherwise fixed by law.

Notwithstanding the provisions of any other law to the contrary, the amount hereinabove for Extraordinary Aid shall be distributed subject to the determination of the Director of the Division of Local Government Services.

The amount hereinabove for Consolidated Municipal Property Tax Relief Aid shall be distributed on the following schedule: on or before August 1, 45% of the total amount due; September 1, 30% of the total amount due; October 1, 15% of the total amount due; November 1, 5% of the total amount due; and December 1, 5% of the total amount due.

Notwithstanding any law to the contrary, from the amount received from the Consolidated Municipal Property Tax Relief Aid program, each municipality shall be required to distribute to each fire district within its boundaries the amount received by the fire district from the Supplementary Aid for Fire Services program pursuant to the provisions of the fiscal year 1995 annual appropriations act, P.L.1994, c.67.

Municipalities that received Municipal Revitalization Program aid in fiscal year 1995 pursuant to the provisions of P.L.1994, c.67 shall continue to be subject to the provisions of the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), and the Director of the Division of Local Government Services may withhold aid payments or portions thereof from any municipality that fails to comply with those provisions, until such time as the director determines the municipality to be in compliance.

Notwithstanding any law to the contrary, the amount hereinabove for Consolidated Municipal Property Tax Relief Aid shall be distributed in the same amounts, and to the same municipalities which received funding pursuant to the fiscal year 2002 annual appropriations act, P.L.2001, c.130, except that the amount received by a municipality shall be reduced by the amount the municipality receives from the allocation of the amount transferred from this State aid account to the Energy Tax Receipts Property Tax Relief Fund, and except that the amount received by the City of Newark shall be further reduced by an amount certified by the Division of Taxation and appropriated to the Division of Taxation for any aspect of the revaluation of real property in Newark, subject to the approval of the Director of the Division of Budget and Accounting. The Director of the Division of Local Government Services shall further take such actions as may be necessary to ensure that the proportion of Consolidated Municipal Property Tax Relief Aid appropriated in fiscal year 2002 to offset losses from business personal property tax that would have otherwise been used for the support of public schools will be used to reduce the school property tax levy for those affected school districts with the remaining State Aid used as municipal property tax relief. The chief financial officer of the municipality shall pay to the school districts such amounts as may be due by December 31, 2002. If a municipality receives no Consolidated Municipal Property Tax Relief Aid, or the amount is insufficient to provide the full amount required pursuant to subsection e. of

P.L.1997, c.167 (C.52:27D-439), additional amounts as may be required, not to exceed $247,000 are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount appropriated hereinabove for the Legislative Initiative Municipal Block Grant Program (PTRF) shall be distributed to the same municipalities and in the same proportions as the distributions received therefrom during fiscal year 2002.

Notwithstanding the provisions of P.L.1999, c.61 (C.54:4-8.76 et seq.) to the contrary, the amount appropriated hereinabove for the Regional Efficiency Aid Program (REAP) shall be distributed to those municipalities in the same amount that was distributed in fiscal year 2002 where, upon a finding and certification by the Director of the Division of Local Government Services, the average residential parcel received a property tax credit of $100.00 or greater per parcel.

The State Treasurer, in consultation with the Commissioner of the Department of Community Affairs, is empowered to direct the Director of the Division of Budget and Accounting to transfer from any State department to any other State department sums as may be necessary to provide a loan for a term not to exceed 30 days to a municipality faced with a fiscal crisis, including but not limited to a potential default on tax anticipation notes. Extension of a loan shall be conditioned on the municipality being an "eligible municipality" pursuant to P.L.1987, c.75 (C.52:27D-118.24 et seq.).

76 Management and Administration
DIRECT STATE SERVICES

99-8070 Administration and Support Services	$4,780,000
Total Direct State Services Appropriation, Management and Administrative Services.	$4,780,000

Direct State Services:

Personal Services:	
Salaries and Wages	($3,101,000)
Materials and Supplies	(10,000)
Services Other Than Personal	(424,000)
Maintenance and Fixed Charges	(26,000)
Special Purpose:	
99 Government Records Council	(500,000)
99 Affirmative Action and Equal Employment Opportunity	(60,000)
Additions, Improvements and Equipment	(659,000)

Department of Community Affairs, Total State Appropriation	$1,056,626,000

Notwithstanding the provisions of any prior law or statute to the contrary, movement of any funds into the Revolving Housing Development and Demonstration Grant Fund is subject to prior approval of the Director of the Division of Budget and Accounting.

Summary of Department of Community Affairs Appropriations
(For Display Purposes Only)

Appropriations by Category:
Direct State Services $37,271,000
Grants-in-Aid 33,791,000
State Aid 985,564,000
Appropriations by Fund:
General Fund $89,104,000
Property Tax Relief Fund. 967,522,000

26 DEPARTMENT OF CORRECTIONS
10 Public Safety and Criminal Justice
16 Detention and Rehabilitation
7025 System-Wide Program Support
DIRECT STATE SERVICES

07-7025 Institutional Control and Supervision $17,760,000
13-7025 Institutional Program Support 50,411,000
Total Direct State Services Appropriation,
System-Wide Program Support $68,171,000

Direct State Services:
Personal Services:
Salaries and Wages ..... ($27,886,000)
Services Other Than Personal ..... (839,000)
Special Purpose:
07 Central Office Transportation Unit. .. (273,000)
07 Special Operations Group ..... (75,000)
07 Body Armor Replacement ..... (800,000)
13 Integrated Information Systems
Development ..... (7,958,000)
13 Augment Medical Care
At Institutions ..... (862,000)
13 Drug Interdiction Unit - State Match .. (44,000)
13 Inmate Work Details Program ..... (1,690,000)
13 Return of Escapees and Absconders .. (223,000)
13 Mutual Agreement Program ..... (4,268,000)
13 Recruit Screening Program. ..... (180,000)
13 Radio Maintenance ..... (177,000)
13 Bulletproof Vests. ..... (148,000)
13 Maintenance of McCorkle/
Sea Girt Facilities ..... (509,000)
13 DOC/DOT Work Details. ..... (537,000)
13 Video Teleconferencing. ..... (300,000)
13 Additional Mental Health
Treatment Services. ..... (20,478,000)
13 State Match - Women's
Assessment Center ..... (489,000)

13 Drug Testing - Assumption of
Federal Funding. . . . . (314,000)
Additions, Improvements and Equipment . . (121,000)

The unexpended balance as of June 30, 2002 in the Integrated Information Systems Development account is appropriated to provide funding for the cost of replacing the Department of Corrections S/36 Correctional Management Information System, subject to the approval of the Director of the Division of Budget and Accounting, the expenditures of which shall directly improve the department's ability to collect fines, restitutions, penalties, surcharges or other debts owed by inmates.

In addition to the sums appropriated above, funds may be transferred from the Victims of Crime Compensation Board to the Department of Corrections for the department's new computer system, which will facilitate the collection of monies owed by inmates, subject to the approval of the Director of the Division of Budget and Accounting.

Of the sums appropriated hereinabove for Video Teleconferencing, an amount shall be transferred to the Judiciary and the Office of the Public Defender for telephone line charges, subject to the approval of the Director of the Division of Budget and Accounting.

GRANTS-IN-AID

13-7025 Institutional Program Support $81,935,000
Total Grants-in-Aid Appropriation, System-Wide
Program Support. $81,935,000

Grants-in-Aid:

13 Purchase of Service for
Inmates Incarcerated In County
Penal Facilities . . . . . ($29,009,000)
13 Purchase of Service for
Inmates Incarcerated In Out-of-
State Facilities . . . . . (100,000)
13 Purchase of Community Services. . . . (51,326,000)
13 Life Skills Academy . . . . . (1,500,000)

A portion of the total amount appropriated in the Purchase of Service for Inmates Incarcerated in County Penal Facilities account is available for operational costs of additional State facilities for inmate housing which become ready for occupancy and other programs which reduce the number of State inmates in county facilities, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2002 in the Purchase of Service for Inmates Incarcerated in County Penal Facilities account is appropriated for the same purpose.

Any change by the Department of Corrections in the per diem rates paid for Inmates Incarcerated in County Penal Facilities and for Community Services shall first be approved by the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2002 in the Purchase of Community Services is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

7040 New Jersey State Prison
DIRECT STATE SERVICES

077040 Institutional Control and Supervision	$41,055,000
08-7040 Institutional Care and Treatment	13,433,000
99-7040 Administration and Support Services	7,857,000
Total Direct State Services Appropriation, New Jersey State Prison	$62,345,000

Direct State Services:

Personal Services:	
Salaries and Wages.	($46,491,000)
Food in Lieu of Cash	(204,000)
Materials and Supplies	(7,396,000)
Services Other Than Personal	(7,237,000)
Maintenance and Fixed Charges	(937,000)
Additions, Improvements and Equipment	(80,000)

7045 Vroom Central Reception and Assignment Facility
DIRECT STATE SERVICES

07-7045 Institutional Control and Supervision	$17,088,000
08-7045 Institutional Care and Treatment	11,097,000
99-7045 Administration and Support Services.	3,230,000
Total Direct State Services Appropriation, Vroom Central Reception and Assignment Facility	$31,415,000

Direct State Services:

Personal Services:	
Salaries and Wages.	($22,489,000)
Food in Lieu of Cash	(116,000)
Materials and Supplies	(4,576,000)
Services Other Than Personal	(3,659,000)
Maintenance and Fixed Charges.	(494,000)
Additions, Improvements and Equipment	(81,000)

7050 East Jersey State Prison
DIRECT STATE SERVICES

07-7050 Institutional Control and Supervision	$33,983,000
08-7050 Institutional Care and Treatment	16,780,000
99-7050 Administration and Support Services.	6,596,000
Total Direct State Services Appropriation, East Jersey State Prison	$57,359,000

Direct State Services:

Personal Services:	
Salaries and Wages.	($39,661,000)
Food in Lieu of Cash	(188,000)

Materials and Supplies ..... (6,561,000)
Services Other Than Personal ..... (9,563,000)
Maintenance and Fixed Charges ..... (1,306,000)
Special Purpose:
Additions, Improvements and Equipment ... (80,000)

7055 South Woods State Prison
DIRECT STATE SERVICES

07-7055 Institutional Control and Supervision $42,110,000
08-7055 Institutional Care and Treatment 26,093,000
99-7055 Administration and Support Services 12,062,000
Total Direct State Services Appropriation,
South Woods State Prison $80,265,000
Direct State Services:
Personal Services:
Salaries and Wages ..... ($52,517,000)
Food in Lieu of Cash ..... (257,000)
Materials and Supplies ..... (12,258,000)
Services Other Than Personal. ..... (12,763,000)
Maintenance and Fixed Charges ..... .(1,489,000)
Special Purpose:
08 Nuway Drug Treatment Program .... (900,000)
Additions, Improvements and Equipment ... (81,000)

7060 Bayside State Prison
DIRECT STATE SERVICES

07-7060 Institutional Control and Supervision $31,300,000
08-7060 Institutional Care and Treatment 16,662,000
99-7060 Administration and Support Services 6,706,000
Total Direct State Services Appropriation,
Bayside State Prison $54,668,000
Direct State Services:
Personal Services:
Salaries and Wages. ..... ($36,773,000)
Food in Lieu of Cash ..... (178,000)
Materials and Supplies ..... (6,666,000)
Services Other Than Personal ..... (9,200,000)
Maintenance and Fixed Charges ..... (1,771,000)
Special Purpose:
Additions, Improvements and Equipment ... (80,000)

7065 Southern State Correctional Facility
DIRECT STATE SERVICES

07-7065 Institutional Control and Supervision $26,928,000
08-7065 Institutional Care and Treatment 11,853,000
99-7065 Administration and Support Services 5,161,000

Total Direct State Services Appropriation,
Southern State Correctional Facility $43,942,000
Direct State Services:
Personal Services:
Salaries and Wages. ..... ($31,262,000)
Food in Lieu of Cash ..... (150,000)
Materials and Supplies. ..... (4,834,000)
Services Other Than Personal ..... (6,328,000)
Maintenance and Fixed Charges ..... (1,287,000)
Additions, Improvements and Equipment ... (81,000)

7070 Mid-State Correctional Facility
DIRECT STATE SERVICES

07-7070 Institutional Control and Supervision $11,394,000
08-7070 Institutional Care and Treatment..... 5,103,000
99-7070 Administration and Support Services. 2,602,000
Total Direct State Services Appropriation,
Mid-State Correctional Facility. $19,099,000
Direct State Services:
Personal Services:
Salaries and Wages. ..... ($14,333,000)
Food in Lieu of Cash ..... (71,000)
Materials and Supplies ..... (1,811,000)
Services Other Than Personal ..... (2,447,000)
Maintenance and Fixed Charges ..... (357,000)
Additions, Improvements and Equipment ... (80,000)

7075 Riverfront State Prison
DIRECT STATE SERVICES

07-7075 Institutional Control and Supervision $18,448,000
08-7075 Institutional Care and Treatment 10,282,000
99-7075 Administration and Support Services. 4,057,000
Total Direct State Services Appropriation,
Riverfront State Prison $32,787,000
Direct State Services:
Personal Services:
Salaries and Wages. ..... ($22,360,000)
Food in Lieu of Cash ..... (100,000)
Materials and Supplies ..... (3,553,000)
Services Other Than Personal ..... (6,144,000)
Maintenance and Fixed Charges ..... (549,000)
Special Purpose:
Additions, Improvements and Equipment ... (81,000)

7080 Edna Mahan Correctional Facility for Women
DIRECT STATE SERVICES

07-7080 Institutional Control and Supervision $18,349,000

08-7080 Institutional Care and Treatment. 9,459,000
99-7080 Administration and Support Services. 5,323,000
Total Direct State Services Appropriation,
Edna Mahan Correctional Facility for Women $33,131,000
Direct State Services:
Personal Services:
Salaries and Wages . . . . . ($23,328,000)
Food in Lieu of Cash . . . . . (120,000)
Materials and Supplies. . . . . (4,258,000)
Services Other Than Personal . . . . . (4,511,000)
Maintenance and Fixed Charges . . . . . (770,000)
Special Purpose:
08 State Match -- Social Services
Block Grant. . . . . (41,000)
08 Violence Against Women Grant -
State Match . . . . . (23,000)
Additions, Improvements and Equipment . . . (80,000)

7085 Northern State Prison
DIRECT STATE SERVICES

07-7085 Institutional Control and Supervision $38,397,000
08-7085 Institutional Care and Treatment 19,792,000
99-7085 Administration and Support Services 6,781,000
Total Direct State Services Appropriation,
Northern State Prison $64,970,000
Direct State Services:
Personal Services:
Salaries and Wages. . . . . ($44,487,000)
Food in Lieu of Cash . . . . . (203,000)
Materials and Supplies . . . . . (7,353,000)
Services Other Than Personal. . . . . (11,276,000)
Maintenance and Fixed Charges . . . . . (971,000)
Special Purpose:
07 Gang Management Unit. . . . . (546,000)
08 Northern Therapeutic Community -
State Match . . . . . (53,000)
Additions, Improvements and Equipment . . . (81,000)

7090 Adult Diagnostic and Treatment Center, Avenel
DIRECT STATE SERVICES

07-7090 Institutional Control and Supervision $30,728,000
08-7090 Institutional Care and Treatment 6,904,000
99-7090 Administration and Support Services 2,417,000
Total Direct State Services Appropriation, Adult
Diagnostic and Treatment Center, Avenel $40,049,000

Direct State Services:
Personal Services:
Salaries and Wages ..... ($15,924,000)
Food in Lieu of Cash ..... (80,000)
Materials and Supplies ..... (1,712,000)
Services Other Than Personal ..... (4,558,000)
Maintenance and Fixed Charges ..... (371,000)
Special Purpose:
07 Civilly Committed Sexual Offender Facility ..... (8,438,000)
07 Civilly Committed Sexual Offender Facility - Annex ..... (8,886,000)
Additions, Improvements and Equipment ... (80,000)
In order to permit flexibility and ensure the appropriated levels of services to the civilly committed, amounts may be transferred between the Civilly Committed Sexual Offender Facility and the Civilly Committed Sexual Offender Facility - Annex accounts, subject to the approval of the Director of the Division of Budget and Accounting.

7110 Garden State Youth Correctional Facility
DIRECT STATE SERVICES

07-7110 Institutional Control and Supervision $23,098,000
08-7110 Institutional Care and Treatment..... 13,259,000
99-7110 Administrative and Support Services 4,004,000
Total Direct State Services Appropriation, Garden State Youth Correctional Facility $40,361,000

Direct State Services:
Personal Services:
Salaries and Wages ..... ($27,815,000)
Food in Lieu of Cash. ..... (123,000)
Materials and Supplies ..... (4,277,000)
Services Other Than Personal ..... (7,165,000)
Maintenance and Fixed Charges ..... (632,000)
Special Purpose:
08 State Match -- Residential Substance Abuse Treatment Grant ..... (268,000)
Additions, Improvements and Equipment ... (81,000)

7120 Albert C. Wagner Youth Correctional Facility
DIRECT STATE SERVICES

07-7120 Institutional Control and Supervision $26,733,000
08-7120 Institutional Care and Treatment 9,945,000
99-7120 Administration and Support Services 5,086,000
Total Direct State Services Appropriation, Albert C. Wagner Youth Correctional Facility $41,764,000

Direct State Services:
Personal Services:

Salaries and Wages. . . . . ($28,569,000)
Food in Lieu of Cash . . . . . (138,000)
Materials and Supplies . . . . . (3,657,000)
Services Other Than Personal . . . . . (5,163,000)
Maintenance and Fixed Charges . . . . . (619,000)
Special Purpose:
07 Adult Offender Boot Camp . . . . . (3,538,000)
Additions, Improvements and Equipment . . (80,000)

Receipts derived from the Upholstery Program at the Albert C. Wagner Youth Correctional Facility, and any unexpended balance as of June 30, 2002 are appropriated for the operation of the program with surplus funds being credited to the institution's Inmate Welfare Fund, subject to the approval of the Director of the Division of Budget and Accounting.

7130 Mountainview Youth Correctional Facility
DIRECT STATE SERVICES

07-7130 Institutional Control and Supervision $20,656,000
08-7130 Institutional Care and Treatment. 8,457,000
99-7130 Administration and Support Services. 4,426,000
Total Direct State Services Appropriation, Mountainview Youth Correctional Facility. $33,539,000

Direct State Services:
Personal Services:
Salaries and Wages. . . . . ($24,504,000)
Food in Lieu of Cash . . . . . (115,000)
Materials and Supplies . . . . . (3,106,000)
Services Other Than Personal . . . . . (4,687,000)
Maintenance and Fixed Charges . . . . . (820,000)
Special Purpose:
08 Byrne Grant Therapeutic Community Program. . . . . (82,000)
99 Sewage Hauling and Disposal Costs . (145,000)
Additions, Improvements and Equipment . . . (80,000)

10 Public Safety and Criminal Justice
17 Parole
DIRECT STATE SERVICES

03-7010 Parole $35,368,000
05-7280 State Parole Board 11,817,000
99-7280 Administration and Support Services 3,073,000
Total Direct State Services Appropriation, Parole. $50,258,000

Direct State Services:
Personal Services:
Salaries and Wages . . . . . ($31,431,000)
Materials and Supplies . . . . . (616,000)
Services Other Than Personal . . . . . (2,246,000)

Maintenance and Fixed Charges ..... (498,000)
Special Purpose:
03 Payments to Inmates Discharged from Facilities. ..... (100,000)
03 Parolee Electronic Monitoring Program ..... (4,100,000)
03 Intensive Supervision/ Surveillance Program ..... (4,844,000)
03 High Impact Diversion Program ... (3,526,000)
03 Parolee Drug Treatment. ..... (2,202,000)
03 State Match -- Truth in Sentencing Grant ..... (695,000)

The unexpended balances as of June 30, 2002 in the Halfway Back Program account are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

10 Public Safety and Criminal Justice
19 Central Planning, Direction and Management
DIRECT STATE SERVICES

99-7000 Administrative and Support Services $18,800,000
Total Direct State Services Appropriation, Central Planning, Direction and Management $18,800,000

Direct State Services:
Personal Services:
Salaries and Wages ..... ($13,932,000)
Materials and Supplies ..... (1,124,000)
Services Other Than Personal ..... (2,178,000)
Maintenance and Fixed Charges ..... (815,000)
Special Purpose:
99 Affirmative Action and Equal Employment Opportunity ..... (655,000)
Additions, Improvements and Equipment ... (96,000)

Balances on hand as of June 30, 2002 of funds held for the benefit of inmates in the several institutions, and such funds as may be received, are appropriated for the use of such inmates.

Payments received by the State from employers of prisoners on their behalf, as part of any work release program, are appropriated for the purposes provided under P.L.1969, c.22 (C.30:4-91.4 et seq.).

CAPITAL CONSTRUCTION

99-7000 Administration and Support Services $2,900,000
Total Capital Construction Appropriation, Central Planning, Direction and Management $2,900,000

Capital Projects:
99 Fire Safety Code Compliance ..... ($1,700,000)
99 Critical Repairs ..... (1,200,000)

Department of Corrections, Total State Appropriation . $857,758,000

Summary of Department of Corrections Appropriations
(For Display Purposes Only)

Appropriations by Category:
Direct State Services. $772,923,000
Grants-in-Aid 81,935,000
Capital Construction 2,900,000
Appropriations by Fund:
General Fund $857,758,000

34 DEPARTMENT OF EDUCATION
30 Educational, Cultural and Intellectual Development
31 Direct Educational Services and Assistance
DIRECT STATE SERVICES

04-5064 Adult and Continuing Education $390,000
05-5064 Bilingual Education and Equity Issues 314,000
07-5065 Special Education 42,000
Total Direct State Services Appropriation, Direct Educational Services and Assistance. $746,000
Direct State Services:
Personal Services:
Salaries and Wages. ..... ($401,000)
Materials and Supplies ..... (21,000)
Services Other Than Personal ..... (62,000)
Maintenance and Fixed Charges. ..... (1,000)
Special Purpose:
General Education Development -- GED .. (261,000)

STATE AID

01-5120 General Formula Aid $4,742,199,000
(From General Fund ..... $1,429,757,000)
(From Property Tax Relief Fund ... 3,312,442,000)
02-5120 Nonpublic School Aid. 96,899,000
03-5120 Miscellaneous Grants-in-Aid. 110,943,000
(From General Fund. ..... 4,580,000)
(From Property Tax Relief Fund. .... 106,363,000)
04-5062 Adult and Continuing Education 2,448,000
05-5120 Bilingual Education and Equity Issues 65,578,000
(From Property Tax Relief Fund ..... .65,578,000)
06-5064 Programs for Disadvantaged Youths. 199,512,000
(From Property Tax Relief Fund. .... 199,512,000)
07-5120 Special Education. 911,420,000
(From Property Tax Relief Fund. .... 911,420,000)
Total State Aid Appropriation, Direct Educational Services and Assistance $6,128,999,000

(Total From General Fund. . . . . $1,533,684,000)
(Total From Property
Tax Relief Fund . . . . . 4,595,315,000)

State Aid:

01 Core Curriculum Standards Aid. . . . . .($1,429,757,000)
01 Core Curriculum Standards Aid (PTRF) . . . . . (1,650,561,000)
01 Abbott v. Burke Parity Remedy (PTRF). . . . . (512,656,000)
01 Supplemental Core Curriculum Standards Aid (PTRF). . . . . (251,768,000)
01 Early Childhood Aid (PTRF) . . . . (330,630,000)
01 Rewards and Recognition (PTRF) . . (9,957,000)
01 Instructional Supplement (PTRF) . (15,621,000)
01 Stabilization Aid (PTRF) . . . . . (111,626,000)
01 Large Efficient District Aid (PTRF) . . . . . (5,250,000)
01 Aid for Districts with High Senior Citizen Populations (PTRF) . . . . . (1,231,000)
01 Stabilization Aid II (PTRF) . . . . . (2,491,000)
01 Stabilization Aid III (PTRF) . . . . . (11,402,000)
01 Regionalization Incentive Aid (PTRF) . . . . . (18,295,000)
01 Additional Abbott v. Burke State Aid (PTRF). . . . . (305,674,000)
01 Abbott Preschool Expansion Aid (PTRF). . . . . (142,400,000)
01 Aid for Enrollment Adjustments (PTRF) . . . . . (16,456,000)
02 Nonpublic Textbook Aid . . . . . (11,413,000)
02 Nonpublic Handicapped Aid . . . . . (27,163,000)
02 Nonpublic Auxiliary Services Aid. . . . . (32,736,000)
02 Nonpublic Auxiliary/Handicapped Transportation Aid . . . . . (3,578,000)
02 Nonpublic Nursing Services Aid . . (13,891,000)
02 Nonpublic Technology Initiative . . . (8,118,000)
03 Educational Information Resource Center . . . . . (450,000)
03 Emergency Fund . . . . . (100,000)
03 District Reorganization Initiatives . . (2,000,000)
03 Payments for Institutionalized Children - Unknown District of Residence (PTRF) . . . . . (13,610,000)

03 Community Relations Committee of the United Jewish Federation of Metrowest. . . . . (30,000)
03 Distance Learning Network Aid (PTRF) . . . . . (59,162,000)
03 Character Education (PTRF) . . . . . (4,750,000)
03 Magnet School Start-Up Aid . . . . . (1,000,000)
03 Englewood Implementation Aid . . . (1,000,000)
03 Adult and Postsecondary Education Grants (PTRF) . . . . . (28,721,000)
03 Distance Learning Network Grants -- County Special Services School Districts (PTRF) . . . . . (120,000)
04 Evening School for the Foreign Born (211,000)
04 High School Equivalency . . . . . (1,213,000)
04 Adult Literacy . . . . . (1,024,000)
05 Bilingual Education Aid (PTRF) . . (65,578,000)
06 Demonstrably Effective Program Aid (PTRF) . . . . . (199,512,000)
07 Special Education Aid (PTRF) . . (896,420,000)
07 Extraordinary Special Education Costs Aid (PTRF) . . . . . (15,000,000)

Less:

Stabilization Growth Limitation (PTRF) 73,576,000

Receipts from nonpublic schools handicapped and auxiliary recoveries are appropriated for the payment of additional aid in accordance with section 17 of P.L.1977, c.192 (C.18A:46A-14) and section 14 of P.L.1977, c.193 (C.18A:46-19.8).

Notwithstanding the provisions of section 14 of P.L.1977, c.193 (C.18A:46-19.8) for the purpose of computing Nonpublic Handicapped Aid for pupils requiring the following services, the per pupil amounts shall be: $1,185.64 for an initial evaluation or reevaluation for examination and classification; $355.50 for an annual review for examination and classification; $901.06 for speech correction; and $785.81 for supplementary instruction services.

Notwithstanding the provisions of section 9 of P.L.1977, c.192 (C.18A:46A-9), the per pupil amount for compensatory education for the 2002-2003 school year for the purposes of computing Nonpublic Auxiliary Services Aid shall equal $739.60.

Notwithstanding the provisions of section 9 of P.L.1991, c.226 (C.18A:40-31), the amount appropriated hereinabove for Nonpublic Nursing Services Aid shall be made available to local school districts based upon the number of pupils enrolled in each nonpublic school on the last day prior to October 16, 2001.

Nonpublic Technology Initiative aid shall be paid to school districts and allocated for nonpublic school pupils at the rate of $40 per pupil in a manner that is consistent with the provisions of the federal and State constitutions.

Of the amount hereinabove in the High School Equivalency and the Adult Literacy accounts, such sums as are necessary may be transferred to an applicant State department.

The amount appropriated hereinabove for Magnet School Start-Up Aid shall be paid to a school district for which the New Jersey Supreme Court determined in Board of Education of the Borough of Englewood Cliffs v. Board of Education of the City of Englewood, 170 N.J. 323 (2002) that the Commissioner of Education and the State Board of Education have the ultimate responsibility to take appropriate action to address the deterioration of racial balance at the high school.

The appropriation for Englewood Implementation Aid shall be paid to the Englewood City School District for the school renewal program and career academies, provided however, that the district shall demonstrate that it will receive an equal amount in matching appropriation from a government entity or entities in Bergen County, subject to the approval of the Director of the Division of Budget and Accounting.

The Commissioner of Education shall not authorize the disbursement of funds to any "Abbott district" until the commissioner is satisfied that all educational expenditures in the district will be spent effectively and efficiently in order to enable those students to achieve the core curriculum content standards. The commissioner shall be authorized to take any necessary action to fulfill this responsibility, including but not limited to, the adoption of regulations pursuant to P.L.1968, c.410 (C.52:14B-1 et seq.), related to the receipt and/ or expenditure of State aid by the "Abbott districts" and the programs, services and positions supported thereby. The commissioner may deduct from the State aid of any "Abbott district" the expenses required to manage, control and supervise the implementation of that State aid. In order to expeditiously fulfill the responsibilities of the commissioner under the Abbott order, determinations by the commissioner hereunder shall be considered to be final agency action and appeal of that action shall be directly to the Appellate Division of the Superior Court. The unexpended balance as of June 30, 2002, in the Abbott v. Burke Parity Remedy account is appropriated for the same purpose and with the same conditions as are applied to the fiscal year 2003 appropriation for this purpose.

Notwithstanding any other law to the contrary, State aid for each "Abbott district" whose per pupil regular education expenditure for 2002-2003 under P.L.1996, c.138 is below the estimated per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2002-2003 shall be increased. The amount of increase shall be appropriated as Abbott v. Burke Parity Remedy aid and shall be determined as follows: funds shall be allocated in the amount of the difference between each "Abbott district's" per pupil regular education expenditure for 2002-2003 and the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2001-2002 indexed by the actual percentage increase in the per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2001-2002 over the per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2000-2001. In calculating the per pupil regular education expenditure of each "Abbott district" for 2002-2003, regular education expenditure shall equal the sum of the general fund tax levy for

2001-2002, Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid and all forms of stabilization aid pursuant to section 10 of P.L.1996, c.138 (C.18A:7F-10); enrollments shall initially be those resident enrollments for preschool through grade 12 contained on the Application for State School Aid for 2002-2003 indexed by the district's enrollment growth rate used to determine the estimated enrollments of October 2002; enrollments shall be calculated at their full-time equivalent and reduced by preschool and one half of full-day kindergarten enrollments. State aid shall be adjusted upon receipt of resident enrollment for the "Abbott districts" as of October 15, 2002 as reflected on the Application for State School Aid for 2003-2004. State aid shall also be adjusted based on the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2002-2003. In calculating the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2002-2003, regular education expenditure shall equal the sum of the general fund tax levy for 2002-2003, Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid and all forms of stabilization aid pursuant to section 10 of P.L.1996, c.138 (C.18A:7F-10); enrollments shall be the resident enrollment for preschool through grade twelve as of October 15, 2002 as reflected on the Application for State School Aid for 2003-2004; enrollments shall be calculated at their full-time equivalent and reduced by preschool and one half of full-day kindergarten enrollments in districts receiving Early Childhood Program Aid.

Notwithstanding any other law to the contrary, as a condition of receiving Abbott v. Burke Parity Remedy aid, an "Abbott district" shall raise a general fund tax levy which shall be no less than the general fund tax levy of the prior year.

The amount appropriated hereinabove for Additional Abbott v. Burke State Aid will provide additional resources to "Abbott districts" and will be distributed by district in an amount that shall not exceed the amount necessary for the district to maintain spending for its K-12 programs at the level authorized and expended by each district in 2001-2002. Before the Commissioner of Education establishes the final district award, he shall first review the budgets and any other financial statements, including the annual audit filed pursuant to N.J.S.18A:23-1, of each "Abbott district" that has requested Additional Abbott v. Burke State Aid. Any district that fails to submit the required documentation or fails to submit its annual audit by November 15, 2002 may have its State aid withheld upon the commissioner's request to the Director of the Division of Budget and Accounting. In establishing the final award amount, the commissioner shall consider all of the district's available resources and any appropriate reallocations, including, but not limited to, a reallocation of the district's undesignated general fund balances in excess of two percent.

The amount appropriated hereinabove as Abbott Preschool Expansion Aid is for the purpose of funding the increase in the approved budgeted costs from 2001-2002 to 2002-2003 for the projected expansion of preschool programs in "Abbott districts." Payments of Abbott Preschool Expansion Aid shall be based on documented expansion of the preschool program. Upon the Commissioner of Education's request, "Abbott districts" will be required to provide such

supporting documentation as deemed necessary to verify that the actual expansion in the preschool program has occurred in the 2002-2003 fiscal year. Such documentation may include enrollment and attendance data that may be subject to an audit. Appropriate adjustments to a district's Abbott Preschool Expansion Aid amount may be made by the commissioner based on actual need.

Notwithstanding any other law to the contrary, the amount of State aid made available to the Department of Human Services pursuant to "The State Facilities Education Act of 1979," P.L.1979, c.207 (C.18A:7B-1 et al.), to defray the costs of educating eligible children in approved private schools under contract with the Department of Human Services shall not exceed the actual costs of the education of those children in such private schools.

Notwithstanding any other law to the contrary, Special Education Aid for pupils classified as eligible for day training shall be paid directly to the resident school district; provided however, that for pupils under contract for service in a regional day school operated by or under contract with the Department of Human Services, tuition shall be withheld and paid to the Department of Human Services.

Notwithstanding the provisions of section 3 of P.L.1971, c.271 (C.18A:46-31), a portion of the district tuition amounts payable to a county special services school district operating an extended school year program may be transferred to the county special services school district prior to the first of September in the event the board shall file a written request with the Commissioner of Education stating the needs for the funds. The commissioner shall review the board's request and determine whether to grant the request after an assessment of whether the district needs to spend the funds prior to September and after considering the availability of district surplus. The Commissioner of Education shall transfer the payment for the portion of the tuition payable for which need has been demonstrated.

The amount hereinabove for the New Jersey Character Education Partnership Initiative shall be made available to school districts according to a formula to be administered by the Commissioner of Education which will assure that each district that elects to participate shall receive funding for at least one school. Of the amount appropriated hereinabove, up to $100,000 may be used to fund the costs of operating this program, subject to the approval of the Director of the Division of Budget and Accounting.

32 Operation and Support of Educational Institutions

DIRECT STATE SERVICES

12-5011 Marie H. Katzenbach School for the Deaf	$10,169,000
(From General Fund. ..... $2,899,000)	
(From All Other Funds ..... 7,270,000)	
13-5011 Program For Behaviorally Difficult Deaf Pupils. ...	1,057,000
(From All Other Funds ..... 1,057,000)	
Total Appropriation, State and All Other Funds.	$11,226,000
(From General Fund ..... $2,899,000)	
(From All Other Funds ..... 8,327,000)	
Less:	
All Other Funds $8,327,000	
Total Deductions $8,327,000	

Total Direct State Services Appropriation, Operations and Support of Educational Institutions. $2,899,000

Direct State Services:

Personal Services:

Salaries and Wages . . . . . ($8,836,000)

Employee Benefits. . . . . (106,000)

Materials and Supplies . . . . . (1,079,000)

Services Other Than Personal . . . . . (338,000)

Maintenance and Fixed Charges. . . . . (540,000)

Special Purpose:

12 Transportation Expenses for Students . (40,000)

Additions, Improvements and Equipment . . (287,000)

Less:

All Other Funds. 8,327,000

Notwithstanding the provisions of N.J.S.18A:61-1 and N.J.S.18A:46-13, or any other statute, for the 2002-2003 academic year, local boards of education shall reimburse the Marie H. Katzenbach School for the Deaf at an annual rate and payment schedule adopted by the Commissioner of Education and the Director of the Division of Budget and Accounting.

Any income from the rental of vacant space at the Marie H. Katzenbach School for the Deaf is appropriated for the operation and maintenance cost of the facility and for capital costs at the school, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2002, in the receipt account of the Marie H. Katzenbach School for the Deaf is appropriated for expenses of operating the school.

The unexpended balance as of June 30, 2002, in the receipt account of the Positive Learning Understanding Support (PLUS) program is appropriated for the expenses of operating the Marie H. Katzenbach School for the Deaf.

CAPITAL CONSTRUCTION

12-5011 Marie H. Katzenbach School for the Deaf. $400,000

Total Capital Construction Appropriation, Operation and Support of Educational Institutions. $400,000

Capital Projects:

Marie H. Katzenbach School for the Deaf:

12 Bathroom Renovations. . . . . ($200,000)

12 Small Capital Projects Contingency . . . . (200,000)

33 Supplemental Education and Training Programs

DIRECT STATE SERVICES

20-5062 General Vocational Education $529,000

Total Direct State Services Appropriation, Supplemental Education and Training Programs. $529,000

Direct State Services:

Personal Services:

Salaries and Wages. ..... ($478,000)
Materials and Supplies ..... (26,000)
Services Other Than Personal ..... (25,000)

STATE AID

20-5062 General Vocational Education $44,408,000
(From General Fund ..... $5,460,000)
(From Property Tax Relief Fund ..... 38,948,000)
Total State Aid Appropriation, Supplemental Education and Training Programs. $44,408,000
(From General Fund ..... $5,460,000)
(Total From Property Tax Relief Fund ..... 38,948,000)

State Aid:
20 Vocational Education ..... ($5,460,000)
20 County Vocational Program Aid (PTRF) ..... (38,948,000)

34 Educational Support Services
DIRECT STATE SERVICES

29-5029 Educational Technology $302,000
30-5063 Academic Programs and Standards 18,769,000
31-5060 Grants Management and Development 327,000
32-5061 Professional Development and Licensure 1,939,000
33-5067 Service to Local Districts 7,530,000
34-5068 Office of School Choice 849,000
35-5069 Early Childhood Education 403,000
36-5120 Pupil Transportation. 490,000
38-5120 Facilities Planning and School Building Aid. 3,965,000
40-5064 Health, Safety and Community Services 1,580,000
Total Direct State Services Appropriation, Educational Support Services $36,154,000

Direct State Services:
Personal Services:
Salaries and Wages ..... ($14,695,000)
Materials and Supplies ..... (353,000)
Services Other Than Personal ..... (674,000)
Maintenance and Fixed Charges ..... (47,000)
Special Purpose:
30 Improved Basic Skills/Special Review Assessment. ..... (55,000)
30 Statewide Assessment Program ... (16,188,000)
30 Professional Development -- Training Centers ..... (200,000)
30 Virtual Academy ..... (100,000)
30 Continuing Education ..... (52,000)

33 Educational Facilities Construction
Field Services. . . . . (265,000)
38 Educational Facilities Construction
and Financing . . . . . (3,146,000)
40 Commission on Italian
American Heritage Cultural
and Educational Programs. . . . . (135,000)
40 Advisory Council on Holocaust
Education . . . . . (244,000)

Receipts from the NJ School of the Arts and the unexpended balance of such receipts as of June 30, 2002, are appropriated for the cost of operation.

Receipts from the State Board of Examiners' fees in excess of those anticipated and the unexpended program balances of such receipts as of June 30, 2002, are appropriated for the operation of the Professional Development and Licensure programs.

The unexpended balance as of June 30, 2002, in the inspection of school construction account and receipts in excess of the amount anticipated, are appropriated for the operation of the school construction inspection program.

GRANTS-IN-AID

30-5063 Academic Programs and Standards $13,097,000
40-5064 Health, Safety and Community Services. 318,000
Total Grants-in-Aid Appropriation, Educational
Support Services. $13,415,000

Grants-in-Aid:

30 Professional Development --
Training Centers . . . . . ($225,000)
30 Governor's School . . . . . (1,754,000)
30 Liberty Science Center - School
Visit Subsidy Program . . . . . (250,000)
30 Teacher Recruitment . . . . . (868,000)
30 Governor's Literacy Initiative. . . . . (10,000,000)
40 Asthma Nebulizers. . . . . (318,000)

The amount appropriated hereinabove for the Governor's School is payable to the six Governor's Schools: The College of New Jersey - Governor's School of the Arts, The Richard Stockton College of New Jersey - Governor's School on the Environment, Monmouth University - Governor's School on Public Issues, Drew University - Governor's School in the Sciences, Ramapo College of New Jersey - Governor's School on International Issues, and Rutgers, The State University - Governor's School of Engineering/ Technology.

The amount appropriated hereinabove for the Teacher Recruitment program shall be expended for the second-year incentives for teachers deemed eligible for this program in fiscal 2002 in accordance with provisions established by the Department of Education, and who continue to teach preschool in a district defined as an "Abbott district" under section 3 of P.L.1996, c.138 (C.18A:7F-3), or for a community provider under contract with an "Abbott district" to provide

preschool programs to 3 and 4 year old children. Incentives will be provided to eligible teachers to have a portion of their outstanding student loan indebtedness canceled and/or to receive tuition reimbursement for graduate studies at any of New Jersey's four-year colleges and universities. The total value of the incentives for High Achiever recipients is up to $3,333 and up to $2,167 for Regular Incentive recipients. In order to maintain eligibility in the program, the school districts in which the teachers are working or in which they are employed by a community provider under contract with the district must maintain a participation agreement with the department and the district must provide, in a manner specified by the department, information regarding the teachers qualified for incentives working in said district and certifications of completion of a full year of teaching service. Incentives may only be paid upon satisfactory completion of a full year of teaching service and will be contingent upon the teacher's completion of all applicable professional development requirements and other conditions of employment, such as satisfactory evaluations by supervisors and submission of documentation as may be required by the department.

From the amount appropriated hereinabove for the Governor's Literacy Initiative, there is allocated $250,000 for a grant for the Learning Through Listening program at the New Jersey Unit of the Recording for the Blind and Dyslexic.

STATE AID

34-5068 Office of School Choice	$23,855,000
(From Property Tax Relief Fund $23,855,000)	
36-5120 Pupil Transportation	303,587,000
(From Property Tax Relief Fund. 303,587,000)	
38-5120 Facilities Planning and School Building Aid	142,390,000
(From General Fund. 137,858,000)	
(From Property Tax Relief Fund 4,532,000)	
39-5095 Teachers' Pension and Annuity Assistance	977,598,000
Total State Aid Appropriation, Educational Support Services	$1,447,430,000
(Total From General Fund. $1,115,456,000)	
(Total From Property Tax Relief Fund 331,974,000)	

State Aid:

34 School Choice (PTRF)	($3,755,000)
34 Charter School Aid (PTRF)	(14,500,000)
34 Charter Schools - Council on Local Mandates Decision Offset Aid (PTRF)	(5,600,000)
36 Transportation Aid (PTRF)	(303,187,000)
36 School Bus Crossing Arms (PTRF)	(400,000)
38 School Building Aid Debt Service (PTRF)	(4,532,000)
38 School Building Aid	(137,858,000)

39 Teachers' Pension and
Annuity Fund ..... (275,800,000)
39 Social Security Tax. ..... (576,550,000)
39 Minimum Pension for Pre-1955
Retirees. ..... (1,000)
39 Additional Health Benefits. ..... (48,348,000)
39 Debt Service on Pension
Obligation Bonds. ..... (76,899,000)

Each district entitled to School Building Aid for school bond and lease purchase agreement payments for interest and principal payable during the 2002-2003 school year pursuant to section 10 of P.L.2000, c.72 (C.18A:7G-10) shall have its debt service adjusted for corrections to the 2000-2001 principal and interest amounts.

In addition to the amounts hereinabove for Social Security Tax, there are appropriated such sums as are required for payment of Social Security Tax on behalf of members of the Teachers' Pension and Annuity Fund.

Notwithstanding the provisions of section 9 of P.L.2000, c.72 (C.18A:7G-9), for the purpose of calculating a district's State debt service aid, "DAP x 1.15" shall not be less than 40%. Notwithstanding the provisions of section 10 of P.L.2000, c.72 (C.18A:7G-10), for the purposes of calculating aid, CCSAID will be equal to the district's core curriculum standards aid calculated pursuant to section 15 of P.L.1996, c.138 (C.18A:7F-15) for fiscal 2002 and TEBUD shall be equal to the district's T&E budget calculated pursuant to subsection d. of section 13 of P.L.1996, c.138 (C.18A:7F-13) for fiscal 2002.

Notwithstanding the provisions of P.L.1999, c.413 (C.18A:36B-1 et seq.), for purposes of the calculation of 2002-2003 choice aid, the projected enrollment of choice students shall be the total of the actual choice students reported in the October 15, 2001 Application for State School Aid and the new choice students as reported on the Notice of Intent to Enroll forms for the 2002-2003 School Year.

Notwithstanding the provisions of section 2 of P.L.1999, c.385, amounts appropriated hereinabove for Charter School aid shall be used to distribute aid to any charter school which operates a full-day kindergarten program and which is located in an "Abbott district" in accordance with the formula contained in section 1 of P.L.1999, c.385, except that "KPP" which is defined therein as the amount paid by the district to the charter school for each kindergarten pupil pursuant to section 12 of P.L.1995, c.426 (C.18A:36A-12), shall be the sum of the amount paid by the district and the State to the charter school for each kindergarten pupil; and to distribute aid to charter schools pursuant to the provisions of subsection d. of section 12 of P.L.1995, c.426 (C.18A:36A-12).

Notwithstanding the provisions of section 12 of P.L.1995, c.426 (C.18A:36A-12) and any other provision to the contrary, the program budget per pupil shall be the same as the 2001-2002 program budget per pupil and if necessary the State shall pay on behalf of a resident district an amount not to exceed the difference between the district's 2002-2003 total actual charter school payment and the estimated appropriations used in completing the school district's 2001-2002 budget as stated in the 2001-2002 Potential Charter School Aid notification letter.

Notwithstanding the provisions of section 2 of P.L.1981, c.57 (C.18A:39-1a) and any other law or provision to the contrary the maximum amount of nonpublic school transportation costs per pupil provided for in N.J.S.18A:39-1 shall equal $710.

Notwithstanding the provisions of section 1 of P.L.1997, c.53 (C.18A:39-11.1) districts shall not be reimbursed for administrative fees paid to Cooperative Transportation Service Agencies.

35 Education Administration and Management
DIRECT STATE SERVICES

42-5120 School Finance	$3,348,000
43-5092 Compliance and Auditing	1,245,000
99-5095 Administration and Support Services	8,899,000
Total Direct State Services Appropriation, Education Administration and Management.	$13,492,000

Direct State Services:

Personal Services:	
Salaries and Wages.	($11,696,000)
Materials and Supplies	(300,000)
Services Other Than Personal	(1,105,000)
Maintenance and Fixed Charges	(67,000)
Special Purpose:	
42 Educational Facilities Construction - Finance.	(74,000)
99 State Board of Education Expenses	(50,000)
99 Affirmative Action and Equal Employment Opportunity Program	(68,000)
99 Educational Facility Construction Financing - Technology Administration	(132,000)

Receipts derived from fees for school district personnel background checks and unexpended balances as of June 30, 2002 of such receipts are appropriated for the cost of operation.

In addition to the amount appropriated, such sums as may be necessary for the Department of Education to conduct comprehensive compliance investigations are appropriated, subject to the recommendation of the Commissioner of Education and the approval of the Director of the Division of Budget and Accounting.

Additional sums as may be necessary for the Department of Education in preparation for implementation of P.L.1987, c.399 (C.18A:7A-34 et seq.) are appropriated, subject to the recommendation of the Commissioner of Education and the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee or its successor.

Additional sums as may be necessary for the Department of Education for the cost of the internal audit function in a State-operated school district pursuant to section 8 of P.L.1987, c.399 (C.18A:7A-41) are appropriated, subject to the recommendation of the Commissioner of Education and the approval of the Director of the Division of Budget and Accounting.

Department of Education, Total State Appropriation . $7,688,472,000

Of the amount appropriated hereinabove for the Department of Education, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule included in the Governor's Budget Recommendation Document dated March 26, 2002, first shall be charged to the State Lottery Fund.

The unexpended balances as of June 30, 2002 in the State Aid accounts, not to exceed $650,000, are appropriated to the State Aid Supplemental Funding account.

In the event that sufficient funds are not appropriated to fully fund any State Aid item, the Commissioner of Education shall apportion such appropriation among the districts in proportion to the State Aid each district would have been apportioned had the full amount of State Aid been appropriated.

Notwithstanding any law to the contrary, should appropriations in the Property Tax Relief Fund exceed available revenues, the Director of the Division of Budget and Accounting is authorized to transfer General Fund revenues into the Property Tax Relief Fund, provided unrestricted balances are available from the General Fund, as determined by the Director of the Division of Budget and Accounting.

Notwithstanding any other law or regulation to the contrary, each district shall receive no less of a total State aid amount payable for the 2002-2003 school year than the sum of the district's total State aid amount payable for the 2001-2002 school year for the following aid categories: Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Early Childhood Program Aid, Instructional Supplement Aid, Demonstrably Effective Program Aid, Rewards and Recognition, Stabilization Aid, Stabilization Aid II, Stabilization Aid III, Large Efficient District Aid, Aid for Districts with High Senior Citizen Populations, Regionalization Incentive Aid, Distance Learning Network Aid, Adult and Postsecondary Education Grants, Bilingual Education Aid, Special Education Aid, County Vocational Program Aid, Transportation Aid, and Aid for Enrollment Adjustments.

The Director of the Division of Budget and Accounting may transfer from one State Aid appropriations account for the Department of Education in the General Fund to another appropriations account in the same department in the Property Tax Relief Fund such funds as are necessary to effect the intent of the provisions of the appropriations act governing the allocation of State Aid to local school districts and to effect the intent of legislation enacted subsequent to the enactment of the appropriations act, provided that sufficient funds are available in the appropriations for that department.

The Director of the Division of Budget and Accounting may transfer from one appropriations account for the Department of Education in the Property Tax Relief Fund to another account in the same department and fund such funds as are necessary to effect the intent of the provisions of the appropriations act governing the allocation of State Aid to local school districts, provided that sufficient funds are available in the appropriations for that department.

Notwithstanding the provisions of section 8 of P.L.1996, c.138 (C.18A:7F-8), five percent of the total payments to local districts for Abbott v. Burke Parity Remedy

aid, Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Special Education, Transportation, Early Childhood programs, Demonstrably Effective programs, Instructional Supplement, Bilingual, County Vocational Education program, Distance Learning Network, and other aid pursuant to P.L.1996, c.138, as provided by the Department of Education to the local school districts for the 2002-2003 school year in the 2002-03 General Fund and Special Revenue Fund State Aid Payments Schedule, shall be paid on the 8th and 22nd of each month from September through June, with the last school aid payment being subject to the approval of the State Treasurer.

Notwithstanding the provisions of any law to the contrary, there shall not be required of a former constituent district of a grade 9 through 12 limited purpose regional school district which dissolved on June 30, 1997, any reimbursement or withholding of State aid as reimbursement of State aid provided in the 1998-99 school year to reduce the school tax increase of that former constituent district.

Summary of Department of Education Appropriations
(For Display Purposes Only)

Appropriations by Category:	
Direct State Services.	$53,820,000
Grants-in-Aid	13,415,000
State Aid.	7,620,837,000
Capital Construction	400,000
Appropriations by Fund:	
General Fund	$2,722,235,000
Property Tax Relief Fund	4,966,237,000

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION
40 Community Development and Environmental Management
42 Natural Resource Management
DIRECT STATE SERVICES

11-4870	Forest Resource Management	$7,151,000
12-4875	Parks Management.	38,601,000
13-4880	Hunters' and Anglers' License Fund	12,303,000
14-4885	Shellfish and Marine Fisheries Management.	1,667,000
20-4880	Wildlife Management	338,000
21-4895	Natural Resources Engineering	2,532,000
24-4876	Palisades Interstate Park Commission	2,214,000
	Total Direct State Services Appropriation, Natural Resource Management.	$64,806,000

Direct State Services:	
Personal Services:	
Salaries and Wages	($45,392,000)
Materials and Supplies	(4,005,000)
Services Other Than Personal	(2,445,000)
Maintenance and Fixed Charges.	(3,405,000)
Special Purpose:	
11 Fire Fighting Costs.	(1,759,000)

12 Cape May Point State Park -- Staffing . (85,000)
12 Green Acres/Open
Space Administration ..... (4,768,000)
12 Liberty State Park Commission ..... (11,000)
12 Expenses of the Delaware and Raritan
Canal Commission ..... (231,000)
12 Natural Lands Trust ..... (150,000)
12 Natural Areas Council ..... (3,000)
20 Wildlife Monitoring -
West Nile Virus ..... (79,000)
20 Endangered Species Tax Check-Off
Donations. ..... (259,000)
21 Office of Dredging and Sediment
Technology ..... (358,000)
21 Dam Safety. ..... (1,316,000)
Additions, Improvements and Equipment .. (540,000)

An amount equivalent to 75% of receipts in excess of the amount anticipated from fees and permit receipts from the use of State park and marina facilities, and the unexpended balance as of June 30, 2002 of such receipts, are appropriated for Parks Management, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from police court, stands, concessions and self-sustaining activities operated or supervised by the Palisades Interstate Park Commission, and the unexpended balance as of June 30, 2002 of such receipts, are appropriated.

Notwithstanding any other law to the contrary, an amount not to exceed $4,768,000 shall be transferred from the Garden State Green Acres Preservation Trust Fund to the General Fund and is appropriated to the Department of Environmental Protection for Green Acres/Open Space Administration.

The amount hereinabove for the Hunters' and Anglers' License Fund is payable out of that Fund and any amount remaining therein and the unexpended balance as of June 30, 2002 in the Hunters' and Anglers' License Fund, together with any receipts in excess of the amount anticipated, are appropriated. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

Pursuant to section 2 of P.L.1993, c.303 (C.23:3-1f) there are appropriated such sums as may be necessary to offset revenue losses associated with the issuance of free hunting and fishing licenses to active members of the New Jersey State National Guard and disabled veterans. The amount to be appropriated shall be certified by the Division of Fish and Wildlife and is subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Endangered Species Tax Check-Off Donations account is payable out of receipts, and the unexpended balances in the Endangered Species Tax Check-Off Donations account as of June 30, 2002, together with receipts in excess of the amount anticipated, are appropriated. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

An amount not to exceed $1,727,000 is allocated from the capital construction appropriation for Shore Protection Fund Projects for costs attributable to

planning, operation, and administration of the shore protection program, subject to the approval of the Director of the Division of Budget and Accounting.

An amount not to exceed $390,000 is allocated from the capital construction appropriation for Shore Protection Fund Projects for the operation and maintenance of the Bayshore Flood Control facility.

In addition to the amount hereinabove for Parks Management, $550,000 is appropriated from the Clean Communities Fund to offset the cost of Parks' litter pickup program.

GRANTS-IN-AID

11-4870 Forest Resource Management	$500,000
12-4875 Parks Management.	5,000,000
Total Grants-in-Aid Appropriation, Natural Resource Management	$5,500,000

Grants:

11 Statewide Community Forestry Program	($500,000)
12 Statewide Livable Communities.	(5,000,000)\

The unexpended balance as of June 30, 2002 for public and private dam repair, made available through a transfer to the Department of Environmental Protection from the unexpended balances in accounts established pursuant to the "Emergency Disaster Relief Act of 1999," and from the Emergency Services Fund allocation for Hurricane Floyd, is appropriated.

CAPITAL CONSTRUCTION

12-4875 Parks Management	$2,500,000
21-4895 Natural Resources Engineering.	28,000,000
Total Capital Construction Appropriation, Natural Resource Management	$30,500,000

Capital Projects:

12 Historic Preservation/ Renovation -- Buildings, Structures and Monuments.	($2,200,000)
12 Administrative/Maintenance Facilities -- Renovation, Rehabilitation and Maintenance	(200,000)
12 Overnight Facilities -- Development, Rehabilitation, Improvement and Repair	(100,000)
21 Shore Protection Fund Projects	(25,000,000)
21 Dam Repair	(3,000,000)

Notwithstanding the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), the Department of Environmental Protection may enter into a contract with the Waterloo Foundation for the Arts for improvements to existing State-owned structures or for the construction of new facilities at Waterloo Village.

The amount hereinabove for Shore Protection Fund Projects is payable from the receipts of the portion of the realty transfer tax directed to be credited to the Shore Protection Fund pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1).

An amount not to exceed $500,000 is allocated from the capital construction appropriation for Shore Protection Fund Projects for repairs to the Bayshore Flood Control facility.

The unexpended balance as of June 30, 2002 for public and private dam repair, made available through a transfer to the Department of Environmental Protection from the unexpended balances in accounts established pursuant to the "Emergency Disaster Relief Act of 1999," and from the Emergency Services Fund allocation for Hurricane Floyd, is appropriated.

43 Science and Technical Programs
DIRECT STATE SERVICES

02-4801	Air Pollution Control	$4,582,000
05-4810	Water Supply and Watershed Management	649,000
07-4850	Water Monitoring and Planning	1,222,000
18-4810	Science, Research and Technology.	3,046,000
22-4861	New Jersey Geological Survey.	1,324,000
29-4850	Environmental Remediation and Monitoring	9,300,000
90-4801	Watershed Management Planning	782,000
	Total Direct State Services Appropriation, Science and Technical Programs	$20,905,000

Direct State Services:

Personal Services:	
Salaries and Wages	($5,485,000)
Materials and Supplies	(229,000)
Services Other Than Personal	3,632,000)
Maintenance and Fixed Charges	(172,000)
Special Purpose:	
05 Safe Drinking Water Fund.	(649,000)
18 Environmental Indicators and Monitoring.	(650,000)
18 Greenhouse Gas Action Plan	(538,000)
18 Hazardous Waste Research	(250,000)
29 Water Resources Monitoring and Planning - Constitutional Dedication	(9,300,000)

There is allocated from the Commercial Vehicle Enforcement Fund, established pursuant to section 17 of P.L.1995, c.157 (C.39:8-75), such sums as may be necessary to fund the costs of the regulation of the Diesel Exhaust Emissions program, subject to the approval of the Director of the Division of Budget and Accounting.

There is allocated from the Motor Vehicle Inspection Fund, established in subsection j. of R.S.39:8-2, such sums as may be necessary to administer and implement the

Inspection and Maintenance program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of P.L.1991, c.235 (C.13:1D-35 et seq.) or any other law to the contrary, the amount appropriated hereinabove for Greenhouse Gas Action Plan is chargeable to receipts anticipated from the Pollution Prevention Fund, together with an amount not to exceed $271,000 for costs attributable to administration of the Greenhouse Gas Action Plan, subject to the Director of the Division of Budget and Accounting.

The amount hereinabove for the Hazardous Waste Research account is appropriated from interest earned by the New Jersey Spill Compensation Fund for research on the prevention and the effects of discharges of hazardous substances on the environment and organisms, on methods of pollution prevention and recycling of hazardous substances, and on the development of improved cleanup, removal and disposal operations, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Environmental Remediation and Monitoring program classification shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution. The unexpended balance as of June 30, 2002 in the Water Resources Monitoring and Planning - Constitutional Dedication and the Action Now Projects - Constitutional Dedication accounts are appropriated to be used in a manner consistent with the requirements of the constitutional dedication.

The unexpended balance as of June 30, 2002 in the Action Now Projects - Safe Drinking Water Fund is appropriated and up to $600,000 shall be made available to the Private Well Testing program.

The unexpended balance as of June 30, 2002 in the Safe Drinking Water Fund account, not to exceed the $800,000 budgeted for Total Maximum Daily Load (TMDL) activities, is appropriated.

44 Site Remediation

DIRECT STATE SERVICES

19-4815	Publicly-Funded Site Remediation	$5,356,000
27-4815	Responsible Party Site Remediation	23,686,000
29-4815	Environmental Remediation and Monitoring	5,020,000
	Total Direct State Services Appropriation, Site Remediation.	$34,062,000

Direct State Services:

Personal Services:	
Salaries and Wages	($7,830,000)
Materials and Supplies	(175,000)
Services Other Than Personal	(2,200,000)
Maintenance and Fixed Charges	(421,000)
Special Purpose:	
27 Hazardous Discharge Site Cleanup Fund -- Responsible Party	(16,692,000)

27 Underground Storage Tanks ..... (760,000)
29 Cleanup Projects Administrative
Costs -- Constitutional Dedication .. (5,020,000)
Additions, Improvements and Equipment .. (964,000)

In addition to site specific charges, the amounts hereinabove for the Publicly-Funded Site Remediation and the Responsible Party Site Remediation program classifications, excluding the Hazardous Discharge Site Cleanup Fund-Responsible Party, and the Underground Storage Tanks accounts, are appropriated from the New Jersey Spill Compensation Fund, in accordance with the provisions of P.L.1976, c.141 (C.58:10-23.11 et seq.), together with an amount not to exceed $5,265,000, for administrative costs associated with the cleanup of hazardous waste sites, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the federal funds amount for the Publicly-Funded Site Remediation program classification, such additional sums that may be received from the federal government for the Superfund Grants program are hereby appropriated.

There are appropriated from the New Jersey Spill Compensation Fund such sums as may be required for cleanup operations, adjusters and paying approved claims for damages in accordance with the provisions of P.L.1976, c.141 (C.58:10-23.11 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Hazardous Discharge Site Cleanup Fund-Responsible Party account is appropriated from responsible party cost recoveries deposited in the Hazardous Discharge Site Cleanup Fund, together with an amount not to exceed $9,413,000, for administrative costs associated with the cleanup of hazardous waste sites, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Underground Storage Tanks account is appropriated from responsible party cost recoveries deposited in the Hazardous Discharge Site Cleanup Fund, together with an amount not to exceed $479,000, for administrative costs associated with the cleanup of hazardous waste sites, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Environmental Remediation and Monitoring program classification shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution. The unexpended balance as of June 30, 2002 in the Cleanup Projects Administrative Costs - Constitutional Dedication account is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the sale of salvaged materials are appropriated to offset costs incurred in the cleanup and removal of hazardous substances.

CAPITAL CONSTRUCTION

29-4815 Environmental Remediation and Monitoring ... $41,470,000

Total Capital Construction Appropriation,
Site Remediation $41,470,000

Capital Projects:

29 Hazardous Substance Discharge Remediation -- Constitutional Dedication ..... ($22,870,000)

29 Private Underground Tank Remediation -- Constitutional Dedication ..... (18,600,000)

The amounts hereinabove for Hazardous Substance Discharge Remediation - Constitutional Dedication and Private Underground Storage Tank Remediation - Constitutional Dedication shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution.

45 Environmental Regulation

DIRECT STATE SERVICES

01-4820	Radiation Protection	$5,277,000
02-4892	Air Pollution Control	6,286,000
05-4840	Water Supply and Watershed Management.....	7,834,000
08-4891	Water Pollution Control	7,573,000
09-4860	Public Wastewater Facilities	2,922,000
15-4890	Land Use Regulation	8,680,000
23-4910	Solid and Hazardous Waste Management	10,493,000
	Total Direct State Services Appropriation, Environmental Regulation	$49,065,000

Direct State Services:

Personal Services:
Salaries and Wages ..... ($30,034,000)
Materials and Supplies ..... (363,000)
Services Other Than Personal ..... (5,137,000)
Maintenance and Fixed Charges ..... (259,000)
Special Purpose:
01 Nuclear Emergency Response ..... (1,256,000)
01 Quality Assurance -- Lab Certification Programs ..... (1,527,000)
05 Administrative Costs Water Supply Bond Act of 1981 -- Management ..... (1,231,000)
05 Administrative Costs Water Supply Bond Act of 1981 -- Watershed and Aquifer..... (1,370,000)
05 Administrative Costs Water SupplyBond Act of 1981 -- Planning and Standards ..... (904,000)
05 Water/Wastewater Operators Licenses . (43,000)

05 Office of the Rivermaster ..... (58,000)
05 Safe Drinking Water Fund ..... (1,519,000)
15 Tidelands Resource Council ..... (12,000)
15 Tidelands Peak Demands. ..... (2,047,000)
15 Office of Permit Information and Assistance. ..... (591,000)
23 Pollution Prevention ..... (1,731,000)
23 Recycling of Solid Waste ..... (983,000)

The amount hereinabove for the Nuclear Emergency Response account is payable from receipts received pursuant to the assessments of electrical utility companies under P.L.1981, c.302 (C.26:2D-37 et seq.), and the unexpended balances as of June 30, 2002 in the Nuclear Emergency Response account, together with receipts in excess of the amount anticipated, not to exceed $888,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts hereinabove for the Administrative Costs Water Supply Bond Act of 1981 - Water Supply Management; Watershed and Aquifer; and Planning and Standards accounts are appropriated from the "Water Supply Bond Act of 1981," P.L.1981, c.261, together with an amount, not to exceed $110,000, for costs attributable to administration of water supply programs, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the federal funds amount hereinabove for the Water Supply and Watershed Management program classification, such additional sums that may be received from the federal government for the Drinking Water State Revolving Fund program are appropriated.

Any funds received by the New Jersey Environmental Infrastructure Trust from any State agency to offset the Trust's annual operating expenses are appropriated.

In addition to the federal funds amount hereinabove for the Public Wastewater Facilities program classification, such additional sums that may be received from the federal government for the Clean Water State Revolving Fund program are appropriated.

Notwithstanding the provisions of P.L.1981, c.278 (C.13:1E-92 et seq.), as amended by P.L.1985, c.533, the amount hereinabove for the Recycling of Solid Waste account is appropriated from the State Recycling Fund, together with an amount not to exceed $411,000, for the administration of the Recycling of Solid Waste program, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

There are appropriated from the Sanitary Landfill Facility Contingency Fund such sums as may be required to carry out the provisions of the "Sanitary Landfill Facility Closure and Contingency Fund Act," P.L.1981, c.306 (C.13:1E-100 et seq.).

Receipts deposited to the Resource Recovery Investment Tax Fund and the Solid Waste Services Tax Fund are appropriated.

The amount hereinabove for the Pollution Prevention account is appropriated from receipts received pursuant to the "Pollution Prevention Act," P.L.1991, c.235 (C.13:1D-35 et seq.), together with an amount not to exceed $781,000, subject

to the approval of the Director of the Division of Budget and Accounting, for administration of the Pollution Prevention program. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

CAPITAL CONSTRUCTION

05-4840 Water Supply and Watershed Management $8,650,000
Total Capital Construction Appropriation,
Environmental Regulation. $8,650,000

Capital Projects:

05 Flood Control -- HR6 Projects ..... ($8,650,000)

46 Environmental Planning and Administration

DIRECT STATE SERVICES

26-4805 Regulatory and Governmental Affairs $2,126,000
99-4800 Administration and Support Services. 18,172,000
Total Direct State Services Appropriation,
Environmental Planning and Administration $20,298,000

Direct State Services:

Personal Services:
Salaries and Wages. ..... ($15,089,000)
Materials and Supplies ..... (232,000)
Services Other Than Personal ..... (988,000)
Maintenance and Fixed Charges ..... (280,000)
Special Purpose:
99 New Jersey Environmental
Management System ..... (2,000,000)
99 Affirmative Action and Equal
Employment Opportunity ..... (98,000)
Additions, Improvements and Equipment . (1,611,000)

The amount hereinabove for the New Jersey Environmental Management System is payable from receipts attributable to the increase in the New Jersey Pollutant Discharge Elimination System Permit fees, Stormwater Permit fees, Air Pollution fees, Solid and Hazardous Waste fees and Land Use Regulation fees.

STATE AID

99-4800 Administration and Support Services. $12,406,000
(From General Fund ..... $4,406,000)
(From Property Tax Relief Fund.....8,000,000)
Total State Aid Appropriation,
Environmental Planning and Administration $12,406,000
(From General Fund. ..... $4,406,000)
(From Property Tax Relief Fund ..... 8,000,000)

State Aid:

99 Mosquito Control, Research,
Administration and Operations. . . . ($1,287,000)
99 Payment in Lieu of Taxes (PTRF). . . (8,000,000)

99 Administration, Planning and Development Activities of the Pinelands Commission ..... (2,954,000)
99 Grants to Local Environmental Commissions. ..... (165,000)

Receipts derived from permit fees issued by the Pinelands Commission on behalf of the Department of Environmental Protection, pursuant to a memorandum of agreement between the Pinelands Commission and the Department of Environmental Protection, are hereby appropriated to the Pinelands Commission.

If the amount appropriated herein for Payment in Lieu of Taxes is insufficient to compensate municipalities for land owned by the State for conservation and recreation purposes, as determined according to the formula for payments in lieu of taxes in the "Garden State Preservation Trust Act" P.L.1999, c.152 (C.13:8C-1 et seq.) such additional sums as are necessary are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of subsection d. of section 29 of P.L.1999, c.152 (C.13:8C-29) or subsection d. of section 30 of P.L.1999, c.152 (C.13:8C-30), or any other law to the contrary, all payments to municipalities in lieu of taxes for lands acquired by the State for recreation and conservation purposes shall be retained by the municipality and not apportioned in the same manner as the general tax rate of the municipality.

CAPITAL CONSTRUCTION

99-4800 Administration and Support Services $125,000
Total Capital Construction Appropriation, Environmental Planning and Regulation $125,000

Capital Projects:

99 Mosquito Control Equipment ..... ($125,000)

47 Compliance and Enforcement

DIRECT STATE SERVICES

02-4825 Air Pollution Control. $8,316,000
04-4835 Pesticide Control 2,096,000
08-4855 Water Pollution Control 5,677,000
15-4855 Land Use Regulation 1,846,000
23-4855 Solid and Hazardous Waste Management. 3,996,000
Total Direct State Services Appropriation, Compliance and Enforcement $21,931,000

Direct State Services:

Personal Services:
Salaries and Wages ..... ($15,196,000)
Materials and Supplies ..... (175,000)
Services Other Than Personal ..... (1,070,000)
Maintenance and Fixed Charges. ..... (350,000)
Special Purpose:
02 Toxic Catastrophe Prevention ..... (912,000)

02 Worker and Community Right to
Know Act ..... (1,012,000)
02 Oil Spill Prevention ..... (2,439,000)
15 Tidelands Peak Demands. ..... (777,000)

Notwithstanding the provisions of the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), the amount hereinabove for the Worker and Community Right to Know Act account is payable out of the Worker and Community Right to Know Trust Fund, and the receipts in excess of the amount anticipated, not to exceed $222,000, are appropriated. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

The amount hereinabove for the Oil Spill Prevention program is payable out of the New Jersey Spill Compensation Fund, and the receipts in excess of those anticipated, not to exceed $947,000, from the New Jersey Spill Compensation Fund for the Oil Spill Prevention program are appropriated, in accordance with the provisions of P.L.1990, c.76 (C.58:10-23.11f2 et seq.), P.L.1990, c.78 (C.58:10-23.11d1 et seq.), and P.L.1990, c.80 (C.58:10-23.11f1), subject to the approval of the Director of the Division of Budget and Accounting.

Receipts deposited into the Coastal Protection Trust Fund pursuant to P.L.1993, c.168 (C.39:3-27.47 et seq.) are appropriated in an amount not to exceed $600,000 for the cleanup or maintenance of beaches or shores, an amount not to exceed $200,000 for the cost of providing monitoring, surveillance and enforcement activities for the Cooperative Coastal Monitoring Program, an amount not to exceed $50,000 for the implementation of the "New Jersey Adopt a Beach Act," P.L.1992, c.213 (C.13:19-22 et seq.), and an amount not to exceed $150,000 for a program of grants for the operation of a sewage pump-out boat and the construction of sewage pump-out devices for marine sanitation devices and portable toilet emptying receptacles at public and private marinas and boatyards in furtherance of the provisions of P.L.1988, c.117 (C.58:10A-56 et seq.). Receipts deposited to the Coastal Protection Trust Fund in excess of $1,000,000 are appropriated to finance emergency shore protection projects and the cleanup of discharges into the ocean.

STATE AID

08-4855 Water Pollution Control $2,453,000
(From Property Tax Relief Fund. ..... $2,453,000)
Total State Aid Appropriation,
Compliance and Enforcement Policy $2,453,000
(Total From Property
Tax Relief Fund ..... $2,453,000)

State Aid:
08 County Environmental
Health Act (PTRF) ..... ($2,453,000)

Department of Environmental Protection,
Total State Appropriation $312,171,000

The amounts hereinabove for the Safe Drinking Water Fund account are payable out of receipts, and receipts in excess of the amount anticipated, not to exceed $1,177,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

The amounts hereinabove for the Tidelands Peak Demands account are appropriated from receipts derived from the sales, grants, leases, licensing, and rentals of State riparian lands, together with an amount not to exceed $1,771,000, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

Notwithstanding any other law, the Commissioner of the Department of Environmental Protection shall obtain concurrence from the Director of the Division of Budget and Accounting before altering fee schedules or any other revenue-generating mechanism under the department's purview.

Notwithstanding the provisions of the "Environmental Fee Accountability Act of 1991," P.L.1991, c.426 (C.52:27B-20.1 et seq.) and P.L.1991, c.427 (C.13:1D-9.1 et seq.), all revenues from fees and fines collected by the Department of Environmental Protection, unless otherwise dedicated herein, shall be deposited into the State General Fund without regard to their specific dedication.

Notwithstanding any other provisions in this act, of the Federal Fund amounts appropriated for the programs included in the Performance Partnership Grant Agreement with the United States Environmental Protection Agency, the Department of Environmental Protection is authorized to reallocate the appropriations, in accordance with the Grant Agreement and subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of P.L.1954, c.48 (C.52:34-6 et seq.) or any other law to the contrary, the Department of Environmental Protection may enter into a contract with the United States Environmental Protection Agency (EPA) to provide the State's statutory matching share for EPA-led Superfund remedial actions pursuant to the State Superfund Contract (SSC).

Notwithstanding any other law to the contrary, any grants awarded during the fiscal year ending June 30, 2003, or during any preceding fiscal year, by the Department of Environmental Protection, or its predecessors, from the proceeds of bonds issued pursuant to P.L.1969, c.127; P.L.1976, c.92; P.L.1980, c.70; P.L.1981, c.261; P.L.1985, c.329; P.L.1989 c.181 or P.L.1992, c.88 or other grants awarded pursuant to other grant programs administered by the department, shall not be considered to be impaired by a structured financing transaction undertaken by a governmental entity which is authorized by section 10 of P.L.1999, c.157 (C.52:31C-10) as amended by section 1 of P.L.2000, c.54, to undertake such transactions, nor shall any State interest created by the award of any such grant be determined to be so impaired by a structured financing transaction undertaken by any local governmental entity pursuant to section 10 of P.L.1999, c.157. Any such grant, and any provisions, covenants and conditions contained in the award thereof, shall not (i) limit, restrict or impair the rights of the local governmental entity to transfer or encumber its facilities or assets for purposes of entering into a structured financing transaction pursuant to

that section, (ii) be violated by the completion of a structured financing transaction undertaken pursuant to that section and (iii) cause the Department of Environmental Protection to rescind or annul any grant, or undertake any other enforcement actions, including the revocation of any permit or license granted, in response to a structured financing transaction undertaken pursuant to that section.

Summary of Department of Environmental Protection Appropriations
(For Display Purposes Only)

Appropriations by Category:	
Direct State Services.	$211,067,000
Grants-in-Aid	5,500,000
State Aid.	14,859,000
Capital Construction	80,745,000
Appropriations by Fund:	
General Fund	$301,718,000
Property Tax Relief Fund.	10,453,000

46 DEPARTMENT OF HEALTH AND SENIOR SERVICES
20 Physical and Mental Health
21 Health Services
DIRECT STATE SERVICES

01-4215	Vital Statistics	$1,381,000
02-4220	Family Health Services	9,099,000
03-4230	Public Health Protection Services	18,817,000
04-4240	Addiction Services.	30,529,000
08-4280	Laboratory Services	8,524,000
12-4245	AIDS Services.	2,384,000
	Total Direct State Services Appropriation, Health Services.	$70,734,000

Direct State Services:	
Personal Services:	
Salaries and Wages.	($16,137,000)
Materials and Supplies	(2,448,000)
Services Other Than Personal	(1,029,000)
Maintenance and Fixed Charges	(194,000)
Special Purpose:	
01 Electronic Death Certificate.	(125,000)
02 WIC Farmers Market Program	(87,000)
02 Breast Cancer Public Awareness Campaign	(90,000)
03 Cancer Investigation and Education	(500,000)
02 Emergency Medical Services for Children.	(50,000)
02 Identification System for Children's Health and Disabilities.	(900,000)

02 Public Awareness Campaign for Black Infant Mortality . . . . . (500,000)
02 Cancer Screening - Early Detection and Education Program. . . . . (2,700,000)
02 Newborn Screening Follow-up and Treatment . . . . . (3,100,000)
03 Advisory Council to Promote the Profession of Nursing . . . . . (25,000)
03 Timely Issuance of Export of Certificates of Free Sale . . . . . (50,000)
03 Evaluation of Human Exposure to Hazardous Waste . . . . . (200,000)
03 New Jersey Domestic Security Preparedness . . . . . (1,450,000)
03 Expansion of Cancer Initiatives . . . . (3,250,000)
03 Cancer Registry . . . . . (400,000)
03 West Nile Virus - Public Health . . . . . (80,000)
03 New Jersey State Commission on Cancer Research . . . . . (1,000,000)
03 Medical Waste Management Program . . . . . (874,000)
03 Rabies Control Program . . . . . (460,000)
03 Animal Population Control Program . (349,000)
03 Worker and Community Right to Know Program . . . . . (2,046,000)
03 New Jersey Coalition to Promote Cancer Prevention, Early Detection and Treatment . . . . . (200,000)
04 Youth Anti-Tobacco Awareness Media Campaign . . . . . (6,300,000)
04 Smoking Cessation Programs for Addicted Adults and Youth . . . . . (8,700,000)
04 Research, Surveillance, Evaluation and Assistance for Anti-Smoking Programs . . . . . (3,000,000)
04 School Based Programs for the Prevention of Tobacco Use . . . . . (5,000,000)
04 Community Based Tobacco Control Programs . . . . . (7,000,000)
08 New Jersey Domestic Security Preparedness . . . . . (1,800,000)
08 West Nile Virus - Laboratory . . . . . (690,000)

In addition to the amount appropriated above for Emergency Medical Services for Children, $150,000 is appropriated from the annual .53% assessment on New Jersey hospitals, established pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62), for the same purpose.

Notwithstanding the provisions of any other law to the contrary, there is appropriated from the "Emergency Medical Technician Training Fund" $79,000 for Emergency Medical Services and $125,000 for the First Response EMT Cardiac Training Program.

The unexpended balance, as of June 30, 2002, in the New Jersey Emergency Medical Service Helicopter Response Program account is appropriated.

Notwithstanding the provisions of any other law to the contrary, there is appropriated from the "Emergency Medical Technician Training Fund" $2,000,000 for the training, testing and recruitment of emergency medical personnel who serve on volunteer ambulance squads, first aid or rescue squads, including, but not limited to, the purchase of computers and internet access for volunteer squads for distance learning purposes and grants to accredited training sites for equipment and educational materials.

The amount hereinabove for the New Jersey State Commission on Cancer Research is charged to the Cancer Research Fund pursuant to section 5 of P.L.1982, c.40 (C.54:40A-37.1).

The unexpended balance, as of June 30, 2002, in the New Jersey State Commission on Cancer Research account is appropriated.

Amounts deposited in the "New Jersey Breast Cancer Research Fund" from the gross income tax check-offs pursuant to the provisions of P.L.1995, c.26 (C.54A:9-25.7 et al.) are appropriated to the New Jersey State Commission on Cancer Research for breast cancer research projects, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance, as of June 30, 2002, in the Comprehensive Regulated Medical Waste Management Act account, together with any receipts received by the Department of Health and Senior Services pursuant to the provisions of the "Comprehensive Regulated Medical Waste Management Act," P.L.1989, c.34 (C.13:1E-48.1 et seq.), is appropriated.

The unexpended balance, as of June 30, 2002, in the Rabies Control Program account, together with any receipts in excess of the amount anticipated, is appropriated.

The amount hereinabove for the Rabies Control Program account is payable out of the Rabies Control Fund. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance, as of June 30, 2002, in the Animal Population Control Program account, together with any receipts in excess of the amount anticipated, is appropriated.

The amount hereinabove for the Animal Population Control Program account is payable out of the "Animal Population Control Fund." If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

Notwithstanding the provisions of the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), to the contrary, $1,362,000 of the amount hereinabove for the Worker and Community Right to Know account is payable out of the Worker and Community Right to Know Fund. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

The Division of Addiction Services is authorized to bill a patient, a patient's estate, the person chargeable for a patient's support or the county of residence for

institutional, residential and outpatient support of patients treated for alcoholism or drug abuse, or both. Receipts derived from billings or fees and unexpended balances, as of June 30, 2002, from these billings and fees are appropriated to the Department of Health and Senior Services, Division of Addiction Services for the support of the alcohol and drug abuse programs, subject to the approval of the Director of the Division of Budget and Accounting.

In order to permit flexibility in the handling of the various appropriations for anti-tobacco initiative accounts hereinabove, funds may be transferred to and from the following items of appropriation: Youth Anti-Tobacco Awareness Media Campaign; Smoking Cessation Programs for Addicted Adults and Youth; Research, Surveillance, Evaluation & Assistance for Anti-Smoking Programs; School Based Programs for the Prevention of Tobacco Use; and Community Based Tobacco Control Programs. Such transfers are subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

There are appropriated from the Alcohol Education, Rehabilitation and Enforcement Fund such sums as may be necessary to carry out the provisions of P.L.1983, c.531 (C.26:2B-32 et al.).

There is transferred from the "Drug Enforcement and Demand Reduction Fund" $350,000 to carry out the provisions of P.L.1995, c.318 (C.26:2B-36 et seq.) to establish an "Alcohol and Drug Abuse Program for the Deaf, Hard of Hearing and Disabled" in the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated $700,000 from the "Drug Enforcement and Demand Reduction Fund," established pursuant to N.J.S.2C:35-15, to the Department of Health and Senior Services for a grant to Partnership for a Drug-Free New Jersey.

The Director of the Division of Budget and Accounting is empowered to transfer or credit appropriations to the Department of Health and Senior Services for diagnostic laboratory services provided to any other agency or department; provided further, however, that funds have been appropriated or allocated to such agency or department for the purpose of purchasing these services.

Receipts from fees established by the Commissioner of Health and Senior Services for licensing of clinical laboratories, pursuant to P.L.1975, c.166 (C.45:9-42.26 et seq.), and blood banks, pursuant to P.L.1963, c.33 (C.26:2A-2 et seq.), are appropriated.

Receipts from licenses, permits, fines, penalties and fees collected by the Department of Health and Senior Services in Health Services, in excess of those anticipated, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law to the contrary, the amounts appropriated hereinabove for the five anti-smoking programs (Community Based Tobacco Control Programs, Youth Anti-Tobacco Awareness Media Campaign, Smoking Cessation Programs for Addicted Adults and Youth, School Based Programs for the Prevention of Tobacco Use and Research, Surveillance, Evaluation and

Assistance for Anti-Smoking Programs) shall be charged to the proceeds of the increase in the cigarette tax, established pursuant to P.L.2002, c.33.

Receipts derived from the agency surcharge on vehicle rentals pursuant to P.L.2002, c.34, not to exceed $12,500,000, are appropriated for the Medical Emergency Disaster Preparedness for Bioterrorism program and shall be deposited into a dedicated account, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

GRANTS-IN-AID

02-4220 Family Health Services	$15,460,000
(From General Fund $14,960,000)	
(From Casino Revenue Fund 500,000)	
03-4230 Public Health Protection Services	23,615,000
04-4240 Addiction Services	31,705,000
12-4245 AIDS Services	19,604,000
Total Grants-in-Aid Appropriation, Health Services	$90,384,000
(From General Fund $89,884,000)	
(From Casino Revenue Fund 500,000)	

Grants-in-Aid:

02 Family Planning Services	($4,000,000)
02 Hemophilia Services	(1,023,000)
02 Testing for Specific Hereditary Diseases	(130,000)
02 Special Health Services for Handicapped Children	(1,921,000)
02 Chronic Renal Disease Services	(416,000)
02 Pharmaceutical Services for Adults with Cystic Fibrosis	(302,000)
02 Birth Defects Registry	(25,000)
02 Statewide Birth Defects Registry (CRF)	(500,000)
02 Cost-of-Living Adjustment, Family Health Services	(586,000)
02 Maternal and Child Health Services	(3,091,000)
02 Emergency Medical Services	(58,000)
02 Primary Care Services - Dover Free Clinic	(245,000)
02 Lead Poisoning Program	(779,000)
02 Poison Control Center	(480,000)
02 Cleft Palate Programs	(614,000)
02 Newborn Screening Follow-Up and Treatment for Hemoglobins	(149,000)
02 SIDS Assistance Act	(170,000)
02 Camden Optometric Eye Center	(250,000)
02 Tourette's Syndrome	(200,000)
02 Services to Victims of Huntington's Disease	(271,000)

02 St. Barnabas Hospital - Institute of Neurology/Neuroservice . . . . . (250,000)
03 Cancer Institute of New Jersey . . . . . (20,000,000)
03 Tuberculosis Services . . . . . (1,255,000)
03 Cost of Living Adjustment, Public Health Protection . . . . . (406,000)
03 Immunization Services . . . . . (765,000)
03 AIDS Communicable Disease Control . (408,000)
03 Garden State Cancer Center . . . . . (500,000)
03 Worker and Community Right to Know . . . . . (281,000)
04 Substance Abuse Treatment for DYFS/ Work First Mothers -- Pilot Project . . . . (1,373,000)
04 Delaney Hall Drug Treatment Program . . . . . (6,000,000)
04 Drugs are Ugly and Uncool Campaign . (211,000)
04 Cost of Living Adjustment, Addiction Services . . . . . (2,298,000)
04 Community Based Substance Abuse Treatment and Prevention -- State Share . . . . . (18,400,000)
04 Vocational Adjustment Centers . . . . . (104,000)
04 Compulsive Gambling . . . . . (650,000)
04 Mutual Agreement Parolee Rehabilitation Project for Substance Abusers . . . . . (682,000)
04 In-State Juvenile Residential Treatment Services . . . . . (1,987,000)
12 Cost of Living Adjustment, AIDS Services . . . . . (1,217,000)
12 AIDS Grants . . . . . (18,387,000)

There are appropriated from the New Jersey Emergency Medical Service Helicopter Response Program Fund, established pursuant to section 2 of P.L.1992, c.87 (C.26:2K-36.1), such sums as are necessary to pay the reasonable and necessary expenses of the operation of the New Jersey Emergency Medical Service Helicopter Response Program, established pursuant to P.L.1986, c.106 (C.26:2K-35 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

Of the amounts appropriated for Maternal and Child Health Services, there shall be available $300,000 for the Perinatal Addictions Initiative, $450,000 for Fetal Alcohol Clinics and $400,000 for the Maternal and Child Health Nutrition Initiative.

An amount not to exceed $1,830,000 is appropriated to the Department of Health and Senior Services from monies deposited in the Health Care Subsidy Fund, established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58), to fund the Infant Mortality Reduction Program.

There is appropriated $570,000 from the Alcohol Education, Rehabilitation and Enforcement Fund to fund the Fetal Alcohol Syndrome Program.

The unexpended balance of appropriations, as of June 30, 2002, made to the Department of Health and Senior Services by section 20 of P.L.1989, c.51 for State-licensed or approved drug abuse prevention and treatment programs is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, there is transferred $1,000,000 to the Department of Health and Senior Services from the "Drug Enforcement and Demand Reduction Fund" for drug abuse services.

Notwithstanding the provisions of any other law to the contrary, there is transferred $500,000 to the Department of Health and Senior Services from the "Drug Enforcement and Demand Reduction Fund" for the Sub-Acute Residential Detoxification Program.

An amount, not to exceed $600,000, collected by the Casino Control Commission is payable to the General Fund pursuant to section 145 of P.L.1977, c.110 (C.5:12-145). The unexpended balance, as of June 30, 2002, in the Compulsive Gambling account is appropriated to the Department of Health and Senior Services to provide funds for compulsive gambling grants.

There is appropriated $420,000 from the Alcohol Education, Rehabilitation and Enforcement Fund to fund the Local Alcoholism Authorities - Expansion account.

Notwithstanding the provisions of P.L.1983, c.531 (C.26:2B-32 et al.) or any other law to the contrary, the unexpended balance in the Alcohol Education, Rehabilitation and Enforcement Fund, as of June 30, 2002, is appropriated and shall be distributed to counties for the treatment of alcohol and drug abusers and for education purposes.

In addition to the amount hereinabove for Community Based Substance Abuse Treatment and Prevention - State Share program, there is appropriated $3,700,000 from the Drug Enforcement and Demand Reduction Fund for the same purpose.

In addition to the amount hereinabove for Community Based Substance Abuse Treatment and Prevention - State Share program, there is appropriated $1,000,000 from the Alcohol Education, Rehabilitation and Enforcement Fund for the same purpose.

STATE AID

02-4220 Family Health Services	$24,425,000
03-4230 Public Health Protection Services	4,580,000
Total State Aid Appropriation, Health Services	$29,005,000

State Aid:

02 Early Childhood Intervention Program	($24,425,000)
03 Public Health Priority Funding	(4,100,000)
03 Local Health Department Information Network (LINCS)	(480,000)

The capitation is set not to exceed 40 cents for the year ending June 30, 2003 for the purposes prescribed in P.L.1966, c.36 (C.26:2F-1 et seq.).

In addition to the amount hereinabove, receipts from the federal Medicaid (Title XIX) Program for handicapped infants are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove for the Early Childhood Intervention Program, such additional sums as may be required are appropriated from the General Fund to cover additional costs of the program to maintain federal compliance, subject to the approval of the Director of the Division of Budget and Accounting.

CAPITAL CONSTRUCTION

08-4280 Laboratory Services	$650,000
Total Capital Construction Appropriation, Health Services	$650,000

Capital Projects:

08 Improvements to Laboratories and Installed Equipment	($150,000)
08 Laboratory Equipment	(500,000)

22 Health Planning and Evaluation

DIRECT STATE SERVICES

06-4260 Long Term Care Systems	$4,763,000
07-4270 Health Care Systems Analysis	1,541,000
Total Direct State Services Appropriation, Health Planning and Evaluation	$6,304,000

Direct State Services:

Personal Services:	
Salaries and Wages	($4,742,000)
Materials and Supplies	(60,000)
Services Other Than Personal	(179,000)
Maintenance and Fixed Charges	(94,000)
Special Purpose:	
06 Nursing Home Background Checks/ Nursing Aide Certification Program	(979,000)
07 Implementation of Statewide Health Information Network	(250,000)

Receipts from licenses, permits, fines, penalties and fees collected by the Department of Health and Senior Services in Health Planning and Evaluation, in excess of those anticipated, are appropriated subject to a plan approved by the Director of the Division of Budget and Accounting.

Receipts from fees established by the Commissioner of Health and Senior Services for licensing of clinical laboratories, pursuant to P.L.1975, c.166 (C.45:9-42.26 et seq.), and blood banks, pursuant to P.L.1963, c.33 (C.26:2A-2 et seq.), are appropriated.

In addition to the amount appropriated above for the Implementation of Statewide Health Information Network, $1,000,000 is appropriated from the annual.53% assessment on New Jersey hospitals, established pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62), for establishing HIPAA compliance.

Available funds are appropriated to the "Health Care Facilities Improvement Fund" to provide available resources in an emergency situation at a health care facility, as defined by the Commissioner of Health and Senior Services, or for closure of a health care facility, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from fees charged for processing Certificate of Need applications, and the unexpended balances of such receipts as of June 30, 2002, are appropriated for the cost of this program, subject to the approval of the Director of the Division of Budget and Accounting.

From the amount appropriated above for the Implementation of Statewide Health and Information Network, $250,000 shall be allocated to Thomas A. Edison State College.

GRANTS-IN-AID

07-4270Health Care Systems Analysis $25,116,000
Total Grants-in-Aid Appropriation,
Health Planning and Evaluation. $25,116,000

Grants-in-Aid:

07 Hospital Assistance Grants . . . . . ($7,000,000)
07 Supplemental Charity Care . . . . . (18,116,000)

There are appropriated such sums as are necessary to pay prior-year obligations of programs within the Health Care Subsidy Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, $6,000,000 of the amount hereinabove for the Health Care Subsidy Fund payments account is appropriated from the Admission Charge Hospital Assessment revenue item.

Notwithstanding the provisions of any other law to the contrary, up to $25,000,000, representing increased payments for hospital charity care, are appropriated from the Health Care Subsidy Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, there is established a Supplemental Charity Care Fund account for disbursement of additional charity care funding to hospitals with documented charity care in calendar year 2001. The total amount to be disbursed from the Supplemental Charity Care Fund shall not exceed the amount appropriated. Hospitals, which have not received payments under the Charity Care Subsidy, pursuant to P.L.1996, c.28, equal to at least $0.30 per dollar of charity care provided, shall be eligible to receive payments from the Supplemental Charity Care Fund pursuant to a methodology established by the Commissioner of Health and Senior Services. These payments will be prorated so that payments to all hospitals from Supplemental Charity Care do not exceed the amount appropriated.

The amount appropriated hereinabove for Hospital Assistance Grants shall be distributed as grants to private non-profit general hospitals located in municipali-

ties with a population of less than 250,000 within counties with a population of at least 600,000 in which at least 15% of the residents live in poverty or at least 25% of residents are under 18 years old, as determined by the most recent United States Census data. Eligible hospitals shall have Medicaid charges constituting at least 9% of their gross charges according to 3rd quarter 2001 financial data from a data set approved by the Commissioner of Health and Senior Services.

25 Health Administration

DIRECT STATE SERVICES

99-4210 Administration and Support Services $5,407,000
Total Direct State Services Appropriation,
Health Administration $5,407,000

Direct State Services:
Personal Services:
Salaries and Wages ..... ($3,156,000)
Materials and Supplies ..... (49,000)
Services Other Than Personal ..... (618,000)
Special Purpose:
99 Office of Minority and
Multicultural Health ..... (1,500,000)
99 Affirmative Action and Equal
Employment Opportunity..... (84,000)

26 Senior Services

DIRECT STATE SERVICES

22-4275 Medical Services for the Aged $5,249,000
24-4275 Pharmaceutical Assistance to
the Aged and Disabled 6,904,000
28-4275 Lifeline 1,917,000
55-4275 Programs for the Aged 1,356,000
(From General Fund ..... $485,000)
(From Casino Revenue Fund ..... 871,000)
56-4275 Office of the Ombudsman 898,000
57-4275 Office of the Public Guardian 727,000
Total Direct State Services Appropriation,
Senior Services $17,051,000
(Total From General Fund ..... $16,180,000)
(Total From Casino Revenue Fund. ..... 871,000)

Direct State Services:
Personal Services:
Salaries and Wages ..... ($9,425,000)
Salaries and Wages (CRF) ..... (658,000)
Employee Benefits (CRF) ..... (138,000)
Materials and Supplies ..... (296,000)
Materials and Supplies (CRF) ..... (14,000)
Services Other Than Personal ..... (2,671,000)

Services Other Than Personal (CRF) ..... (47,000)
Maintenance and Fixed Charges ..... (735,000)
Maintenance and Fixed Charges (CRF) ..... (2,000)
Special Purpose
22 Fiscal Agent -- Medical Services for the Aged ..... (737,000)
24 Payments to Fiscal Agent - PAA ... (2,134,000)
55 Federal Programs for the Aging (State Share) ..... (143,000)
Additions, Improvements and Equipment ... (39,000)
Additions, Improvements and Equipment (CRF) ..... (12,000)

When any action by a county welfare agency, whether alone or in combination with the Division of Medical Assistance and Health Services in the Department of Human Services or the Department of Health and Senior Services, results in a recovery of improperly granted medical assistance, the Division of Medical Assistance and Health Services or the Department of Health and Senior Services may reimburse the county welfare agency in the amount of 25% of the gross recovery.

Notwithstanding the provisions of any other State law to the contrary, any third party, as defined in subsection m. of section 3 of P.L.1968, c.413 (C.30:4D-3), writing health, casualty or malpractice insurance policies in the State or covering residents of this State, shall enter into an agreement with the Department of Health and Senior Services to permit and assist the matching of the Department of Health and Senior Services' program eligibility and/or adjudication claims files against that third party's eligibility and/or adjudicated claims files for the purpose of the coordination of benefits, utilizing, if necessary, social security numbers as common identifiers.

The unexpended balances, as of June 30, 2002, in the Payments to Fiscal Agent - PAA account are appropriated.

Receipts from the Office of the Public Guardian for Elderly Adults are appropriated.

GRANTS-IN-AID

22-4275 Medical Services for the Aged $289,620,000
(From General Fund ..... $280,963,000)
(From Casino Revenue Fund. ..... 8,657,000)
24-4275 Pharmaceutical Assistance to the Aged and Disabled 330,552,000
(From General Fund ..... 75,478,000)
(From Casino Revenue Fund ..... 255,074,000)
28-4275 Lifeline 45,840,000
(From General Fund ..... 11,171,000)
(From Casino Revenue Fund ..... 34,669,000)
55-4275 Programs for the Aged 28,598,000
(From General Fund ..... 14,404,000)
(From Casino Revenue Fund ..... 14,194,000)
Total Grants-in-Aid Appropriation, Senior Services ... $694,610,000

(Total From General Fund . . . . . $382,016,000)
(Total From Casino Revenue Fund . . . 312,594,000)
Grants-in-Aid:
22 Assisted Living Program . . . . . ($13,973,000)
22 Community Care Alternatives. . . . . (27,370,000)
22 Community Care Alternatives (CRF) . (3,253,000)
22 Payments for Medical Assistance
Recipients -- Nursing Homes . . . . . (166,497,000)
22 Medical Day Care Services . . . . . (49,046,000)
22 Medicaid High Occupancy --
Nursing Homes . . . . . (9,000,000)
22 Home Care Expansion (CRF) . . . . . (354,000)
22 ElderCare Initiatives . . . . . (19,877,000)
22 Hearing Aid Assistance for the Aged
and Disabled (CRF) . . . . . (250,000)
22 Pharmaceutical Assistance to
the Aged -- Claims . . . . . (36,626,000)
22 Pharmaceutical Assistance to
the Aged and Disabled -- Claims. . . . . (5,959,000)
24 Pharmaceutical Assistance to the
Aged and Disabled -- Claims (CRF) . (259,874,000)
24 Senior Gold Prescription
Assistance Program . . . . . (28,093,000)
28 Payments for Lifeline Credits (CRF) . (34,669,000)
28 Payments for Tenants
Assistance Rebates . . . . . (11,171,000)
55 Arthritis Quality of Life Initiative Act . . (464,000)
55 Purchase of Social Services . . . . . (8,497,000)
55 ElderCare Advisory
Commission Initiatives . . . . . (3,500,000)
55 Cost-of-Living Adjustment,
Senior Services . . . . . (339,000)
55 Alzheimer's Disease Program . . . . . (759,000)
55 Demonstration Adult Day Care Center
Program - Alzheimer's Disease (CRF) . . (2,572,000)
55 Adult Protective Services . . . . . (845,000)
55 Adult Protective Services (CRF) . . . . . (1,780,000)
55 Senior Citizen Housing -- Safe
Housing and Transportation (CRF) . . . . (1,668,000)
55 Respite Care for the Elderly (CRF) . . . (5,251,000)
55 Congregate Housing Support
Services (CRF) . . . . . (1,938,000)
55 Home Delivered Meals
Expansion (CRF) . . . . . (985,000)

The amounts hereinabove appropriated for Payments for Medical Assistance Recipients - Nursing Homes are available for the payment of obligations applicable to prior fiscal years.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the General Medical Services program classification in the Division of Medical Assistance and Health Services in the Department of Human Services and the Medical Services for the Aged program classification in Senior Services in the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

All funds recovered pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1975, c.194 (C.30:4D-20 et seq.) during the fiscal year ending June 30, 2003 are appropriated for payments to providers in the same program class from which the recovery originated.

Notwithstanding the provisions of any other law to the contrary, a sufficient portion of receipts generated or savings realized in the Medical Services for the Aged Grants-In-Aid accounts from initiatives included in the fiscal year 2003 Budget may be transferred to administration accounts to fund costs incurred in realizing these additional receipts or savings, subject to the approval of the Director of the Division of Budget and Accounting.

The Division of Medical Assistance and Health Services in the Department of Human Services and the Department of Health and Senior Services, subject to federal approval, shall implement policies that would limit the ability of persons who have the financial ability to provide for their own long-term care needs to manipulate current Medicaid rules to avoid payment for that care. The Division of Medical Assistance and Health Services and the Department of Health and Senior Services shall require, in the case of a married individual requiring long-term care services, that the portion of the couple's resources which are not protected for the needs of the community spouse be used solely for the purchase of long-term care services.

Such sums as may be necessary are appropriated from enhanced audit recoveries obtained by the Department of Health and Senior Services to fund the costs of enhanced audit recovery efforts of the department within the Medical Services for the Aged program classification, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for Medicaid nursing facility reimbursement shall be expended for administrator or assistant administrator costs or nonfood general costs in excess of 100% of the median for those cost centers, subject to the notice provisions of 42 CFR 447.205.

Notwithstanding the provisions of any other law to the contrary, effective July 1, 1996, reimbursement for nursing facility services shall be 90% of the per diem rate when a Medicaid beneficiary is hospitalized. These payments shall be limited to the first 10 days of the hospitalization. Medicaid reimbursement for nursing facility services shall be discontinued beyond the 10th day of the hospitalization.

From the amount appropriated for the Payments for Medical Assistance Recipients - Nursing Homes account, funds shall be available to develop and implement a new nursing home rate-setting system, subject to the approval of the Director of the Division of Budget and Accounting.

The funds appropriated hereinabove for Payments for Medical Assistance Recipients - Medicaid High Occupancy - Nursing Homes shall be distributed for patient services among those nursing homes where Medicaid patient day occupancy level is at or above 75%. Each such facility shall receive its distribution through a prospective per diem rate adjustment according to the following formula: E = A Medicaid days/ T Medicaid days x F; where E is the entitlement for a specific nursing home resulting from this allocation; A Medicaid days is an individual nursing home's reported Medicaid days on June 30, 2002; T Medicaid days is the total reported Medicaid days for all affected nursing homes; and F is the total amount of State and federal funds to be distributed. No nursing home shall receive a total allocation greater than the amount lost, due to adjustments in Medicaid reimbursement methodology, which became effective April 1, 1995. Any balances remaining undistributed, from the abovementioned amount, shall be deposited in a reserve account in the General Fund.

The amounts hereinabove appropriated for payments for the Pharmaceutical Assistance to the Aged and Disabled program, P.L.1975, c.194 (C.30:4D-20 et seq.), and the Senior Gold Prescription Discount Program, P.L.2001, c.96 (C.30:4D-43 et seq.), are available for the payment of obligations applicable to prior fiscal years.

Benefits provided under the Pharmaceutical Assistance to the Aged and Disabled (PAA/D) program, P.L.1975, c.194 (C.30:4D-20 et seq.), and the Senior Gold Prescription Discount Program, P.L.2001, c.96 (C.30:4D-43 et seq.), shall be the last resource benefits, notwithstanding any provisions contained in contracts, wills, agreements or other instruments. Any provision in a contract of insurance, will, trust agreement or other instrument which reduces or excludes coverage or payment to an individual because of that individual's eligibility for or receipt of PAA/D or Senior Gold benefits shall be void, and no PAA/D and Senior Gold payments shall be made as a result of any such provision.

Notwithstanding the provisions of section 3 of P.L.1975, c.194 (C.30:4D-22) to the contrary, the copayment in the Pharmaceutical Assistance to the Aged and Disabled program shall be $5.00.

Notwithstanding the provisions of any other law to the contrary, rebates from pharmaceutical manufacturing companies for prescriptions purchased by the Pharmaceutical Assistance to the Aged and Disabled program and the Senior Gold Prescription Discount Program shall continue throughout fiscal year 2003. All revenues from such rebates during the fiscal year ending June 30, 2003 are appropriated for the Pharmaceutical Assistance to the Aged and Disabled program and the Senior Gold Prescription Discount Program.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2002, each prescription order dispensed in the Pharmaceutical Assistance to the Aged and Disabled program and the Senior Gold Prescription Discount Program for Maximum Allowable Cost (MAC) drugs shall state

"Brand Medically Necessary" in the prescriber's own handwriting if the prescriber determines that it is necessary to override generic substitution of drugs, and each prescription order shall follow the requirements of P.L.1977, c.240 (C.24:6E-1 et seq.). The list of drugs substituted shall conform to the Drug Utilization Review Council approved list of substitutable drugs and all other requirements pertaining to drug substitution and federal upper limits for MAC drugs as administered by the State Medicaid Program.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled program, pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), and the Senior Gold Prescription Discount Program, pursuant to P.L.2001, c.96 (C.30:4D-43 et seq.), shall be expended unless participating pharmaceutical manufacturing companies execute contracts with the Department of Health and Senior Services, through the Department of Human Services, providing for the payment of rebates to the State.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2002 consistent with the notice provisions of 42 CFR 447.205 where applicable, no funds appropriated in the Pharmaceutical Assistance to the Aged and Disabled and Senior Gold program classification shall be expended except under the following conditions: legend and non-legend drugs dispensed by a retail pharmacy shall be limited to a maximum 34-day supply for an initial prescription and a 34-day or 100-unit dose supply, whichever is greater, for any prescription refill.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2002 consistent with the notice provisions of 42 CFR 447.205 where applicable, no funds appropriated in the Pharmaceutical Assistance to the Aged and Disabled and Senior Gold program classification shall be expended except under the following conditions: (a) reimbursement for prescription drugs shall be based on the Average Wholesale Price less a 10% discount; (b) prescription drugs dispensed by a retail pharmacy shall be limited to a maximum 34-day supply for the initial prescription and a 34-day or 100-unit dose supply, whichever is greater, for any prescription refill; and © the current prescription drug dispensing fee structure set as a variable rate of $3.73 to $4.07 in effect on June 30, 2002 shall remain in effect through fiscal year 2003, including the current increments for patient consultation, impact allowances and allowances for 24-hour emergency services.

Notwithstanding the provisions of any other law to the contrary, payments for the Pharmaceutical Assistance to the Aged and Disabled program and the Senior Gold Prescription Discount Program shall not cover quantities of erectile dysfunction therapy medication in excess of four treatments per month. Moreover, payment will only be provided if the diagnosis of erectile dysfunction is written on the prescription form and the treatment is provided to males over the age of 18 years.

In addition to the amount hereinabove, there are appropriated from the General Fund and available federal matching funds such additional sums as may be required for the payment of claims, credits and rebates, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAA/D) program and the Senior Gold Prescription Discount Program are available to pharmacies that have not submitted an application to enroll as an approved medical supplier in the Medicare program, unless they already are an approved Medicare medical supplier. Pharmacies will not be required to bill Medicare directly, but must agree to allow PAAD to bill Medicare on their behalf by completing and submitting an electronic data interchange (EDI) form to PAAD. Beneficiaries are responsible for the applicable PAA/D or Senior Gold copayment.

At any point during the year and notwithstanding the provisions of any other law or regulation to the contrary, subject to the approval of a plan by the Commissioner of Health and Senior Services, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled program, pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), or the Senior Gold Prescription Discount Program, pursuant to P.L.2001, c.96 (C.30:4D-43 et seq.), shall be expended unless participating pharmaceutical manufacturing companies execute contracts with the Department of Health and Senior Services, through the Department of Human Services, providing for the payment of rebates to the State on the same basis as provided for in section 1927 (a) through © of the federal Social Security Act, 42 U.S.C. s.1396r-8(a)-(c).

From the amount appropriated hereinabove for the Senior Gold Prescription Discount Program, an amount not to exceed $4,300,000 may be transferred to various accounts as required, including Direct State Services accounts, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated to the Department of Health and Senior Services such sums as are necessary, not to exceed $10,000,000, to increase the reasonableness limit for total nursing care up to 120% of the median costs in the Medicaid nursing home rate-setting system in recognition of the nursing shortage in the State, during State fiscal year 2003, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary and subject to the notice provisions of 42 CFR 447.205, for rates implemented on or after July 1, 2000, target occupancy as determined pursuant to N.J.A.C.10:63-3.16 shall not apply to those facilities receiving enhanced rates of reimbursement pursuant to N.J.A.C.10:63-2.21. The per diem amounts for all other expenses of the enhanced rates shall be based upon reasonable base period costs divided by actual base period patient days, but no less than 85% of licensed bed days shall be used.

The unexpended balances as of June 30, 2002 in the Payments for Medical Assistance Recipients - Nursing Homes account are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2002 in the Senior Gold Prescription Assistance Program is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove, there are appropriated from the Casino Revenue Fund and available federal matching funds such additional sums as may

be required for the payment of claims, credits and rebates, subject to the approval of the Director of the Division of Budget and Accounting.

All funds recovered under P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1975, c.194 (C.30:4D-20 et seq.), during the fiscal year ending June 30, 2003, are appropriated for payments to providers in the same program class from which the recovery originated.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the Medical Services for the Aged program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

For the purposes of account balance maintenance, all object accounts in the Medical Services for the Aged program classification shall be considered as one object. This will allow timely payment of claims to providers of medical services but ensure that no overspending will occur in the program classification.

Notwithstanding the provisions of P.L.1988, c.92 (C.30:4E-5 et seq.) to the contrary, funds appropriated for the Home Care Expansion Program (HCEP) shall be paid only for individuals enrolled in the program as of June 30, 1996 who are not eligible for the Community Care Program for the Elderly and Disabled or alternative programs, and only for so long as those individuals require services covered by the HCEP. Individuals enrolled in the HCEP as of June 30, 1996 and eligible for the Community Care Program for the Elderly and Disabled, may apply to be enrolled in that program.

Notwithstanding the provisions of P.L.1979, c.197 (C.48:2-29.15 et seq.), the provisions of P.L.1981, c.210 (C.48:2-29.30 et seq.) or any other law to the contrary, the benefits of the Lifeline Credit Program and the Tenants' Lifeline Assistance Program may be distributed throughout the entire year from July through June, and are not limited to an October to March heating season; therefore, applications for Lifeline benefits and benefits from the Pharmaceutical Assistance to the Aged and Disabled program may be combined.

Notwithstanding the provisions of any other law to the contrary, a sufficient portion of receipts generated or savings realized in the Casino Revenue Fund Medical Services for the Aged or Pharmaceutical Assistance to the Aged and Disabled Grants-In-Aid accounts from initiatives included in the fiscal year 2003 budget may be transferred to administration accounts to fund costs incurred in realizing these additional receipts or savings, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts hereinabove appropriated for payments for the Pharmaceutical Assistance to the Aged and Disabled program, P.L.1975, c.194 (C.30:4D-20 et seq.), are available for the payment of obligations applicable to prior fiscal years.

Benefits provided under the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program, P.L.1975, c.194 (C.30:4D-20 et seq.), shall be the last resource benefits, notwithstanding any provision contained in contracts, wills, agreements or other instruments. Any provision in a contract of insurance, will, trust agreement or other instrument which reduces or excludes coverage or payment to an individual because of that individual's eligibility for or receipt of

PAAD benefits shall be void, and no PAAD payments shall be made as a result of any such provision.

Notwithstanding the provisions of section 3 of P.L.1975, c.194 (C.30:4D-22) to the contrary, the copayment in the Pharmaceutical Assistance to the Aged and Disabled program shall be $5.00.

Notwithstanding the provisions of any other law to the contrary, rebates from pharmaceutical manufacturing companies for prescriptions purchased by the Pharmaceutical Assistance to the Aged and Disabled program shall continue throughout fiscal year 2003. All revenues from such rebates during the fiscal year ending June 30, 2003 shall be appropriated for the cost of the Pharmaceutical Assistance to the Aged and Disabled program.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2002, each prescription order dispensed in the Pharmaceutical Assistance to the Aged and Disabled program for Maximum Allowable Cost (MAC) drugs shall state "Brand Medically Necessary" in the prescriber's own handwriting if the prescriber determines that it is necessary to override generic substitution of drugs, and each prescription order shall follow the requirements of P.L.1977, c.240 (C.24:6E-1 et seq.). The list of drugs substituted shall conform to the Drug Utilization Review Council approved list of substitutable drugs and all other requirements pertaining to drug substitution and federal upper limits for MAC drugs as administered by the State Medicaid Program.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled program, pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), shall be expended unless participating pharmaceutical manufacturing companies execute contracts with the Department of Health and Senior Services, through the Department of Human Services, providing for the payment of rebates to the State.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2002 consistent with the notice provisions of 42 CFR 447.205 where applicable, no funds appropriated in the Pharmaceutical Assistance to the Aged and Disabled program classification shall be expended except under the following conditions: legend and non-legend drugs dispensed by a retail pharmacy shall be limited to a maximum 34-day supply for an initial prescription and a 34-day or 100-unit dose supply, whichever is greater, for any prescription refill.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2002 consistent with the notice provisions of 42 CFR 447.205 where applicable, no funds appropriated in the Pharmaceutical Assistance to the Aged and Disabled program classification shall be expended except under the following conditions: (a) reimbursement for prescription drugs shall be based on the Average Wholesale Price less a 10% discount; (b) prescription drugs dispensed by a retail pharmacy shall be limited to a maximum 34-day supply for an initial prescription and a 34-day or 100-unit dose supply, whichever is greater, for any prescription refill; and © the current prescription drug dispensing fee structure set as a variable rate of $3.73 to $4.07 in effect on June 30, 2002 shall remain in effect through fiscal year 2003, including the current increments for

patient consultation, impact allowances and allowances for 24-hour emergency services.

Notwithstanding the provisions of any other law to the contrary, payments for the Pharmaceutical Assistance to the Aged and the Disabled program shall not cover quantities of erectile dysfunction therapy medication in excess of four treatments per month. Moreover, payment will only be provided if the diagnosis of erectile dysfunction is written on the prescription form and the treatment is provided to males over the age of 18 years.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAA/D) program are available to pharmacies that have not submitted an application to enroll as an approved medical supplier in the Medicare program, unless they already are an approved Medicare medical supplier. Pharmacies will not be required to bill Medicare directly, but must agree to allow PAAD to bill Medicare on their behalf by completing and submitting an electronic data interchange (EDI) form to PAAD. Beneficiaries are responsible for the applicable PAA/D copayment.

At any point during the year and notwithstanding the provisions of any other law or regulation to the contrary, subject to the approval of a plan by the Commissioner of Health and Senior Services, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled program, pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), or the Senior Gold Prescription Discount Program, pursuant to P.L.2001, c.96 (C.30:4D-43 et seq.), shall be expended unless participating pharmaceutical manufacturing companies execute contracts with the Department of Health and Senior Services, through the Department of Human Services, providing for the payment of rebates to the State on the same basis as provided for in section 1927 (a) through © of the federal Social Security Act, 42 U.S.C. s.1396r-8(a)-(c).

The amounts hereinabove for payments for the Lifeline Credit Program and payments for Tenants' Lifeline Assistance Program Rebates are available for the payment of obligations applicable to prior fiscal years.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of Lifeline claims, amounts may be transferred from the various items of appropriation within the Lifeline program classification, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of section 2 of P.L.1988, c.114 (C.26:2M-10) to the contrary, private for-profit agencies shall be eligible grantees for funding from the Demonstration Adult Day Care Center Program - Alzheimer's Disease account.

Notwithstanding the provisions of any other law to the contrary, of the amount appropriated hereinabove for the Respite Care for the Elderly (CRF) account, $2,000,000 shall be charged to the Casino Simulcasting Fund.

STATE AID

55-4275 Programs for the Aged	$6,964,000
Total State Aid Appropriation, Senior Services.	$6,964,000

State Aid:
55 County Office on Aging ..... ($2,775,000)
55 Older Americans Act -- State Share ... (4,189,000)

Department of Health and Senior Services,
Total State Appropriation $946,225,000

Notwithstanding the provisions of any other law to the contrary, there is appropriated to the Department of Health and Senior Services from the Health Care Subsidy Fund, established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58), to continue to fund programs established pursuant to section 25 of P.L.1991, c.187 (C.26:2H-18.47), section 30 of P.L.1997, c.192 and section 15 of P.L.1998, c.43, through the annual.53% assessment on New Jersey hospitals established pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62). However, available funding shall first provide for the Community Care Program for the Elderly and Disabled, the expansion of Medicaid to 185% of poverty and the Infant Mortality Reduction Program. Of the funds remaining,$11,000,000 is available for payments to federally qualified health centers. Any remaining available funds may be used to increase payments to federally qualified health centers and to fund programs established pursuant to section 25 of P.L.1991, c.187 (C.26:2H-18.47), section 30 of P.L.1997, c.192 and section 15 of P.L.1998, c.43, as determined by the Commissioner of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting. Any unexpended balance as of June 30, 2002 in the Health Care Subsidy Fund received through the.53% annual assessment on hospitals made during fiscal year 2002 is appropriated.

Receipts from licenses, permits, fines, penalties and fees collected by the Department of Health and Senior Services, in excess of those anticipated, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of section 7 of P.L.1992, c.160 (C.26:2H-18.57) or any other law to the contrary, the first $1,200,000 in per adjusted admission charge assessment revenues, attributable to $10.00 per adjusted admission charge assessments made by the Department of Health and Senior Services, shall be anticipated as revenue in the General Fund available for health-related purposes. Furthermore, it is recommended that the remaining revenue attributable to this fee shall be available to carry out the provisions of section 7 of P.L.1992, c.160 (C.26:2H-18.57), as determined by the Commissioner of Health and Senior Services and subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, the State Treasurer shall transfer to the Health Care Subsidy Fund, established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58), only those additional revenues generated from third party liability recoveries, excluding Medicaid, by the State arising from a review by the Director of the Division of Budget and Accounting of hospital payments reimbursed from the Health Care Subsidy Fund with service dates that are after the date of enactment of P.L.1996, c.29.

Notwithstanding the provisions of any other law to the contrary, the Commissioner of Health and Senior Services shall devise, at the commissioner's discretion, rules or guidelines that allocate reductions in health service grants to the extent possible toward administration, and not client services.

Any change in program eligibility criteria and increases in the types of services or rates paid for services to or on behalf of clients for all programs under the purview of the Department of Health and Senior Services, not mandated by federal law, shall first be approved by the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, fees, fines, penalties and assessments owed to the Department of Health and Senior Services shall be offset against payments due and owing from other appropriated funds.

In addition to the amount hereinabove, receipts from the federal Medicaid (Title XIX) program for health services-related programs throughout the Department of Health and Senior Services are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

In order to permit flexibility in implementing the ElderCare Initiatives within the Medical Services for the Aged program classification, amounts may be transferred between Direct State Services and Grants-In-Aid accounts, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

In order to permit flexibility in implementing the ElderCare Advisory Commission Initiatives within the Programs for the Aged program classification, amounts may be transferred between Direct State Services and Grants-In-Aid accounts, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

There are appropriated such sums as are necessary to counties with Class II Governmental Nursing Facilities, effective July 1, 2002, to satisfy obligations incurred in connection with the Intergovernmental Transfer Program.

From the amounts provided hereinabove for cost-of-living adjustments throughout the Department of Health and Senior Services, it is intended that these monies shall be used to fund, at a minimum, a 2.0% cost-of-living increase for direct service workers' salaries, effective July 1, 2002.

Notwithstanding the provisions of any other law to the contrary, there are appropriated such amounts to the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting, as are necessary to pay such supplemental payments in accordance with the Medicaid State Plan amendments to any participating governmental entity for certain Class II Governmental Nursing Facilities. There are appropriated to the Department of Health and Senior Services and the Department of the Treasury such additional sums as are necessary to pay costs incurred by the State Treasurer or any other State agency in connection with the execution and delivery of any agreements authorized under P.L.2000, c.28 (C.30:4D-19.2 et seq.), including the costs of professional services and attorneys, and other costs necessary to complete the intergovernmental transfer.

Such sums as may be necessary are appropriated or transferred from existing appropriations within the Department of Health and Senior Services for the purpose of promoting awareness to increase participation in programs that are administered by the departments, subject to the approval of the Director of the Division of Budget and Accounting.

Summary of Department of Health and Senior Services Appropriations
(For Display Purposes Only)

Appropriations by Category:	
Direct State Services	$99,496,000
Grants-in-Aid	810,110,000
State Aid	35,969,000
Capital Construction	650,000
Appropriations by Fund:	
General Fund	$632,260,000
Casino Revenue Fund	313,965,000

54 DEPARTMENT OF HUMAN SERVICES
20 Physical and Mental Health
23 Mental Health Services
7700 Division of Mental Health Services
DIRECT STATE SERVICES

08-7700 Community Services	$5,071,000
99-7700 Administration and Support Services	5,236,000
Total Direct State Services Appropriation, Division of Mental Health Services	$10,307,000
Direct State Services:	
Personal Services:	
Salaries and Wages	($8,710,000)
Materials and Supplies	(21,000)
Services Other Than Personal	(496,000)
Maintenance and Fixed Charges	(155,000)
Special Purpose:	
99 Nursing Incentive Program	(625,000)
99 Fraud and Abuse Initiative	(300,000)

GRANTS-IN-AID

08-7700 Community Services	$233,694,000
Total Grants-in-Aid Appropriation, Division of Mental Health Services	$233,694,000
Grants-in-Aid:	
08 Greystone Park Psychiatric Hospital Bridge Fund	($12,750,000)
08 Community Care	(196,859,000)

08 Community Mental Health
Center -- University of Medicine
and Dentistry, Newark ..... (6,205,000)
08 Community Mental Health
Center -- University of Medicine
and Dentistry, Piscataway ..... (11,860,000)
08 Cost of Living Adjustment --
Community Services ..... (6,020,000)

From the amount appropriated hereinabove for the Greystone Park Psychiatric Hospital Bridge Fund account, such funds as are necessary may be transferred to various accounts as required, including Direct State Services or State Aid accounts, subject to the approval of the Director of Budget and Accounting of a phase-in plan which relates to "Redirection II" as shall be submitted by the Commissioner of Human Services.

From the amount appropriated hereinabove for the Community Care grant account, $1,000,000 shall be allocated for after-hours coverage.

The amount appropriated hereinabove for the Community Mental Health Centers and the amount appropriated to the University of Medicine and Dentistry of New Jersey are first charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid Uncompensated Care.

With the exception of disproportionate share hospital revenues that may be received, federal and other funds received for the operation of community mental health centers at the New Jersey Medical School and the Robert Wood Johnson Medical School shall be available to the University of Medicine and Dentistry of New Jersey for the operation of the centers.

STATE AID

08-7700 Community Services $94,510,000
Total State Aid Appropriation, Division of
Mental Health Services. $94,510,000

State Aid:

08 Support of Patients in County
Psychiatric Hospitals. ..... ($94,510,000)

The unexpended balance as of June 30, 2002, in the Support of Patients in County Psychiatric Hospitals account is appropriated.

The appropriation for the Support of Patients in County Psychiatric Hospitals account is available to pay liabilities applicable to prior fiscal years, subject to the approval of the Director of the Division of Budget and Accounting.

With the exception of all past, present and future revenues representing federal financial participation received by the State from the United States that is based on payments to hospitals that serve a disproportionate share of low-income patients, which shall be retained by the State, the sharing of revenues received to defray the costs of maintaining patients in State and county psychiatric hospitals and facilities for the developmentally disabled shall be based on the same percent as costs are shared.

State Aid reimbursement payments for maintenance of patients in county psychiatric facilities shall be limited to inpatient services only, except that such reimbursement

shall be paid to a county for outpatient and partial hospitalization services as defined by the Department of Human Services, if outpatient and/or partial hospitalization services had been previously provided at the county psychiatric facility prior to January 1, 1998. These outpatient and partial hospitalization payments shall not exceed the amount of State Aid funds paid to reimburse outpatient and partial hospitalization services provided during calendar year 1997.

The amount appropriated for the Division of Mental Health Services for State facility operations and the amount appropriated as State Aid for the costs of county facility operations first are charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid Uncompensated Care.

7710 Greystone Park Psychiatric Hospital

DIRECT STATE SERVICES

10-7710 Patient Care and Health Services	$43,029,000
99-7710 Administration and Support Services	11,833,000
Total Direct State Services Appropriation, Greystone Park Psychiatric Hospital	$54,862,000

Direct State Services:

Personal Services:	
Salaries and Wages	($48,488,000)
Materials and Supplies	(3,306,000)
Services Other Than Personal	(1,325,000)
Maintenance and Fixed Charges	(948,000)
Special Purpose:	
10 Weekend Staffing Initiative	(633,000)
10 Interim Assistance	(50,000)
Additions, Improvements and Equipment	(112,000)

7720 Trenton Psychiatric Hospital

DIRECT STATE SERVICES

10-7720 Patient Care and Health Services	$41,253,000
99-7720 Administration and Support Services	10,382,000
Total Direct State Services Appropriation, Trenton Psychiatric Hospital	$51,635,000

Direct State Services:

Personal Services:	
Salaries and Wages	($45,422,000)
Materials and Supplies	(2,954,000)
Services Other Than Personal	(1,810,000)
Maintenance and Fixed Charges	(799,000)
Special Purpose:	
10 Interim Assistance	(150,000)
Additions, Improvements and Equipment	(500,000)

CAPITAL CONSTRUCTION

99-7720 Administration and Support Services	$3,000,000

Total Capital Construction Appropriation,
Trenton Psychiatric Hospital $3,000,000

Capital Projects:

99 Steam and Condensate Line
Replacement ..... ($3,000,000)

7725 Ann Klein Forensic Center

DIRECT STATE SERVICES

10-7725 Patient Care and Health Services $17,531,000
99-7725 Administration and Support Services 2,418,000
Total Direct State Services Appropriation,
Ann Klein Forensic Center $19,949,000

Direct State Services:

Personal Services:
Salaries and Wages ..... ($18,066,000)
Materials and Supplies ..... (1,214,000)
Services Other Than Personal ..... (511,000)
Maintenance and Fixed Charges ..... (98,000)
Additions, Improvements and Equipment ... (60,000)

7740 Ancora Psychiatric Hospital

DIRECT STATE SERVICES

10-7740 Patient Care and Health Services $50,833,000
99-7740 Administration and Support Services 12,619,000
Total Direct State Services Appropriation,
Ancora Psychiatric Hospital $63,452,000

Direct State Services:

Personal Services:
Salaries and Wages ..... ($55,614,000)
Materials and Supplies ..... (3,670,000)
Services Other Than Personal ..... (1,940,000)
Maintenance and Fixed Charges ..... (967,000)
Special Purpose:
10 Weekend Staffing Initiative ..... (317,000)
10 Interim Assistance ..... (120,000)
Additions, Improvements and Equipment .. (824,000)

7750 Arthur Brisbane Child Treatment Center

DIRECT STATE SERVICES

10-7750 Patient Care and Health Services $7,743,000
99-7750 Administration and Support Services 2,321,000
Total Direct State Services Appropriation,
Arthur Brisbane Child Treatment Center $10,064,000

Direct State Services:

Personal Services:
Salaries and Wages ..... ($8,856,000)
Materials and Supplies ..... (456,000)

Services Other Than Personal ..... (326,000)
Maintenance and Fixed Charges ..... (132,000)
Additions, Improvements and Equipment .. (294,000)

7760 Senator Garrett W. Hagedorn Gero-Psychiatric Hospital
DIRECT STATE SERVICES

10-7760 Patient Care and Health Services $22,482,000
99-7760 Administration and Support Services 7,700,000
Total Direct State Services Appropriation, Senator Garrett W. Hagedorn Gero-Psychiatric Hospital ... $30,182,000

Direct State Services:
Personal Services:
Salaries and Wages ..... ($25,439,000)
Materials and Supplies ..... (1,941,000)
Services Other Than Personal ..... (1,052,000)
Maintenance and Fixed Charges ..... (426,000)
Special Purpose:
10 Weekend Staffing Initiative ..... (570,000)
10 Interim Assistance ..... (14,000)
Additions, Improvements and Equipment .. (740,000)

Mental Health Services

Receipts recovered from advances made under the interim assistance program in the mental health institutions during the fiscal year ending June 30, 2003 are appropriated for the same purpose.

The unexpended balances as of June 30, 2002, in the interim assistance program accounts in the mental health institutions are appropriated for the same purpose.

The amount appropriated for the Division of Mental Health Services for State facility operations and the amount appropriated as State Aid for the costs of county facility operations first are charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid Uncompensated Care.

24 Special Health Services
7540 Division of Medical Assistance and Health Services
DIRECT STATE SERVICES

21-7540 Health Services Administration and Management $25,734,000
Total Direct State Services Appropriation, Division of Medical Assistance and Health Services $25,734,000

Direct State Services:
Personal Services:
Salaries and Wages ..... ($13,155,000)
Materials and Supplies ..... (180,000)
Services Other Than Personal ..... (5,181,000)
Maintenance and Fixed Charges ..... (308,000)

Special Purpose:
21 Payments to Fiscal Agents . . . . . (5,641,000)
21 Professional Standards Review Organization--Utilization Review. . . (1,179,000)
21 Drug Utilization Review Board -- Administrative Costs . . . . . (90,000)

The unexpended balances as of June 30, 2002, in the Payments to Fiscal Agents account are appropriated.

Sufficient funds from the Health Care Subsidy Fund are appropriated to the Division of Medical Assistance and Health Services for payment to disproportionate share hospitals for uncompensated care costs as defined in P.L.1992, c.160 (C.26:2H-18.51 et al.), and for subsidized children's health insurance in the NJ KidCare program (Children's Health Care Coverage Program) as defined in P.L.1997, c.272 (C.30:4I-1 et seq.) to maximize federal Title XXI funding.

Additional federal Title XIX revenue generated from the claiming of uncompensated care payments made to disproportionate share hospitals shall be deposited in the General Fund as anticipated revenue.

Notwithstanding any State law to the contrary, any third party as defined in subsection m. of section 3 of P.L.1968, c.413 (C.30:4D-3), writing health, casualty, workers' compensation or malpractice insurance policies in the State or covering residents of this State, shall enter into an agreement with the Division of Medical Assistance and Health Services to permit and assist the matching no less frequently than on a quarterly basis of the Medicaid, Charity Care and Work First New Jersey General Assistance eligibility files and/or adjudicated claims files against that third party's eligibility file and/or adjudicated claims file for the purpose of the coordination of benefits, utilizing, if necessary, social security numbers as common identifiers.

Notwithstanding the provisions of any law to the contrary, all past, present and future revenues representing federal financial participation received by the State from the United States and that are based on payments made by the State to hospitals that serve a disproportionate share of low-income patients shall be deposited in the General Fund and may be expended only upon appropriation by law.

Notwithstanding the provisions of any law to the contrary, all revenues received from health maintenance organizations shall be deposited in the General Fund.

Additional federal Title XIX revenue generated from the claiming of medical service payments on behalf of individuals enrolled in the second year of Medicaid Extension is appropriated subject to the approval of the Director of the Division of Budget and Accounting.

GRANTS-IN-AID

22-7540 General Medical Services. $1,846,584,000
Total Grants-in-Aid Appropriation, Division of Medical Assistance and Health Services $1,846,584,000

Grants-in-Aid:
22 Payments for Medical Assistance Recipients -- Personal Care . . . . . ($5,694,000)
22 Managed Care Initiative. . . . . (523,707,000)
22 Hospital Relief Offset Payment . . . . . (28,812,000)

22 Payments for Medical Assistance Recipients - Other Treatment Facilities . . . . . (5,567,000)
22 Payments for Medical Assistance Recipients - Inpatient Hospital . . . . . (171,904,000)
22 Payments for Medical Assistance Recipients - Prescription Drugs . . . . . (339,321,000)
22 Payments for Medical Assistance Recipients - Outpatient Hospital . . . . (166,754,000)
22 Payments for Medical Assistance Recipients - Physician . . . . . (22,266,000)
22 Payments for Medical Assistance Recipients - Home Health . . . . . (19,105,000)
22 Payments for Medical Assistance Recipients - Medicare Premiums . . . . . (67,425,000)
22 Payments for Medical Assistance Recipients - Dental . . . . . (10,724,000)
22 Payments for Medical Assistance Recipients - Psychiatric Hospital . . . . . (8,624,000)
22 Payments for Medical Assistance Recipients - Medical Supplies . . . . . (14,958,000)
22 Payments for Medical Assistance Recipients - Clinic . . . . . (45,138,000)
22 Payments for Medical Assistance Recipients - Transportation. . . . . (33,200,000)
22 Payments for Medical Assistance Recipients - Other Services . . . . . (11,777,000)
22 Unit Dose Contract Services . . . . . (10,253,000)
22 Consulting Pharmacy Services . . . . . (2,733,000)
22 Eligibility Determination Services . . . . (4,800,000)
22 General Assistance Medical Costs . . . (84,000,000)
22 Health Benefit Coordination Services . (6,055,000)
22 NJ Family Care - Affordable and Accessible Health Coverage Benefits . . . . . (163,388,000)
22 Program for Assertive Community Treatment . . . . . (3,500,000)
22 Adult Mental Health Rehab . . . . . (4,500,000)
22 Children's System of Care Initiative . . (12,179,000)
22 Lipman Hall . . . . . (9,387,000)
22 Children's System of Care Initiative - Residential . . . . . (70,813,000)

The amounts hereinabove appropriated for Payments for Medical Assistance Recipients are available for the payment of obligations applicable to prior fiscal years.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred

to and from Payments for Medical Assistance Recipients - Personal Care and Payments for Medical Assistance Recipients - Other Services within the General Medical Services program classification in the Division of Medical Assistance and Health Services and the Payments for Medical Assistance Recipients - Personal Care and the Payments for Medical Assistance Recipients - Other Services accounts in the Division of Disability Services within the Department of Human Services. Amounts may also be transferred to and from various items of appropriations within the General Medical Services program classification of the Division of Medical Assistance and Health Services in the Department of Human Services and the Medical Services for the Aged program classification in the Division of Senior Services in the Department of Health and Senior Services, excluding the Children's System of Care Initiative, Children's System of Care Initiative - Residential, and Lipman Hall accounts. All such transfers are subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

For the purposes of account balance maintenance, all object accounts in the General Medical Services program classification, excluding the Children's System of Care Initiative, Children's System of Care Initiative-Residential and Lipman Hall accounts, shall be considered as one object. This will allow timely payment of claims to providers of medical services but ensure that no overspending will occur in the program classification.

For the purposes of account balance maintenance, the Children's System of Care Initiative, Children's System of Care Initiative-Residential and Lipman Hall accounts shall be considered as one object. This will allow timely payment of claims to providers of medical services but ensure that no overspending will occur in the program.

The State appropriation for Medicaid Title XIX is based on a federal financial participation rate of 48.7%; provided however, that if the federal financial participation rate exceeds this percentage, there will be placed in reserve a portion of the State appropriation equal to the amount of additional federal funds, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, the Commissioner of Human Services shall have the authority to convert individuals enrolled in a State-funded program who are also eligible for a federally matchable program, to the federally matchable program without the need for regulations.

In addition to the amounts hereinabove for payments to providers on behalf of medical assistance recipients, such additional sums as may be required are appropriated from the General Fund to cover costs consequent to the establishment of presumptive eligibility for children and pregnant women in the Medicaid (Title XIX) program, the NJ KidCare program (Children's Health Care Coverage Program) as defined in P.L.1997, c.272 (C.30:4I-1 et seq.) and FamilyCare adults for dates of services prior to April 1, 2002, as defined in P.L.2000, c.71 (C.30:4J-1 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

When any action by a county welfare agency, whether alone or in combination with the Division of Medical Assistance and Health Services, results in a recovery of

improperly granted medical assistance, the Division of Medical Assistance and Health Services may reimburse the county welfare agency in the amount of 25% of the gross recovery.

Notwithstanding the provisions of P.L.1962, c.222 (C.44:7-76 et seq.), the Medical Assistance for the Aged program is eliminated.

All funds recovered pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1975, c.194 (C.30:4D-20 et seq.) during the fiscal year ending June 30, 2003 are appropriated for payments to providers in the same program class from which the recovery originated.

The amount appropriated hereinabove for the Division of Medical Assistance and Health Services first is to be charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid uncompensated care.

Notwithstanding any other law to the contrary, a sufficient portion of receipts generated or savings realized in Medical Assistance Grants-in-Aid accounts from initiatives may be transferred to the Health Services Administration and Management accounts to fund costs incurred in realizing these additional receipts or savings, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary and subject to federal approval, the Commissioner of Human Services is authorized to develop and introduce Optional Service Plan Innovations to enhance client choice for users of Medicaid optional services, while containing expenditures.

Notwithstanding any law to the contrary and subject to the notice provisions of 42 CFR 447.205, Personal Care Assistant services shall be limited to no more than 25 hours per week. Additional hours, up to 40 per week, shall be authorized by the Division of Medical Assistance and Health Services prior to the provision of services not provided by clinics under contract with the Division of Mental Health Services. The hourly weekend rate shall not exceed $16.

The Division of Medical Assistance and Health Services, subject to federal approval, shall implement policies that would limit the ability of persons who have the financial ability to provide for their own long-term care needs to manipulate current Medicaid rules to avoid payment for that care. The division shall require, in the case of a married individual requiring long-term care services, that the portion of the couple's resources which are not protected for the needs of the community spouse be used solely for the purchase of long-term care services.

Such sums as may be necessary are appropriated from the General Fund for the payment of any provider assessments to Intermediate Care Facilities/Mental Retardation facilities, subject to the approval of the Director of the Division of Budget and Accounting of a plan as shall be submitted by the Commissioner of Human Services.

The Division of Medical Assistance and Health Services is empowered to competitively bid and contract for performance of federally mandated inpatient hospital utilization reviews, and the funds necessary for the contracted utilization review of these hospital services are made available from the Payments for Medical Assistance Recipients - Inpatient Hospital account subject to the approval of the Director of the Division of Budget and Accounting.

Such sums as may be necessary are available from the Health Care Subsidy Fund to supplement Payments for Medical Assistance Recipients - Inpatient Hospital, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other laws to the contrary, State funding for the New Jersey Health ACCESS program shall cease, and all enrollment shall be terminated as of July 1, 2001, or at such later date as shall be established by the Commissioner of Human Services. Any individuals who are enrolled in the New Jersey Health ACCESS program as of June 30, 2001 shall be eligible for Plan "D" of the NJFamilyCare program, and shall enroll in a participating health maintenance organization before receiving NJ FamilyCare services.

Notwithstanding any law to the contrary, a New Jersey major teaching acute medical/surgical care hospital that has been recognized by the New Jersey Medicaid program as an eligible non-State owned or operated government facility shall be eligible to receive an enhanced payment for providing inpatient and outpatient services to New Jersey Medicaid fee-for-service and NJ FamilyCare fee-for-service beneficiaries. Effective July 1, 2002, interim payments shall be made in equal monthly lump sum amounts, based on an estimate of the total enhanced amount payable to a qualifying hospital, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, the New Jersey FamilyCare Health Coverage Program benefit service packages, premium contributions, co-payment levels, enrollment levels, and any other program features or operations may be modified as the Commissioner of Human Services deems necessary based upon a plan approved by the Director of the Division of Budget and Accounting to ensure that monies expended for the New Jersey FamilyCare Health Coverage Program do not exceed the amount appropriated hereunder.

Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the Commissioner of Human Services shall adopt immediately upon filing with the Office of Administrative Law such regulations as the Commissioner deems necessary to ensure that monies expended for the New Jersey FamilyCare Health Coverage Program do not exceed the amount appropriated hereunder. Such regulations may change or adjust the financial and non-financial eligibility requirements for some or all of the applicants or beneficiaries in the program, the benefits provided, cost-sharing amounts, or may suspend in whole or in part the processing of applications for any or all categories of individuals covered by the program.

Notwithstanding any other law to the contrary, those hospitals that are eligible to receive a Hospital Relief Subsidy Fund (HRSF) payment shall receive enhanced payments from the Medicaid program for providing services to Medicaid and New Jersey FamilyCare beneficiaries. The total payments shall not exceed the amount appropriated and shall be allocated among hospitals proportionately based on the amount of HRSF payments (excluding any adjustments to the HRSF for other Medicaid payment increases). Effective July 1, 2002, interim payments shall be made from the Hospital Relief Offset Payment account in equal monthly lump sum amounts, based on an estimate of the total enhanced amount payable to a qualifying hospital, and subject to cost settlement. The enhanced payment, determined at cost settlement, will be an amount approved

by the Director of the Division of Budget and Accounting per Medicaid patient day, adjusted by a volume variance factor (the ratio of expected Medicaid inpatient days to actual Medicaid inpatient days for the rate year) and an HRSF factor (the ratio of the hospital's HRSF payments to total HRSF payments) and subject to a pro rata adjustment so that the total enhanced per diem amounts are equivalent to the total State and federal funds appropriated, not to exceed an amount to be approved by the Director of the Division of Budget and Accounting. The total of these payments shall be reduced by an amount equal to any increase in Medicaid and New Jersey FamilyCare fee for service payments to New Jersey hospitals enacted herein or subsequent to this legislation.

Notwithstanding any other law to the contrary, for those hospitals that qualify for a Hospital Relief Subsidy Fund payment, the New Jersey Medicaid program shall reimburse those hospitals Graduate Medical Education outpatient payments up to the amount the hospital would have received under Medicare principles of reimbursement for Medicaid and New Jersey FamilyCare fee-for-service beneficiaries. Effective July 1, 2002, equal monthly lump sum payments shall be made from the Hospital Relief Offset Payment account, and shall be based on the qualifying hospitals' first finalized 1996 cost reports. The amount that the qualifying hospital would otherwise be eligible to receive from the Hospital Relief Subsidy Fund shall be reduced by the amount of this Graduate Medical Education outpatient payment. The total amount of these payments shall not exceed an amount approved by the Director of the Division of Budget and Accounting in combined State and federal funds. In no case shall these payments and all other enhanced payments related to those services primarily used by Medicaid and New Jersey FamilyCare beneficiaries that the hospital receives exceed the amount the hospital would otherwise have been eligible to receive from the Hospital Relief Subsidy Fund in the State fiscal year.

Of the amounts appropriated in State and federal funds in the Hospital Relief Offset Payment accounts in the Department of Human Services, Division of Medical Assistance and Health Services, such sums as may be necessary shall be transferred to the Hospital Relief Subsidy Fund within the Health Care Subsidy Fund (P.L.1992, c.160) to maximize federal revenues related to these accounts and maintain an appropriate level of hospital payments, subject to the approval of the Director of the Division of Budget and Accounting.

Rebates from pharmaceutical manufacturing companies during the fiscal year ending June 30, 2003 for prescription expenditures made to providers on behalf of Medicaid clients are appropriated for the Payments for Medical Assistance Recipients - Prescription Drugs account.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2002, or at the earliest date thereafter consistent with the notice provisions of 42 CFR 447.205 where applicable, no funds appropriated for prescription drugs in the Payments for Medical Assistance Recipients - Prescription Drugs or General Assistance Medical Services account shall be expended except under the following conditions: (a) reimbursement for the cost of legend and non-legend drugs, excluding nutritional supplements, shall not exceed their Average Wholesale Price (AWP) less a 10% discount; and (b) the

current prescription drug dispensing fee structure set as a variable rate of $3.73 to $4.07 in effect on June 30, 2002 shall remain in effect through fiscal year 2003, including the current increments for patient consultation, impact allowances and allowances for 24-hour emergency services.

Notwithstanding any laws or regulations to the contrary, payments from the Medical Assistance Payments - Prescription Drug account, the General Assistance drug program, or the fee-for-service portion of NJ FamilyCare shall not cover quantities of erectile dysfunction drug therapies, in excess of four treatments per month. Moreover, payments will only be provided if the diagnosis of erectile dysfunction is written on the prescription form and the treatment is provided to males over the age of 18 years.

Notwithstanding any law to the contrary and subject to the notice provisions of 42 CFR 447.205, effective July 1, 2000, approved nutritional supplements will be reimbursed in accordance with a fee schedule set by the Director of the Division of Medical Assistance and Health Services.

Effective July 1, 2002, no funding shall be provided from the Payments for Cost of General Assistance or NJ FamilyCare programs for anti- retroviral drugs for the treatment of HIV/AIDS, as specified in the Department of Health and Senior Services' formulary for the AIDS Drugs Distribution Program (ADDP).

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 1999, the following provisions shall apply to the dispensing of prescription drugs through the General Assistance Medical Services account: (a) for all Maximum Allowable Cost (MAC) drugs dispensed shall state "Brand Medically Necessary" in the prescriber's own handwriting if the prescriber determines that it is necessary to override generic substitution of drugs, and each prescription order shall follow the requirements of P.L.1997, c.240 (C.24:6E-1 et seq.). The list of drugs substituted shall conform to the Drug Utilization Review Council approved list of substitutable drugs and all other requirements pertaining to drug substitution and federal upper limits for MAC drugs as administered by the State Medicaid Program.

Such sums as may be necessary are appropriated from enhanced audit recoveries obtained by the Division of Medical Assistance and Health Services to fund the costs of enhanced audit recovery efforts of the division within the General Medical Services program classification, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2000, each prescription order for protein nutritional supplements and specialized infant formulas dispensed in the Medicaid, General Assistance Medical Services, and NJ FamilyCare/KidCare fee-for-services programs shall be filled with the generic equivalent unless the prescription order states "Brand Medically Necessary" in the prescriber's own handwriting.

Of the amount hereinabove for Payments for Medical Assistance Recipients - Outpatient Hospital, an amount not to exceed $1,900,000 is allocated for limited prenatal medical care for New Jersey pregnant women who, except for financial requirements, are not eligible for any other State or federal health insurance program.

Of the revenues received as a result of sanctions to health maintenance organizations participating in Medicaid Managed Care, an amount not to exceed $500,000 is appropriated to the Payments for Medical Assistance Recipients - Physician account, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 2002, not to exceed $16,500,000 in the Managed Care Initiative account, related to health maintenance organization maternity claims and an amount not to exceed $15,000,000 from the Payments to Medical Assistance Recipients - Physician accounts are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of subsection (b) of N.J.A.C.10:60-5.3 and subsection (a) of N.J.A.C.10:60-5.4 to the contrary, a person receiving the maximum number of Early and Periodic Screening, Diagnosis and Treatment/Private Duty Nursing (EPSDT/PDN) services, that is, 16 hours in any 24-hour period, may be authorized to receive additional PDN hours if private health insurance is available to cover the cost of the additional hours and appropriate medical documentation is provided which indicates that additional PDN hours are required and that the primary caregiver is not qualified to provide the additional PDN hours.

Of the amount hereinabove for Payments for Medical Assistance Recipients - Clinic, an amount not to exceed $1,900,000 is allocated for limited prenatal medical care provided by clinics, or in the case of radiology and clinical laboratory services, ordered by a clinic, for New Jersey pregnant women who, except for financial requirements, are not eligible for any other State or federal health insurance program.

Effective July 1, 1999, the Division of Medical Assistance and Health Services (DMAHS) is authorized to pay financial rewards to individuals or entities who report instances of health care-related fraud and/or abuse involving the programs administered by DMAHS (including, but not limited to, the New Jersey Medicaid, NJ FamilyCare and NJ KidCare programs) or the Pharmaceutical Assistance to the Aged and Disabled (PAAD) or Work First New Jersey General Public Assistance programs. Rewards may be paid only when the reports result in a recovery by DMAHS, and only if other conditions established by DMAHS are met, and shall be limited to 10% of the recovery or $1,000, whichever is less. Notwithstanding any State law to the contrary, but subject to any necessary federal approval and/or change in federal law, receipt of such rewards shall not affect an applicant's individual financial eligibility for the programs administered by DMAHS or for PAAD or Work First New Jersey General Public Assistance programs.

The Division of Medical Assistance and Health Services, in coordination with the county welfare agencies, shall continue a program to outstation eligibility workers in disproportionate share hospitals and federally qualified health centers.

Of the amount hereinabove for Eligibility Determination, an amount not to exceed $630,000 is allocated for increased eligibility determination costs related to immigrant services.

Premiums received from families enrolled in the NJ KidCare program (Children's Healthcare Coverage Program), P.L.1997, c.272 (C.30:4I-1 et seq.), are appropriated for NJ KidCare payments.

Premiums received from families enrolled in the NJ FamilyCare program are appropriated for NJ FamilyCare payments.

Of the amount hereinabove for the NJ FamilyCare Program, there shall be transferred to various accounts, including Direct State Services and State Aid accounts such amounts, not to exceed $6,000,000, as are necessary to pay for the administrative costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.

Additional federal Title XIX revenue generated from the claiming of family planning services payments on behalf of individuals enrolled in the Medicaid managed care program is appropriated subject to the approval of the Director of the Division of Budget and Accounting.

7545 Division of Disability Services

DIRECT STATE SERVICES

27-7545 Disability Services	$965,000
Total Direct State Services Appropriation, Division of Disability Services	$965,000

Direct State Services:

Personal Services:	
Salaries and Wages	($923,000)
Materials and Supplies	(4,000)
Services Other Than Personal	(29,000)
Maintenance and Fixed Charges	(9,000)

GRANTS-IN-AID

27-7545 Disability Services	$151,991,000
(From General Fund	*$148,257,000)*
(From Casino Revenue Fund	*3,734,000)*
Total Grants-in-Aid Appropriation, Division of Disability Services	$151,991,000
(From General Fund	*$148,257,000)*
(From Casino Revenue Fund	*3,734,000)*

Grants-in-Aid:

27 Payments for Medical Assistance Recipients -- Personal Care	($122,534,000)
27 Payments for Medical Assistance Recipients -- Waiver Initiatives	(18,471,000)
27 Payments for Medical Assistance Recipients -- Other Services	(2,001,000)
27 Personal Assistance Services Program	(3,251,000)
27 Personal Assistance Services Program (CRF)	(3,734,000)

27 Community Supports to Allow
Discharge from Nursing Homes. . . . . (2,000,000)

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the Disability Services program classification. Amounts may be transferred to and from Payments for Medical Assistance Recipients - Personal Care and the Payments for Medical Assistance Recipients - Other Services within the General Medical Services program classification in the Division of Medical Assistance and Health Services and the Payments for Medical Assistance Recipients - Personal Care and the Payments for Medical Assistance Recipients - Other Services accounts in the Division of Disability Services within the Department of Human Services. All such transfers are subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Notwithstanding any law to the contrary and subject to the notice provisions of 42 CFR 447.205, Personal Care Assistant services shall be limited to no more than 25 hours per week. Additional hours, up to 40 per week, shall be authorized by the Division of Disability Services or the Division of Medical Assistance and Health Services prior to the provision of services not provided by clinics under contract with the Division of Mental Health Services. The hourly weekend rate shall not exceed $16.

30 Educational, Cultural and Intellectual Development
32 Operation and Support of Educational Institutions
7600 Division of Developmental Disabilities
DIRECT STATE SERVICES

99-7600 Administration and Support Services..	$10,674,000
(From General Fund . . . . . $4,222,000)	
(From Federal Funds . . . . . 6,452,000)	
Total Appropriation, State and Federal Funds.	$10,674,000
(From General Fund. . . . . $4,222,000)	
(From Federal Funds. . . . . 6,452,000)	
Less:	
Federal Funds. $6,452,000	
Total Deductions $6,452,000	
Total Direct State Services Appropriation, Division of Developmental Disabilities	$4,222,000

Direct State Services:

Personal Services:	
Salaries and Wages . . . . . ($8,634,000)	
Materials and Supplies . . . . . (64,000)	
Services Other Than Personal . . . . . (252,000)	
Maintenance and Fixed Charges . . . . . (99,000)	
Special Purpose:	
99 Foster Grandparents Program . . . . . (669,000)	

99 Developmental Disabilities Council . . (306,000)
99 Nursing Incentive Program . . . . . (625,000)
Additions, Improvements and Equipment . . . (25,000)
Less:
Federal Funds 6,452,000
An amount not to exceed $223,000 from receipts from individuals for whom the Division of Developmental Disabilities is representative payee is appropriated for participation in the Foster Grandparent and Senior Companions program.

7601 Community Programs
DIRECT STATE SERVICES

01-7601 Purchased Residential Care $2,233,000
(From General Fund . . . . . $588,000)
(From Federal Funds . . . . . 1,645,000)
02-7601 Social Supervision and Consultation. 21,348,000
(From General Fund . . . . . 9,862,000)
(From Federal Funds . . . . . 11,486,000)
03-7601 Adult Activities. 1,857,000
(From General Fund . . . . . 1,018,000)
(From Federal Funds . . . . . 839,000)
04-7601 Education and Day Training 30,029,000
(From General Fund . . . . . 9,338,000)
(From Federal Funds . . . . . 1,506,000)
(From All Other Funds . . . . . 19,185,000)
Total Appropriation, State, Federal and All Other Funds. $55,467,000
(From General Fund . . . . . $20,806,000)
(From Federal Funds . . . . . 15,476,000)
(From All Other Funds . . . . . 19,185,000)
Less:
Federal Funds $15,476,000
All Other Funds 19,185,000
Total Deductions $34,661,000
Total Direct State Services Appropriation, Community Programs. $20,806,000
Direct State Services:
Personal Services:
Salaries and Wages . . . . . ($48,536,000)
Materials and Supplies . . . . . (1,356,000)
Services Other Than Personal . . . . . (1,928,000)
Maintenance and Fixed Charges . . . . . (2,963,000)
Special Purpose:
02 Guardianship Program . . . . . (285,000)
02 Homemaker Services (State Share) . . (167,000)
Additions, Improvements and Equipment . . (232,000)

GRANTS-IN-AID

01-7601 Purchased Residential Care	$482,776,000
(From General Fund	*$272,558,000)*
(From Casino Revenue Fund	*10,053,000)*
(From Federal Funds	*162,165,000)*
(From All Other Funds	*38,000,000)*
02-7601 Social Supervision and Consultation	43,634,000
(From General Fund	*36,082,000)*
(From Casino Revenue Fund	*2,208,000)*
(From Federal Funds	*5,344,000)*
03-7601 Adult Activities	119,932,000
(From General Fund	*85,186,000)*
(From Casino Revenue Fund.	*7,374,000)*
(From Federal Funds	*27,372,000)*
Total State, Federal and All Other Funds	$646,342,000
(From General Fund.	*$393,826,000)*
(From Casino Revenue Fund	*19,635,000)*
(From Federal Funds	*194,881,000)*
(From All Other Funds	*38,000,000)*
Less:	
Federal Funds	***$194,881,000***
All Other Funds	***38,000,000***
Total Deductions	***$232,881,000***
Total Grants-in-Aid Appropriation, Community Programs	$413,461,000
Grants-in-Aid:	
01 Dental Program for Non-Institutionalized Children	($814,000)
01 Private Institutional Care	(30,435,000)
01 Private Institutional Care (CRF)	(1,311,000)
01 Skill Development Homes	(24,693,000)
01 Skill Development Homes (CRF)	(1,141,000)
01 Group Homes	(286,594,000)
01 Group Homes (CRF)	(7,473,000)
01 Family Care	(5,100,000)
01 Family Care (CRF)	(128,000)
01 Community Nursing Care Initiative - FY2002	(984,000)
01 Community Services Waiting List Reduction Initiative - FY1999	(30,200,000)
01 Community Services Waiting List Reduction Initiative - FY 2000	(27,057,000)
01 Community Services Waiting List Reduction Initiative - FY 2001	(29,308,000)
01 Community Services Waiting List Reduction Initiative - FY 2002	(20,296,000)

01 Community Services Waiting List Reduction Initiative - FY 2003 ..... (6,350,000)
01 Community Transition Initiative - FY 2001 ..... (4,716,000)
01 Community Transition Initiative - FY 2002 ..... (6,176,000)
02 Essex ARC - Expanded Respite Care for Families with Autistic Children ..... (75,000)
02 Developmental Disabilities Council ... (1,170,000)
02 Autism Respite Care ..... (1,000,000)
02 Home Assistance ..... (33,249,000)
02 Home Assistance (CRF) ..... (1,657,000)
02 Purchase of After School and Camp Services ..... (1,302,000)
02 Purchase of After School and Camp Services (CRF) ..... (551,000)
02 DDD Family Support Urban Outreach Projects ..... (199,000)
02 Social Services ..... (3,969,000)
02 Case Management ..... (462,000)
02 LARC School, Inc. - Special Needs Adult Program ..... (160,000)
03 Purchase of Adult Activity Services . (102,019,000)
03 Purchase of Adult Activity Services (CRF) ..... (7,374,000)
03 Cost of Living Adjustment - Community Programs ..... (10,379,000)
Less:
Federal Funds. 194,881,000
All Other Funds 38,000,000

The Division of Developmental Disabilities is authorized to transfer funds from the Dental Program for Non-Institutionalized Children account to the Division of Medical Assistance and Health Services, in proportion to the number of program participants who are Medicaid eligible.

Excess State funds realized by federal involvement through Medicaid in the Dental Program for Non-Institutionalized Children are committed for the program's support during the subsequent fiscal year, rather than for expansion.

Amounts required to return persons with mental retardation or developmental disabilities presently residing in out-of-State institutions to group homes within the State may be transferred from the Private Institutional Care account to the Group Homes account, subject to the approval of the Director of the Division of Budget and Accounting.

Amounts that become available as a result of the return of persons from private institutional care placements, including in-State and out-of-State placements, shall be available for transfer to community and community support programs, subject to the approval of the Director of the Division of Budget and Accounting.

Skill development homes cost recoveries during the fiscal year ending June 30, 2003, not to exceed $12,500,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The total amount appropriated in the Community Services Waiting List Reduction Initiatives - FY 1999, FY 2000, FY 2001, FY 2002 and the Community Transition Initiative - FY 2001, FY 2002 and the Community Nursing Care Initiative - FY 2002 accounts are available for transfer to community support programs, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of Title 30 of the Revised Statutes or any other law or regulation to the contrary, the Director of the Division of Developmental Disabilities is authorized to waive statutory, regulatory or licensing requirements for the implementation of a self determination pilot program included in the Community Services Waiting List Reduction Initiatives - FY 1997, FY 1998, FY 1999, FY 2000, FY 2001 and FY 2002, subject to the approval of a plan by the Director of the Division of Developmental Disabilities, which will allow an individual to be removed from the waiting list. This waiver also applies to those persons identified as part of the Community Transition Initiative - FY 2001 and FY 2002, and the Community Nursing Care Initiative - FY 2002, who choose self determination.

Cost recoveries from developmentally disabled patients and residents collected during the fiscal year ending June 30, 2003, not to exceed $5,500,000, are appropriated for the continued operation of the Group Homes program, and an additional amount, not to exceed $20,000,000, is appropriated for Community Services Waiting List Reduction Initiatives, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, the State Treasurer, in consultation with the Commissioner of Human Services, may transfer, pursuant to the terms and conditions the State Treasurer deems to be in the best interest of the State, the operation, care, custody, maintenance and control of State-owned buses utilized for transportation of clients of the Adult Activity Centers funded from appropriations in the Adult Activities program classification within the Division of Developmental Disabilities to any party under contract with the Department of Human Services to operate an Adult Activity Center. That transfer shall be for a time to run concurrent with the contract for the operation of the Adult Activity Center. That transfer as a non-cash award, and in conjunction with a cash appropriation, shall complete the terms of any contract with the Department of Human Services for the operation of the Adult Activity Center. Upon termination of any contract for the operation of an Adult Activity Center, the operation, care, custody, maintenance and control of the State-owned buses shall revert to the State. The State Treasurer shall execute any agreements necessary to effectuate the purpose of this provision.

Such sums as may be necessary are appropriated from the General Fund for the payment of any provider assessments to State Intermediate Care Facilities/Mental Retardation facilities, subject to the approval of the Director of the Division of Budget and Accounting of a plan to be submitted by the Commissioner of

Human Services. Notwithstanding any other law to the contrary, only the federal share of funds anticipated from these assessments shall be available to the Department of Human Services for the purposes set forth in P.L.1998, c.40 (C.30:6D-43 et seq.).

From the amounts appropriated hereinabove for the Community Services Waiting List - FY2002 and the Community Transition Initiative - FY2002 accounts, such funds as are necessary may be transferred to various administrative accounts as required, subject to the approval of the Director of Budget and Accounting.

Amounts required to return persons with mental retardation or developmental disabilities presently residing in out-of-State institutions to group homes within the State may be transferred from the Private Institutional Care account to the Group Homes account, subject to the approval of the Director of the Division of Budget and Accounting.

Cost recoveries from skill development homes during the fiscal year ending June 30, 2003, not to exceed $12,500,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Cost recoveries from developmentally disabled patients and residents, collected during the fiscal year ending June 30, 2003, not to exceed $5,500,000, are appropriated for the continued operation of the Group Homes program, and an additional amount, not to exceed $20,000,000, is appropriated for Community Services Waiting List Reduction Initiatives, subject to the approval of the Director of the Division of Budget and Accounting.

7610 Green Brook Regional Center
DIRECT STATE SERVICES

05-7610 Residential Care and Habilitation Services.	$7,790,000
(From General Fund . . . . . $494,000)	
(From Federal Funds . . . . . 7,296,000)	
99-7610 Administration and Support Services.	3,193,000
(From General Fund . . . . . 898,000)	
(From Federal Funds . . . . . 2,295,000)	
Total Appropriation, State and Federal Funds.	$10,983,000
(From General Fund . . . . . $1,392,000)	
(From Federal Funds . . . . . 9,591,000)	
Less:	
Federal Funds $9,591,000	
Total Deductions $9,591,000	
Total Direct State Services Appropriation, Green Brook Regional Center.	$1,392,000

Direct State Services:

Personal Services:	
Salaries and Wages.	($9,591,000)
Materials and Supplies	(875,000)
Services Other Than Personal	(262,000)
Maintenance and Fixed Charges	(210,000)

Special Purpose:
Additions, Improvements and Equipment ... (45,000)
Less:
Federal Funds 9,591,000

7620 Vineland Developmental Center
DIRECT STATE SERVICES

05-7620 Residential Care and Habilitation Services $62,394,000
(From General Fund ..... $37,645,000)
(From Federal Funds ..... 24,749,000)
99-7620 Administration and Support Services 13,653,000
(From General Fund ..... 11,715,000)
(From Federal Funds ..... 1,938,000)
Total Appropriation, State and Federal Funds $76,047,000
(From General Fund ..... $49,360,000)
(From Federal Funds ..... 26,687,000)
Less:
Federal Funds $26,687,000
Total Deductions $26,687,000
Total Direct State Services Appropriation,
Vineland Developmental Center $49,360,000
Direct State Services:
Personal Services:
Salaries and Wages ..... ($67,394,000)
Materials and Supplies ..... (5,050,000)
Services Other Than Personal ..... (1,467,000)
Maintenance and Fixed Charges ..... (673,000)
Special Purpose:
05 Family Care ..... (6,000)
05 Weekend Staffing Initiative ..... (1,416,000)
Additions, Improvements and Equipment ... (41,000)
Less:
Federal Funds 26,687,000

7630 North Jersey Developmental Center
DIRECT STATE SERVICES

05-7630 Residential Care and Habilitation Services $35,777,000
(From General Fund ..... $15,320,000)
(From Federal Funds ..... 20,325,000)
(From All Other Funds ..... 132,000)
99-7630 Administration and Support Services 9,016,000
(From General Fund ..... 7,183,000)
(From Federal Funds ..... 1,833,000)
Total Appropriation, State and Federal Funds $44,793,000
(From General Fund ..... $22,503,000)
(From Federal Funds ..... 22,158,000)
(From All Other Funds. ..... 132,000)

Less:
Federal Funds *$22,158,000*
All Other Funds *132,000*
Total Deductions *$22,290,000*
Total Direct State Services Appropriation,
North Jersey Developmental Center $22,503,000
Direct State Services:
Personal Services:
Salaries and Wages ..... ($38,005,000)
Materials and Supplies ..... (3,201,000)
Services Other Than Personal ..... (2,058,000)
Maintenance and Fixed Charges ..... (587,000)
Special Purpose:
Weekend Staffing Initiative ..... (498,000)
Additions, Improvements and Equipment .. (444,000)
Less:
Federal Funds. *22,158,000*
All Other Funds. *132,000*

7640 Woodbine Developmental Center
DIRECT STATE SERVICES

05-7640 Residential Care and Habilitation Services $46,420,000
(From General Fund ..... *$24,883,000)*
(From Federal Funds ..... *21,537,000)*
99-7640 Administration and Support Services 12,120,000
(From General Fund ..... *8,723,000)*
(From Federal Funds ..... *3,397,000)*
Total Appropriation, State and Federal Funds $58,540,000
(From General Fund ..... *$33,606,000)*
(From Federal Funds ..... *24,934,000)*
Less:
Federal Funds.. ..... *$24,934,000*
Total Deductions.. ..... *$24,934,000*
Total Direct State Services Appropriation,
Woodbine Developmental Center $33,606,000
Direct State Services:
Personal Services:
Salaries and Wages ..... ($50,605,000)
Materials and Supplies ..... (4,391,000)
Services Other Than Personal ..... (1,415,000)
Maintenance and Fixed Charges ..... (576,000)
Special Purpose:
Weekend Staffing Initiative ..... (896,000)
Additions, Improvements and Equipment .. (657,000)
Less:
Federal Funds *24,934,000*

7650 New Lisbon Developmental Center
DIRECT STATE SERVICES

05-7650 Residential Care and Habilitation Services..... $58,304,000
(From General Fund ..... $28,443,000)
(From Federal Funds ..... 29,861,000)
99-7650 Administration and Support Services 9,520,000
Total Appropriation, State and Federal Funds $67,824,000
(From General Fund ..... $34,159,000)
(From Federal Funds ..... 33,665,000)
Less:
Federal Funds. $33,665,000
Total Deductions $33,665,000
Total Direct State Services Appropriation,
New Lisbon Developmental Center $34,159,000
Direct State Services:
Personal Services:
Salaries and Wages ..... ($61,759,000)
Materials and Supplies ..... (3,436,000)
Services Other Than Personal ..... (1,125,000)
Maintenance and Fixed Charges ..... (533,000)
Special Purpose:
05 Weekend Staffing Initiative ..... (890,000)
Additions, Improvements and Equipment ... (81,000)
Less:
Federal Funds 33,665,000

7660 Woodbridge Developmental Center
DIRECT STATE SERVICES

05-7660 Residential Care and Habilitation Services $48,266,000
(From General Fund ..... $22,992,000)
(From Federal Funds ..... 25,169,000)
(From All Other Funds. ..... 105,000)
99-7660 Administration and Support Services 7,784,000
(From General Fund ..... 6,388,000)
(From Federal Funds ..... 1,396,000)
Total Appropriation, State, Federal and All Other Funds $56,050,000
(From General Fund ..... $29,380,000)
(From Federal Funds ..... 26,565,000)
(From All Other Funds ..... 105,000)
Less:
Federal Funds $26,565,000
All Other Funds 105,000
Total Deductions $26,670,000
Total Direct State Services Appropriation,
Woodbridge Developmental Center. $29,380,000
Direct State Services:

Personal Services:
Salaries and Wages ..... ($49,868,000)
Materials and Supplies ..... (3,794,000)
Services Other Than Personal ..... (1,049,000)
Maintenance and Fixed Charges ..... (468,000)
Special Purpose:
05 Weekend Staffing Initiative ..... (652,000)
Additions, Improvements and Equipment .. (219,000)
Less:
Federal Funds. ***26,565,000***
All Other Funds. ***105,000***

7670 Hunterdon Developmental Center
DIRECT STATE SERVICES

05-7670 Residential Care and Habilitation Services $48,461,000
(From General Fund ..... $22,744,000)
(From Federal Funds ..... 25,514,000)
(From All Other Funds ..... 203,000)
99-7670 Administration and Support Services 11,522,000
(From General Fund ..... 8,219,000)
(From Federal Funds ..... 3,303,000)
Total Appropriation, State, Federal and All Other Funds $59,983,000
(From General Fund ..... $30,963,000)
(From Federal Funds ..... 28,817,000)
(From All Other Funds ..... 203,000)
Less:
Federal Funds ***$28,817,000***
All Other Funds ***203,000***
Total Deductions ***$29,020,000***
Total Direct State Services Appropriation, Hunterdon Developmental Center *$30,963,000*
Direct State Services:
Personal Services:
Salaries and Wages ..... ($51,720,000)
Materials and Supplies ..... (5,787,000)
Services Other Than Personal ..... (1,089,000)
Maintenance and Fixed Charges ..... (567,000)
Special Purpose:
05 Weekend Staffing Initiative ..... (608,000)
Additions, Improvements and Equipment .. (212,000)
Less:
Federal Funds ***28,817,000***
All Other Funds ***203,000***

Division of Developmental Disabilities

In addition to the amount hereinabove for Operation and Support of Educational Institutions of the Division of Developmental Disabilities, such other sums as the

Director of the Division of Budget and Accounting shall determine, provided in Inter-Departmental accounts for employee benefits, are considered as appropriated on behalf of the Developmental Centers and are available for matching federal funds.

The State appropriation is based on ICF/MR revenues of $211,391,000, provided that if the ICF/MR revenues exceed $211,391,000, there will be placed in reserve a portion of the State appropriation equal to the excess amount of ICF/MR revenues, subject to the approval of the Director of the Division of Budget and Accounting.

33 Supplemental Education and Training Programs
7560 Commission for the Blind and Visually Impaired
DIRECT STATE SERVICES

11-7560 Services for the Blind and Visually Impaired	$6,665,000
99-7560 Administration and Support Services	1,298,000
Total Direct State Services Appropriation, Commission for the Blind and Visually Impaired	$7,963,000

Direct State Services:

Personal Services:	
Salaries and Wages	($6,416,000)
Materials and Supplies	(123,000)
Services Other Than Personal	(476,000)
Maintenance and Fixed Charges	(80,000)
Special Purpose:	
11 Technology for the Visually Impaired	(848,000)
Additions, Improvements and Equipment ...	(20,000)

Notwithstanding the provisions of N.J.S.18A:61-1 and N.J.S.18A:46-13, or any other law to the contrary, local boards of education shall reimburse the Commission for the Blind and Visually Impaired for the documented costs of providing services to children who are classified as "educationally handicapped;" provided however, that each local board shall pay that portion of cost which the number of children classified "educationally handicapped" bears to the total number of such children served; provided further, however, that payments shall be made by each local board in accordance with a schedule adopted by the Commissioners of Education and Human Services; and further the Director of the Division of Budget and Accounting is authorized to deduct such reimbursements from the State aid payments to the local boards of education.

The unexpended balances as of June 30, 2002 in the Technology for the Visually Impaired account are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated from funds recovered from audits or other collection activities an amount sufficient to pay vendors' fees to compensate the recoveries, and the administration of the State's vending machine program, subject to the approval of the Director of the Division of Budget and Accounting. Receipts in excess of $130,000 are appropriated for the purpose of expanding vision screening services

and other prevention services, subject to the approval of the Director of the Division of Budget and Accounting. The unexpended balance of such receipts as of June 30, 2002 are appropriated.

GRANTS-IN-AID

11-7560 Services for the Blind and Visually Impaired $4,456,000
Total Grants-in-Aid Appropriation, Commission for the Blind and Visually Impaired $4,456,000

Grants-in-Aid:

11 Camp Marcella ..... ($51,000)
11 Psychological Counseling ..... (151,000)
11 Recording for the Blind, Inc. ..... (51,000)
11 Educational Services for Children .... (2,126,000)
11 Services to Rehabilitation Clients ..... (1,992,000)
11 Cost of Living Adjustment Habilitation and Rehabilitation ..... (85,000)

CAPITAL CONSTRUCTION

11-7560 Services for the Blind and Visually Impaired $1,200,000
Total Capital Construction Appropriation, Commission for the Blind and Visually Impaired $1,200,000

Capital Projects:

11 Emergency Equipment Upgrades - J. Kohn Rehabilitation Center ..... ($1,200,000)

50 Economic Planning, Development and Security
53 Economic Assistance and Security
7550 Division of Family Development

DIRECT STATE SERVICES

15-7550 Income Maintenance Management $107,181,000
(From General Fund ..... $34,615,000)
(From Federal Funds ..... 72,566,000)
Total Appropriation, State and Federal Funds. $107,181,000
(From General Fund. ..... $34,615,000)
(From Federal Funds ..... 72,566,000)

Less:

Federal Funds $72,566,000
Total Deductions $72,566,000
Total Direct State Services Appropriation, Division of Family Development $34,615,000

Direct State Services:

Personal Services:
Salaries and Wages ..... ($26,733,000)
Materials and Supplies ..... (779,000)
Services Other Than Personal ..... (20,682,000)
Maintenance and Fixed Charges ..... (1,490,000)

Special Purpose:
15 Electronic Benefit Transfer/
Distribution System ..... (3,673,000)
15 Child Support Medical Notice ..... (4,921,000)
15 Hospital Paternity Program ..... (1,453,000)
15 Work First New Jersey Child
Support Initiatives ..... (12,032,000)
15 Work First New Jersey -
Technology Investment ..... (32,974,000)
15 SSI Attorney Fees ..... (2,200,000)
Additions, Improvements and Equipment .. (244,000)
Less:
Federal Funds.. 72,566,000

Receipts derived from counties and local governments for data processing services and the unexpended balance of such receipts as of June 30, 2002 are appropriated.

The unexpended balances as of June 30, 2002 in accounts where expenditures are required to comply with Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193 are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

In order to permit flexibility, amounts may be transferred between various items of appropriation within the Income Maintenance Management program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

In addition to the amount appropriated hereinabove for the Work First New Jersey - Technology Investment account, such additional sums as may be required are appropriated from the General Fund, not to exceed $3,000,000, to meet the timely implementation of Work First New Jersey technology initiatives, subject to the approval of the Director of the Division of Budget and Accounting.

GRANTS-IN-AID

15-7550 Income Maintenance Management $643,770,000
(From General Fund ..... $287,154,000)
(From Federal Funds ..... 356,616,000)
Total Appropriation, State and Federal Funds $643,770,000
(From General Fund ..... $287,154,000)
(From Federal Funds. ..... 356,616,000)
Less:
Federal Funds $356,616,000
Total Deductions $356,616,000
Total Grants-in-Aid Appropriation,
Division of Family Development $287,154,000
Grants-in-Aid:
15 DFD Homeless Prevention Initiative . ($4,000,000)
15 Restricted Grants ..... (375,000)

15 Work First New Jersey - Training Related Expenses ..... (17,905,000)
15 Work First New Jersey - Work Activities ..... (118,153,000)
15 Work First New Jersey - Community Housing for Teens ..... (200,000)
15 Work First New Jersey - Breaking the Cycle ..... (20,884,000)
15 Work First New Jersey - Child Care . (260,084,000)
15 Family Day Care Provider Registration Act ..... (400,000)
15 Child Care Evaluation ..... (630,000)
15 TANF Abbott Expansion ..... (121,000,000)
15 Kinship Care Initiatives ..... (5,750,000)
15 Housing Diversion/Subsidy Program .. (4,500,000)
15 Criminal Background Evaluations .... (1,000,000)
15 Domestic Violence Prevention Training and Assessment ..... (450,000)
15 Pre-Early Childhood Education ..... (3,700,000)
15 EITC Marketing ..... (140,000)
15 Mental Health Assessments ..... (4,000,000)
15 Career Advancement Vouchers ..... (5,000,000)
15 Wage Supplement Program ..... (3,600,000)
15 Kinship Care Guardianship and Subsidy ..... (34,528,000)
15 Minority Male Initiative ..... (200,000)
15 Social Services for the Homeless .... (10,772,000)
15 Cost of Living Adjustment ..... (5,509,000)
15 Mini Child Care Center Project Grants .. (316,000)
15 Kinship Care Navigator ..... (500,000)
15 Substance Abuse Initiatives ..... (20,174,000)
Less:
Federal Funds 356,616,000

In order to permit flexibility, amounts may be transferred between various items of appropriation within the Income Maintenance Management program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

The unexpended balances as of June 30, 2002 in accounts where expenditures are required to comply with Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193 are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, in addition to the amounts hereinabove for the Work First New Jersey - Work Activity and Work First New Jersey - Training Related Expenses accounts, an amount not to exceed $25,500,000 is appropriated from the New Jersey Workforce Development Partnership Fund,

section 9 of P.L.1992, c.43 (C.34:15D-9), subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, of the amounts hereinabove for Work First New Jersey -Work Activity and Work First New Jersey - Training Related Expenses, $35,000,000 is appropriated from the New Jersey Workforce Development Partnership Fund, section 9 of P.L.1992, c.43 (C.34:15D-9), subject to the approval of the Director of the Division of Budget and Accounting.

Of the amounts appropriated for Work First New Jersey, amounts may be transferred to the various departments in accordance with Division of Family Development's agreements, subject to the approval of the Director of the Division of Budget and Accounting. Any unobligated balances remaining from funds transferred to the departments shall be transferred back to the Division of Family Development, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, amounts may be transferred from the Division of Family Development to the Department of Labor to meet federal Welfare to Work grant requirements, subject to the approval of the Director of the Division of Budget and Accounting.

The Commissioner of Human Services shall provide the Director of the Division of Budget and Accounting, the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or the successor committees thereto, with quarterly reports, due within 60 days after the end of each quarter, containing written statistical and financial information on the Work First New Jersey program and any subsequent welfare reform program the State may undertake.

Additional funds as may be allocated by the federal government for New Jersey's Low Income Energy Assistance Block Grant Program (LIHEAP) are appropriated subject to the approval of the Director of the Division of Budget and Accounting. A pro-rata share of Low Income Energy Assistance Block Grant funds received by the Department of Human Services is to be allocated immediately upon receipt to the Departments of Community Affairs and Health and Senior Services to enable these departments to implement programs funded by this block grant.

STATE AID

15-7550 Income Maintenance Management	$626,919,000
(From General Fund ..... $188,842,000)	
(From Federal Funds ..... .438,077,000)	
Total Appropriation, State and Federal Funds	$626,919,000
(From General Fund ..... $188,842,000)	
(From Federal Funds ..... 438,077,000)	
Less:	
Federal Funds.. ..... ***$438,077,000***	
Total Deductions..	***$438,077,000***
Total State Aid Appropriation, Division of Family Development	$188,842,000
State Aid:	
15 Miscellaneous State Aid ..... ($3,809,000)	

15 County Administration Funding .... (196,689,000)
15 Work First New Jersey - Client Benefits ..... (104,177,000)
15 Earned Income Tax Credit Program .. (70,000,000)
15 Federal Energy Assistance Program .. (35,544,000)
15 Cost of Living Adjustment .....(467,000)
15 General Assistance Emergency Assistance Program ..... (28,212,000)
15 Payments for Cost of General Assistance ..... (45,319,000)
15 Work First New Jersey - Emergency Assistance ..... (29,186,000)
15 Payments for Supplemental Security Income ..... (64,632,000)
15 State Supplemental Security Income Administrative Fee to SSA ..... (15,579,000)
15 General Assistance County Administration ..... (21,505,000)
15 Food Stamp Administration - State .... (8,600,000)
15 Food Stamps for Legal Aliens ..... (3,000,000)
15 Fair Labor Standards Act-Minimum Wage Requirements (TANF) ..... (200,000)
Less:
Federal Funds ***438,077,000***

The net State share of reimbursements and the net balances remaining after full payment of sums due the federal government of all funds recovered under R.S.44:7-14, P.L.1959, c.86 (C.44:10-4 et seq.), P.L.1950, c.166 (C.30:4B-1 et seq.) and P.L.1971, c.209 (C.44:13-1 et seq.), during the fiscal year ending June 30, 2002 are appropriated.

Receipts from State administered municipalities during the fiscal year ending June 30, 2002 are appropriated.

The sum hereinabove appropriated is available for payment of obligations applicable to prior fiscal years.

Any change by the Department of Human Services in the standards upon which or from which grants of categorical public assistance are determined, first shall be approved by the Director of the Division of Budget and Accounting.

In order to permit flexibility and ensure the timely payment of benefits to welfare recipients, amounts may be transferred between the various items of appropriation within the Income Maintenance Management program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Notwithstanding any law to the contrary, the Director of the Division of Budget and Accounting is authorized to withhold State Aid payments to municipalities to satisfy any obligations due and owing from audits of that municipality's General Assistance program.

The unexpended balances as of June 30, 2002 in accounts where expenditures are required to comply with Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193 and in the Payments for the Cost of General Assistance and General Assistance Emergency Assistance accounts are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from counties for persons receiving Old Age Assistance, Disability Assistance, and Assistance for the Blind under the Supplemental Security Income (SSI) program are appropriated for the purpose of providing State aid to the counties, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the provisions of section 3 of P.L.1973, c.256 (C.44:7-87), the Department of Human Services shall assess welfare boards at the beginning of each fiscal year in the same proportion that the counties currently participate in the federal categorical assistance programs, in order to obtain the amount of each county's share of the supplementary payments for eligible persons in this State, based upon the number of eligible persons in the county. Welfare boards shall pay the amount assessed.

There is appropriated an amount equal to the difference between actual revenue loss reflected in the Earned Income Tax Credit program and the amount anticipated as the revenue loss from the Earned Income Tax Credit to meet federal Maintenance of Effort requirements to allow the Department of Human Services to comply with the Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, and as legislatively required by the Work First New Jersey program, section 4 of P.L.1997, c.38 (C.44:10-58), subject to the approval of the Director of the Division of Budget and Accounting.

50 Economic Planning, Development and Security
55 Social Services Programs
7570 Division of Youth and Family Services
DIRECT STATE SERVICES

16-7570 Services to Children and Families.	$187,460,000
(From General Fund . . . . . $60,177,000)	
(From Federal Funds . . . . . 125,303,000)	
(From All Other Funds . . . . . 1,980,000)	
99-7570 Administration and Support Services	17,887,000
(From General Fund . . . . . 7,457,000)	
(From Federal Funds . . . . . 10,430,000)	
Total Appropriation, State, Federal and All Other Funds	$205,347,000
(From General Fund . . . . . $67,634,000)	
(From Federal Funds . . . . . 135,733,000)	
(From All Other Funds . . . . . 1,980,000)	
Less:	
Federal Funds $135,733,000	

All Other Funds ***1,980,000***
Total Deductions ***$137,713,000***
Total Direct State Services Appropriation, Division of Youth and Family Services $67,634,000
Direct State Services:
Personal Services:
Salaries and Wages ..... ($145,990,000)
Materials and Supplies ..... (2,142,000)
Services Other Than Personal ..... (8,774,000)
Maintenance and Fixed Charges ..... (10,232,000)
Special Purpose:
16 Foster Care and Permanency Initiative ..... (6,822,000)
16 Child Protection Initiative ..... (12,204,000)
16 New Jersey Safe Haven Infant Protection Act ..... (500,000)
16 Adoption Resource Centers-Hiring . (4,800,000)
16 District Office Hiring ..... (9,000,000)
Additions, Improvements and Equipment . (4,883,000)
Less:
Federal Funds ***135,733,000***
All Other Funds ***1,980,000***

GRANTS-IN-AID

16-7570 Services to Children and Families $315,417,000
(From General Fund ..... $257,549,000)
(From Federal Funds ..... 54,614,000)
(From All Other Funds ..... 3,254,000)
99-7570 Administrative and Support Services 855,000
(From Federal Funds ..... 855,000)
Total Appropriation, State, Federal and All Other Funds $316,272,000
(From General Fund ..... $257,549,000)
(From Federal Funds ..... 55,469,000)
(From All Other Funds ..... 3,254,000)
Less:
Federal Funds ***$55,469,000***
All Other Funds ***3,254,000***
Total Deductions ***$58,723,000***
Total Grants-in-Aid Appropriation, Division of Youth and Family Services $257,549,000
Grants-in-Aid:
16 Rutgers MSW Program ..... ($950,000)
16 Aid to Bergen County Domestic Violence Pilot Program ..... (230,000)
16 Child Assault Prevention Project ..... (1,213,000)
16 Group Homes ..... (12,825,000)

16 Treatment Homes ..... (10,860,000)
16 Public Awareness for Child Abuse Prevention Program ..... (269,000)
16 Cost of Living Adjustment-Services to Children and Families ..... (7,063,000)
16 Other Residential Placements ..... (17,988,000)
16 Regional Diagnostic and Treatment Centers ..... (1,585,000)
16 Residential Placements ..... (12,765,000)
16 Family Support Services ..... (50,684,000)
16 Child Abuse Prevention ..... (10,969,000)
16 Foster Care ..... (55,832,000)
16 Subsidized Adoption ..... (47,185,000)
16 Regional Child Abuse Treatment Centers ..... (452,000)
16 Morris/Sussex/Sexual Abuse Victims' Program ..... (341,000)
16 Recruitment of Adoptive Parents ..... (636,000)
16 Substance Abuse Assessment ..... (52,000)
16 Domestic Violence Program ..... (4,578,000)
16 Foster Care and Permanency Initiative (16,076,000)
16 Certified Drug and Alcohol Counselors Model ..... (1,585,000)
16 Office of Refugee Resettlement -- Social Services ..... (3,306,000)
16 Cuban-Haitian Community Outreach Program ..... (700,000)
16 County Human Services Advisory Board -Formula Funding ..... (7,618,000)
16 Children and Families Initiative ..... (1,268,000)
16 New Jersey Homeless Youth Act ..... (1,444,000)
16 Family Friendly Centers ..... (2,657,000)
16 Wynona M. Lipman Child Advocacy Center, Essex County ..... (946,000)
16 Children's Services for Victims of Domestic Violence ..... (270,000)
16 Purchase of Social Services ..... (19,371,000)
16 School Based Youth Services Program ..... (14,040,000)
16 Adoption Assistance Incentives ..... (461,000)
16 Restricted Grant ..... (9,198,000)
99 Children's Justice Act ..... (245,000)
99 National Center for Child Abuse and Neglect ..... (610,000)
Less:
Federal Funds. 55,469,000

All Other Funds *3,254,000*

The sums hereinabove for the Residential Placements, Group Homes, Treatment Homes, Other Residential Placements, Foster Care, Subsidized Adoption, and Family Support Services accounts are available for the payment of obligations applicable to prior fiscal years.

Any change by the Department of Human Services in the rates paid for the foster care and adoption subsidy programs shall first be approved by the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for Foster Care and Subsidized Adoption, the Division of Youth and Family Services may expend up to $225,000 for recruitment of foster and adoptive families; provided however, that a plan for recruitment and training first shall be approved by the Director of the Division of Budget and Accounting.

Receipts in the Marriage License Fee Fund in excess of the amount anticipated are appropriated.

Of the amount hereinabove appropriated for the Domestic Violence Program, $1,309,000 is payable out of the Marriage License Fee Fund. If receipts to that fund are less than anticipated, the appropriation shall be reduced by the amount of the shortfall.

The Department of Human Services shall provide a list of the County Human Services Advisory Boards contracts to the Director of the Division of Budget and Accounting on or before September 30, 2002. The listing shall segregate out the administrative costs of such contracts.

Of the amounts appropriated for the School Based Youth Services Program, there shall be available $400,000 for the After School Reading Initiative, $200,000 for the After School Start-Up Fund, $400,000 for School Health Clinics, and $530,000 for Positive Youth Development.

Funds recovered under P.L.1951, c.138 (C.30:4C-1 et seq.) during the fiscal year ending June 30, 2003, are appropriated.

Notwithstanding the provision of any law to the contrary, amounts that become available as a result of the return of persons from in-State and out-of-State residential placements to community programs within the State may be transferred from the Residential Placements account to the appropriate Services to Children and Families account, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from counties for persons under the care and supervision of the Division of Youth and Family Services are appropriated for the purpose of providing State Aid to the counties, subject to the approval of the Director of the Division of Budget and Accounting.

50 Economic Planning, Development and Security
55 Social Services Programs
7580 Division of the Deaf and Hard of Hearing
DIRECT STATE SERVICES

23-7580 Services for the Deaf. $706,000

Total Direct State Services Appropriation, Division of the Deaf and Hard of Hearing $706,000

Direct State Services:
Personal Services:
Salaries and Wages ..... ($280,000)
Materials and Supplies ..... (41,000)
Services Other Than Personal ..... (39,000)
Maintenance and Fixed Charges ..... (1,000)
Special Purpose:
23 Services to Deaf Clients ..... (290,000)
23 Communication Access Services ..... (55,000)

70 Government Direction, Management and Control
76 Management and Administration
7500 Division of Management and Budget
DIRECT STATE SERVICES

96-7500 Institutional Security Services $5,093,000
99-7500 Administration and Support Services 21,829,000
Total Direct State Services Appropriation, Division of Management and Budget $26,922,000

Direct State Services:
Personal Services:
Salaries and Wages ..... ($18,012,000)
Materials and Supplies ..... (258,000)
Services Other Than Personal ..... (7,108,000)
Maintenance and Fixed Charges ..... (172,000)
Special Purpose:
99 Clinical Services Scholarships ..... (150,000)
99 Affirmative Action and Equal Employment Opportunity ..... (255,000)
99 Transfer to State Police for Fingerprinting/Background Checks of Job Applicants ..... (560,000)
99 Institutional Staff Background Checks ..... (407,000)

Notwithstanding the provision of any law to the contrary, the Department of Human Services is authorized to identify opportunities for increased recoveries to the General Fund and to the department. Such funds collected are appropriated, subject to the approval of the Director of the Division of Budget and Accounting in accordance with a plan approved by the Director of the Division of Budget and Accounting.

Revenues representing receipts to the General Fund from charges to residents' trust accounts for maintenance costs are appropriated for use as personal needs allowances for patients/residents who have no other source of funds for these purposes; except that the total amount herein for these allowances shall not exceed $1,375,000 and that any increase in the maximum monthly allowance shall be approved by the Director of the Division of Budget and Accounting.

Upon promulgation of federal regulations modifying the Medicare outpatient hospital reimbursement system, there are appropriated such additional sums as

are required to fund the purchase of a Health Care Billing System, subject to the approval of the Director of the Division of Budget and Accounting.

GRANTS-IN-AID

99-7500 Administration and Support Services $6,038,000
Total Grants-in-Aid Appropriation, Division of Management and Budget $6,038,000

Grants-in-Aid:

99 Office for Prevention of Mental Retardation and Developmental Disabilities ..... ($676,000)
99 New Jersey Youth Corps ..... (3,271,000)
99 Social Services Emergency Grants .... (2,000,000)
99 Cost of Living Adjustment ..... (91,000)

Notwithstanding any law to the contrary, of the amount hereinabove for New Jersey Youth Corps, $1,850,000 is appropriated from the New Jersey Workforce Development Partnership Fund, section 9 of P.L.1992, c.43 (C.34:15D-9).

CAPITAL CONSTRUCTION

99-7500 Administration and Support Services $3,300,000
Total Capital Construction Appropriation, Division of Management and Budget $3,300,000

Capital Projects:

99 Statewide Automated Child Welfare Information System ..... ($3,300,000)
Department of Human Services, Total State Appropriation $4,123,160,000

Of the amount appropriated hereinabove for the Department of Human Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule included in the Governor's Budget Recommendation Document dated March 26, 2002, first shall be charged to the State Lottery Fund.

Balances on hand as of June 30, 2002 of funds held for the benefit of patients in the several institutions, and such funds as may be received, are appropriated for the use of the patients.

Funds received from the sale of articles made in occupational therapy departments of the several institutions are appropriated for the purchase of additional material and other expenses incidental to such sale or manufacture.

Any change in program eligibility criteria and increases in the types of services or rates paid for services to or on behalf of clients for all programs under the purview of the Department of Human Services, not mandated by federal law, shall first be approved by the Director of the Division of Budget and Accounting.

Notwithstanding any other provision of law to the contrary, receipts from payments collected from clients receiving services from the department, and collected from their chargeable relatives, are appropriated to offset administrative and contract expenses related to the charging, collecting and accounting of payments from clients receiving services from this department and from their chargeable relatives

pursuant to R.S.30:1-12 subject to the approval of the Director of the Division of Budget and Accounting.

Payment to vendors for their efforts in maximizing federal revenues is appropriated and shall be paid from the federal revenues received, subject to the approval of the Director of the Division of Budget and Accounting. The unexpended balance as of June 30, 2002 in this account is appropriated.

Unexpended State balances may be transferred among Department of Human Services accounts in order to comply with the State Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Pub.L.104-193, and as legislatively required by the Work First New Jersey program, section 4 of P.L.1997, c.38 (C.44:10-58), subject to the approval of the Director of the Division of Budget and Accounting. Notice of such transfers that would result in appropriations or expenditures exceeding the State's Maintenance of Effort requirement obligation shall be subject to the approval of the Joint Budget Oversight Committee. In addition, unobligated balances remaining from funds allocated to the Department of Labor for Work First New Jersey as of June 1 of each year are to be reverted to the Work First New Jersey - Client Benefits account in order to comply with Pub.L.104-193, as required by section 4 of P.L.1997, c.38 (C.44:10-58).

Of the amounts hereinabove appropriated for the Children's Initiative, the Department of Human Services may transfer appropriations for children's services and related administration within and across all divisions within the Department of Human Services based on a plan approved by the Director of the Division of Budget and Accounting.

From the amounts provided hereinabove for cost of living adjustments throughout the Department of Human Services, it is intended that these moneys shall be used to fund, at a minimum, a 2% cost of living increase for service workers' salaries, effective July 1, 2002.

Summary of Department of Human Services Appropriations
(For Display Purposes Only)

Appropriations by Category:	
Direct State Services	$631,381,000
Grants-in-Aid	3,200,927,000
State Aid	283,352,000
Capital Construction	7,500,000
Appropriations by Fund:	
General Fund	$4,099,791,000
Casino Revenue Fund	23,369,000

62 DEPARTMENT OF LABOR
50 Economic Planning, Development and Security
51 Economic Planning and Development
DIRECT STATE SERVICES

99-4565 Administration and Support Services $953,000

Total Direct State Services Appropriation, Economic Planning and Development $953,000

Direct State Services:

Personal Services:
Salaries and Wages ..... ($580,000)
Materials and Supplies ..... (12,000)
Services Other Than Personal ..... (268,000)
Maintenance and Fixed Charges ..... (28,000)
Special Purpose:
99 Affirmative Action and Equal Employment Opportunity ..... (62,000)
Additions, Improvements and Equipment .... (3,000)

Of the amount hereinabove for the Administration and Support Services program classification, $265,000 is appropriated from the Unemployment Compensation Auxiliary Fund.

In addition to the amounts appropriated hereinabove for Administration and Support Services, there are appropriated from the New Jersey Redevelopment Investment Fund and the Economic Development Fund an amount of $142,000 to provide for administrative costs incurred by the Department of Labor for activities related to the New Jersey Redevelopment Authority and the New Jersey Economic Development Authority programs, as determined by the Director of the Division of Budget and Accounting.

Of the amounts hereinabove for Administration and Support Services, $31,000 are payable out of the State Disability Benefits Fund, and in addition to the amounts hereinabove there are appropriated out of the State Disability Benefits Fund such additional sums as may be required to administer Administration and Support Services, subject to the approval of the Director of the Division of Budget and Accounting.

The amount necessary to provide administrative costs incurred by the Department of Labor to meet the statutory requirements of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) is appropriated from the Enterprise Zone Assistance Fund, subject to the approval of the Director of the Division of Budget and Accounting.

The amount necessary to provide employer rebate awards as a result of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), are appropriated from the Enterprise Zone Assistance Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), the Department of Labor, based upon the authorization of the Chief Executive Officer and Secretary of the New Jersey Commerce and Economic Growth Commission, shall make employer rebate awards.

Such sums as may be necessary to collect the contributions to the Health Care Subsidy Fund, pursuant to section 29 of the "Health Care Reform Act of 1992," P.L.1992, c.160 (C.43:21-7b), are appropriated from the Health Care Subsidy Fund, subject to the approval of the Director of the Division of Budget and Accounting.

53 Economic Assistance and Security
DIRECT STATE SERVICES

03-4520	State Disability Insurance Plan	$20,874,000
04-4520	Private Disability Insurance Plan	3,906,000
05-4525	Workers' Compensation	11,759,000
06-4530	Special Compensation	1,639,000
	Total Direct State Services Appropriation, Economic Assistance and Security	$38,178,000

Direct State Services:

Personal Services:	
Salaries and Wages	($24,788,000)
Materials and Supplies	(287,000)
Services Other Than Personal	(4,910,000)
Maintenance and Fixed Charges	(1,995,000)
Special Purpose:	
03 Reimbursement to Unemployment Insurance for Joint Tax Functions	(5,500,000)
06 Special Compensation	(40,000)
Additions, Improvements and Equipment	(658,000)

The amounts hereinabove for the State Disability Insurance Plan and Private Disability Insurance Plan are payable out of the State Disability Benefits Fund and, in addition to the amounts hereinabove, there are appropriated out of the State Disability Benefits Fund such additional sums as may be required to pay disability benefits, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for administrative costs associated with the State Disability Insurance Plan there is appropriated from the State Disability Benefits Fund an amount not to exceed $6,250,000, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for the Workers' Compensation program are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for the Special Compensation Fund are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Special Compensation Fund shall be payable out of the Special Compensation Fund and, notwithstanding the $12,500 limitation set forth in R.S.34:15-95, in addition to the amounts hereinabove, there are appropriated out of the Special Compensation Fund such additional sums as may be required for costs of administration and beneficiary payments.

There is appropriated out of the balance in the Second Injury Fund an amount not to exceed $1,000,000 to be deposited to the credit of the "Uninsured Employer's Fund" for the payment of benefits as determined in accordance with section 11 of P.L.1966, c.126 (C.34:15-120.2). Any amount so transferred shall be included in the next "Uninsured Employer's Fund" surcharge imposed in accordance with section 10 of P.L.1966 c.126 (C.34:15-120.1) and any amount

so transferred shall be returned to the Second Injury Fund without interest and shall be included in "net assets" of the Second Injury Fund pursuant to paragraph (4) of subsection c. of R.S.34:15-94.

The funds appropriated for Second Injury Fund benefits are available for the payment of obligations applicable to prior fiscal years.

Amounts to administer the "Uninsured Employer's Fund" are appropriated from the "Uninsured Employer's Fund," subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts appropriated hereinabove, there are appropriated out of the State Disability Benefits Fund such additional sums as may be required to administer the Private Disability Insurance Plan.

From the funds made available to the State under section 903(d)(4) of the Social Security Act (42 U.S.C. s.1103 et seq.), as amended, the sum of $37,000,000, or so much thereof as may be necessary, is to be used for the improvement of services to unemployment insurance claimants through an improvement and modernization of the benefit payment system and other technology improvements, and to employment service clients through a continued development of One-Stop Offices throughout the State and other investments in technology and processes that will enhance job opportunities for clients.

54 Manpower and Employment Services

DIRECT STATE SERVICES

07-4535	Vocational Rehabilitation Services	$2,599,000
09-4545	Employment Services	8,903,000
10-4545	Employment and Training Services	92,000
12-4550	Workplace Standards	5,862,000
16-4556	Public Sector Labor Relations	3,116,000
17-4560	Private Sector Labor Relations	522,000
	Total Direct State Services Appropriation, Manpower and Employment Services	$21,094,000

Direct State Services:

Personal Services:	
Salaries and Wages	($16,176,000)
Materials and Supplies	(53,000)
Services Other Than Personal	(240,000)
Maintenance and Fixed Charges	(91,000)
Special Purpose:	
09 Workforce Development Partnership Program	(1,124,000)
09 Workforce Development Partnership - Counselors	(81,000)
09 Workforce Literacy and Basic Skills Program	(2,000,000)
10 Council on Gender Parity	(92,000)
12 Worker and Community Right-to-Know Act	(42,000)

12 Public Employees
Occupational Safety ..... (420,000)
12 Public Works Contractor
Registration Act ..... (500,000)
12 Mine Safety Program Expansion .... (160,000)
Additions, Improvements and Equipment .. (115,000)

Notwithstanding the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), the cost of fact-finding shall be borne equally by the public employer and the exclusive employee representative.

The amount hereinabove for the Vocational Rehabilitation Services program classification is available for the payment of obligations applicable to prior fiscal years.

The amount hereinabove for the Vocational Rehabilitation Services program classification is appropriated from the Unemployment Compensation Auxiliary Fund.

The amounts hereinabove for the Workforce Development Partnership Program shall be appropriated from receipts received pursuant to P.L.1992, c.44 (C.34:15D-12 et seq.), together with such additional sums as may be required to administer the Workforce Development Partnership Program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "1992 New Jersey Employment and Workforce Development Act" P.L.1992, c.43 (C.34:15D-1 et seq.), such amounts as may be necessary are appropriated from the Workforce Development Partnership Fund to provide a State match to the federal Welfare-to-Work Grant program, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts hereinabove for the Workforce Literacy Program shall be appropriated from receipts received pursuant to P.L.2001, c.152 (C.34:15D-21 et seq.), together with such additional sums as may be required to administer the Workforce Literacy Program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "Supplemental Workforce Fund for Basic Skills" P.L.2001, c.152 (C.34:15D-21 et seq.), or any other law to the contrary, the unexpended balance in the Supplemental Workforce Fund for Basic Skills as of June 30, 2002 is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

An amount not to exceed $5,669,000 shall be transferred from the Department of Human Services to be used as a State match to the federal Welfare-to-Work Grant program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for the Workplace Standards Program are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for the Public Works Contractor Registration program are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance in the Public Works Contractor Registration Program as of June 30, 2002 is appropriated for the Public Works Contractor Registration Program.

Notwithstanding the provisions of the "Worker and Community Right To Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), the amount hereinabove for the Worker and Community Right To Know Act account is payable out of the "Worker and Community Right To Know Fund." If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately. In addition to the amounts hereinabove, there are appropriated out of the "Worker and Community Right To Know Fund" such additional sums, not to exceed $8,400, to administer the Right To Know Program, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated out of the Wage and Hour Trust Fund and the Prevailing Wage Act Trust Fund such sums as may be necessary for payments.

The amount hereinabove for the Private Sector Labor Relations program classification is appropriated from the Unemployment Compensation Auxiliary Fund.

GRANTS-IN-AID

07-4535 Vocational Rehabilitation	$29,719,000
(From General Fund	*$27,279,000)*
(From Casino Revenue Fund	*2,440,000)*
09-4545 Employment Services	4,000,000
Total Grants-in-Aid Appropriation, Manpower and Employment Services	$33,719,000
(Total From General Fund	*$31,279,000)*
(Total From Casino Revenue Fund	*2,440,000)*

Grants-in-Aid:

07 Services to Clients (State Share)	($4,286,000)
07 Sheltered Workshop - Transportation (CRF)	(2,440,000)
07 Sheltered Workshop - Transportation	(1,060,000)
07 Supported Employment Services	(2,550,000)
07 Sheltered Workshop Support	(17,974,000)
07 Sheltered Workshop Employment Placement Incentive Program	(450,000)
07 Salary Supplement for Direct Services Workers	(122,000)
07 Cost of Living Adjustment -- Sheltered Workshops	(138,000)
07 Services for Deaf Individuals	(170,000)
07 Independent Living Centers	(525,000)
07 Training (State Share)	(4,000)
07 John J. Heldrich Center for Workforce Development	(4,000,000)

The sum hereinabove for the Vocational Rehabilitation Services program classification is available for the payment of obligations applicable to prior fiscal years.

Of the amount hereinabove for the Vocational Rehabilitation Services program classification, an amount not to exceed $13,000,000 is appropriated from the Unemployment Compensation Auxiliary Fund.

From the amounts provided hereinabove for Cost of Living Adjustments - Sheltered Workshops, it is intended that these monies shall be used to fund, at a minimum, a 2.0% cost of living increase for direct service workers' salaries, effective July 1, 2002.

Amounts appropriated hereinabove for the Sheltered Workshop Employment Placement Incentive Program shall be available to support expenditures under the Sheltered Workshop Support Program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the John J. Heldrich Center represents a grants- in- aid appropriation to the New Jersey Redevelopment Authority pursuant to an agreement with the New Brunswick Development Corporation. The authority's investment shall be used to pay a portion of the costs associated with the acquisition, site preparation, design and construction of a Statewide workforce training center to be located in New Brunswick, New Jersey known as the Heldrich Center for Workforce Development at the Edward J. Bloustein School of Policy and Planning (the "Heldrich Center") and the infrastructure and site preparation costs associated with the redevelopment project. The authority's investment is subject to the terms and conditions set forth in an agreement between the authority and the New Brunswick Development Corporation. The agreement shall be subject to the approval of the State Treasurer who, upon such approval, shall report to the Joint Budget Oversight Committee on the terms and conditions of the agreement.

Department of Labor, Total State Appropriation $93,944,000

Summary of Department of Labor Appropriations
(For Display Purposes Only)

Appropriations by Category:	
Direct State Services	$60,225,000
Grants-in-Aid	33,719,000
Appropriations by Fund:	
General Fund	$91,504,000
Casino Revenue Fund	2,440,000

66 DEPARTMENT OF LAW AND PUBLIC SAFETY
10 Public Safety and Criminal Justice
12 Law Enforcement
DIRECT STATE SERVICES

06-1200	State Police Operations	$201,244,000
09-1020	Criminal Justice	26,714,000
11-1050	State Medical Examiner	600,000
30-1460	Gaming Enforcement	35,799,000
	(From Casino Control Fund ..... $35,799,000)	

99-1200 Administration and Support Services 27,459,000
Total Direct State Services Appropriation,
Law Enforcement $291,816,000
(Total From General Fund ..... $256,017,000)
(Total From Casino Control Fund .... 35,799,000)
Direct State Services:
Personal Services:
Salaries and Wages ..... ($161,783,000)
Salaries and Wages (CCF) ..... (23,605,000)
Cash in Lieu of Maintenance ..... (19,578,000)
Cash in Lieu of Maintenance (CCF) .... (741,000)
Employee Benefits (CCF) ..... (5,144,000)
Materials and Supplies ..... (5,893,000)
Materials and Supplies (CCF) ..... (389,000)
Services Other Than Personal ..... (11,128,000)
Services Other Than Personal (CCF) ..... (1,864,000)
Maintenance and Fixed Charges ..... (4,478,000)
Maintenance and Fixed Charges (CCF) ... (2,440,000)
Special Purpose:
06 Nuclear Emergency
Response Program ..... (1,591,000)
06 Drunk Driver Fund Program ..... (962,000)
06 Noncriminal Record Checks ..... (1,014,000)
06 DNA Enhancements ..... (1,800,000)
06 Office of Emergency Management
Service Enhancement ..... (1,000,000)
06 Enhanced DNA Testing ..... (450,000)
06 COPS Universal Grant --
State Assumption ..... (1,848,000)
06 Megan's Law DNA Testing ..... (200,000)
06 Urban Search and Rescue ..... (1,000,000)
06 Additional 70 Troopers ..... (3,591,000)
06 State Police Additional
Narcotic Detectives and Patrol
Supervisors - Salaries ..... (5,017,000)
06 State Police Forensic and
Communication Equipment/
Hamilton Facilities ..... (4,375,000)
06 State Police Federal Monitor ..... (500,000)
09 Criminal Justice - Corruption
Prosecution Expansion ..... (700,000)
09 Division of Criminal Justice --
State Match ..... (1,500,000)
09 Human Relations Council ..... (250,000)
09 Expenses of State Grand Jury ..... (356,000)
09 Medicaid Fraud Investigation --
State Match ..... (500,000)

30 Gaming Enforcement (CCF) ..... (1,185,000)
99 State Police Recruit Training ..... (2,500,000)
99 Affirmative Action and Equal Employment Opportunity ..... (193,000)
99 N.C.I.C. 2000 Project ..... (2,000,000)
99 State Police Cadet Pilot Program .... (174,000)
99 Additional 85 Civilian Staff - Trooper Redeployment ..... (4,000,000)
99 State Police Technology Enhancements ..... (600,000)
99 State Police Enhanced Systems and Procedures ..... (3,450,000)
Additions, Improvements and Equipment ..... (13,586,000)
Additions, Improvements and Equipment (CCF) ..... (431,000)

Notwithstanding the provisions of any law or regulation to the contrary, receipts derived from the recovery of costs associated with the implementation of the "Criminal Justice Act of 1970," P.L.1970, c.74 (C.52:17B-97 et seq.), are appropriated for the purpose of offsetting the costs of the Division of Criminal Justice, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2002 in the Victim Witness Advocacy Fund account, together with receipts derived pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) is appropriated.

Notwithstanding the provisions of any law or regulation to the contrary, funds obtained through seizure, forfeiture, or abandonment pursuant to any federal or State statutory or common law and proceeds of the sale of any such confiscated property or goods, except for such funds as are dedicated pursuant to N.J.S.2C:64-6, are appropriated for law enforcement purposes designated by the Attorney General.

The unexpended balance as of June 30, 2002 in the revolving fund established under the "New Jersey Antitrust Act," P.L.1970, c.73 (C.56:9-1 et seq.) is appropriated for the administration of the act and any expenditures therefrom shall be subject to the approval of the Director of the Division of Budget and Accounting.

Such additional amounts as may be required to carry out the provisions of the "New Jersey Antitrust Act," P.L.1970, c.73 (C.56:9-1 et seq.) are appropriated from the General Fund; provided however, that any expenditures therefrom shall be subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated from license fees and/or audits conducted to ensure compliance with "The Private Detective Act of 1939," P.L.1939, c.369 (C.45:19-8 et seq.), are appropriated to defray the cost of this activity.

Notwithstanding the provisions of section 14 of P.L.1992, c.188 (C.33:1-4.1), in addition to the amounts hereinabove, all fees and penalties collected by the Director of the Division of Alcoholic Beverage Control in excess of $2,000,000

are appropriated for the purpose of offsetting additional operational costs of the Alcoholic Beverage Control Enforcement Bureau in the Division of State Police and the Division of Alcoholic Beverage Control, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove for State Police Operations, such amounts as may be required for the purpose of offsetting costs of the provision of State Police services are appropriated from indirect cost recoveries, subject to the approval of the Director of the Division of Budget and Accounting.

All fees and receipts collected, pursuant to paragraph (7) of subsection l. of N.J.S.2C:39-6, the "Retired Officer Handgun Permit" program, and the unexpended balance as of June 30, 2002, are appropriated to offset the costs of administering the application process, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived pursuant to the New Jersey Emergency Medical Service Helicopter Response Program under section 1 of P.L.1992, c.87 (C.39:3-8.2) are appropriated to the Division of State Police and the Department of Health and Senior Services to defray the operating costs of the program as authorized under P.L.1986, c.106 (C.26:2K-35 et seq.). The unexpended balance as of June 30, 2002 is appropriated to the special capital maintenance reserve account for capital replacement and major maintenance of helicopter equipment and any expenditures therefrom shall be subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Nuclear Emergency Response Program account is payable from receipts received pursuant to the assessment of electrical utility companies under P.L.1981, c.302 (C.26:2D-37 et seq.). The unexpended balance as of June 30, 2002 in the Nuclear Emergency Response Program account is appropriated.

The unexpended balance as of June 30, 2002 in the Drunk Driver Fund Program account, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Drunk Driver Fund Program is payable out of the Drunk Driver Enforcement Fund established pursuant to P.L.1984, c.4 (C.39:4-50.8) designated for this purpose and any amount remaining therein. If receipts to the fund are less than anticipated, the appropriation shall be reduced proportionately.

The amount hereinabove for the Non-Criminal Record Checks is payable out of the dedicated fund designated for this purpose. If receipts to the fund are less than anticipated, the appropriation shall be reduced proportionately.

Notwithstanding the provisions of section 3 of P.L.1985, c.69 (C.53:1-20.7), the unexpended balance as of June 30, 2002 in the Non-Criminal Record Checks account, together with any receipts in excess of the amount anticipated, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in the "Commercial Vehicle Enforcement Fund" established pursuant to section 17 of P.L.1995, c.157 (C.39:8-75) are appropriated to offset all reasonable and necessary expenses of the Division of State Police and Division

of Motor Vehicles in the performance of commercial truck safety and emission inspections, subject to the approval of the Director of the Division of Budget and Accounting.

All registration fees, tuition fees, training fees, and all other fees received for reimbursement for attendance at courses conducted by Division of State Police and Division of Criminal Justice personnel are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts hereinabove to the Divisions of State Police and Criminal Justice and the Office of the State Medical Examiner, there are appropriated to the respective State departments and agencies such sums as may be received or receivable from any instrumentality, municipality, or public authority for direct and indirect costs of all services furnished thereto, except as to such costs for which funds have been included in appropriations otherwise made to the respective State departments and agencies as the Director of the Division of Budget and Accounting shall determine; provided however, that payments from such instrumentalities, municipalities, or authorities for employer contributions to the State Police and Public Employees' Retirement Systems shall not be appropriated and shall be paid into the General Fund.

Notwithstanding the provisions of section 11 of P.L.1993, c.220 (C.2C:43-3.2), an amount not to exceed $1,100,000 is appropriated from the Safe Neighborhoods Services Fund to provide Criminal Justice Statewide Law Enforcement federal grant match, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts hereinabove for the State Police -- Enhanced DNA Testing account, there is appropriated an amount not to exceed $450,000 to be offset by actual receipts pursuant to P.L.2000, c.118. Additional funding shall be based upon the review of monthly workload data, collection data and spending plans, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove for State Police Operations, there is appropriated from the General Fund such sums as are necessary to pay for debt service costs associated with the purchase of helicopters, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the agency surcharge on vehicle rentals pursuant to P.L.2002, c.34, not to exceed $550,000 for State Police security at nuclear power facilities, and not to exceed $17,900,000 for State Police salaries related to Statewide security services, are appropriated for those purposes and shall be deposited into a dedicated account, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove for Gaming Enforcement, there are appropriated from the Casino Control Fund such additional sums as may be required for gaming enforcement, subject to the approval of the Director of the Division of Budget and Accounting.

GRANTS-IN-AID

06-1200 State Police Operations $265,000
09-1020 Criminal Justice 1,300,000
Total Grants-in-Aid Appropriation,
Law Enforcement $1,565,000

Grants-in-Aid:

06 Nuclear Emergency Response Program ($265,000)
09 Sex Offender Internet Registry Grants .. (300,000)
09 Community Justice Grant ..... (1,000,000)

The unexpended balances as of June 30, 2002, in the Division of Criminal Justice's Community Justice program is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

STATE AID

09-1020 Criminal Justice $10,090,000
Total State Aid Appropriation, Law Enforcement $10,090,000

State Aid:

09 Trigger Lock County Program ..... ($90,000)
09 Statewide Local Domestic
Preparedness Equipment ..... (9,000,000)
09 Safe and Secure Neighborhoods
Program ..... (1,000,000)

CAPITAL CONSTRUCTION

06-1200 State Police Operations $6,000,000
Total Capital Construction Appropriation,
Law Enforcement $6,000,000

Capital Projects:

06 Computer Aided Dispatch and
Records Management System ..... ($6,000,000)

13 Special Law Enforcement Activities

DIRECT STATE SERVICES

03-1160 Office of Highway Traffic Safety $338,000
17-1420 Election Law Enforcement 2,802,000
20-1450 Review and Enforcement of Ethical Standards 550,000
21-1400 Regulation of Alcoholic Beverages 1,489,000
25-1421 Election Management and Coordination 977,000
Total Direct State Services Appropriation,
Special Law Enforcement Activities $6,156,000

Direct State Services:

Personal Services:
Salaries and Wages ..... ($4,401,000)
Materials and Supplies ..... (209,000)
Services Other Than Personal ..... (713,000)
Maintenance and Fixed Charges ..... (40,000)

Special Purpose:
03 Federal Highway Safety Program --
-- State Match . . . . . (338,000)
17 Per Diem Payment to
Members of Election Law
Enforcement Commission . . . . . (15,000)
25 County Monitoring and Oversight . . . (440,000)

The unexpended balance in the Federal Highway Safety Program - State Match account, including the accounts of the several departments, as of June 30, 2002, is appropriated for such highway safety projects.

Notwithstanding the provisions of section 14 of P.L.1992, c.188 (C.33:1-4.1), in addition to the amounts hereinabove, all fees and penalties collected by the Director of Alcoholic Beverage Control in excess of $2,000,000 are appropriated for the purpose of offsetting additional operational costs of the Alcoholic Beverage Control Enforcement Bureau in the Division of State Police and the Division of Alcoholic Beverage Control, subject to the approval of the Director of the Division of Budget and Accounting.

Registration fees, tuition fees, training fees, and other fees received for reimbursement for attendance at courses administered or conducted by the Division of Alcoholic Beverage Control are appropriated for program costs.

From the receipts derived from uncashed pari-mutuel winning tickets and the regulation, supervision, licensing, and enforcement of all New Jersey Racing Commission activities and functions, such sums as may be required are appropriated for the purpose of offsetting the costs of the administration and operation of the New Jersey Racing Commission, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from breakage monies and uncashed pari-mutuel winning tickets resulting from off-track and account wagering and any reimbursement assessment against permit holders or successors in interest to permit holders shall be distributed to the New Jersey Racing Commission in accordance with the provisions of the "Off-Track and Account Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.), subject to the approval of the Director of the Division of Budget and Accounting. If such receipts and reimbursement assessments are insufficient to cover the operational support for the New Jersey Racing Commission, there is appropriated an amount not to exceed $250,000 for those costs subject to the approval of the Director of the Division of Budget and Accounting.

All fees, fines, and penalties collected pursuant to P.L.1973, c.83 (C.19:44A-1 et al.) and section 11 of P.L.1991, c.244 (C.52:13C-23.1) are appropriated for the purpose of offsetting additional operational costs of the Election Law Enforcement Commission, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provision hereinabove, amounts received pursuant to P.L.1971, c.183 (C.52:13C-18 et seq.) are appropriated for the purpose of offsetting additional operational costs of the Election Law Enforcement Commission, subject to the approval of the Director of the Division of Budget and Accounting.

Of the receipts derived from the regulation, supervision, and licensing of all State Athletic Control Board activities and functions, an amount is appropriated for the purpose of offsetting the costs of the administration and operation of the State Athletic Control Board, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the examination of voting machines by Election Management and Coordination and the unexpended balance as of June 30, 2002 of those receipts are appropriated for the costs of making such examinations.

STATE AID

25-1421 Election Management and Coordination $4,782,000
Total State Aid Appropriation, Special Law Enforcement Activities $4,782,000

State Aid:

25 Extended Polling Place Hours Voting Machine Replacement ..... ($4,782,000)

18 Juvenile Services
1500 Division of Juvenile Services
DIRECT STATE SERVICES

34-1500 Juvenile Community Programs $22,128,000
40-1500 Aftercare Programs 4,365,000
99-1500 Administration and Support Services 6,889,000
Total Direct State Services Appropriation, Division of uvenile Services $33,382,000

Direct State Services:

Personal Services:
Salaries and Wages ..... ($23,536,000)
Materials and Supplies ..... (1,424,000)
Services Other Than Personal ..... (2,215,000)
Maintenance and Fixed Charges ..... (868,000)
Special Purpose:
34 Aftercare Initiative 2002 ..... (500,000)
34 Community Program Medical Initiative ..... (350,000)
34 Enhanced Information Technology Unit ..... (300,000)
34 Step Down Program -- State Match ... (70,000)
34 Juvenile Justice Initiatives ..... (770,000)
34 Social Services Block Grant -- State Match ..... (42,000)
34 State Incentive Program ..... (186,000)
34 Turrell Special Needs Unit ..... (728,000)
34 Female Substance Abuse Program ... (302,000)
99 Juvenile Justice -- State Matching Funds ..... (406,000)

99 Custody and Civilian Staff Training ..... (1,585,000)
Additions, Improvements and Equipment .. (100,000)

GRANTS-IN-AID

34-1500 Juvenile Community Programs $18,257,000
Total Grants-in-Aid Appropriation, Division of Juvenile Services $18,257,000

Grants-in-Aid:

34 Alternatives to Juvenile Incarceration Programs ..... ($2,525,000)
34 Crisis Intervention Program ..... (4,008,000)
34 State/Community Partnership Grants .. (7,808,000)
34 State Incentive Program ..... (3,332,000)
34 Purchase of Services for Juvenile Offenders ..... (260,000)
34 Cost of Living Adjustment - Alternatives to Juvenile Incarceration Programs ..... (48,000)
34 Cost of Living Adjustment - Crisis Intervention/State Community Partnership ..... (207,000)
34 Cost of Living Adjustment-State Incentive Program ..... (69,000)

From the amounts provided hereinabove for cost of living adjustments throughout the Department of Law and Public Safety, it is intended that, at a minimum, a 2.0% cost of living increase shall be expended for direct service workers' salaries, effective July 1, 2002.

CAPITAL CONSTRUCTION

99-1500 Administration and Support Services $1,828,000
Total Capital Construction Appropriation, Juvenile Services $1,828,000

Capital Projects:

99 Suicide Prevention Improvements .... ($500,000)
99 Critical Repairs, Juvenile Services Facilities ..... (500,000)
99 Security Enhancements, Various Facilities ..... (343,000)
99 Cell Door and Locking System ..... (485,000)

1505 New Jersey Training School for Boys

DIRECT STATE SERVICES

35-1505 Institutional Control and Supervision $11,426,000
36-1505 Institutional Care and Treatment 4,033,000
99-1505 Administration and Support Services 4,085,000

Total Direct State Services Appropriation, New Jersey Training School for Boys $19,544,000

Direct State Services:

Personal Services:

Salaries and Wages ..... ($14,930,000)

Food in Lieu of Cash ..... (89,000)

Materials and Supplies ..... (1,885,000)

Services Other Than Personal ..... (2,029,000)

Maintenance and Fixed Charges ..... (591,000)

Special Purpose:

99 Administration and Support Services ... (2,000)

Additions, Improvements and Equipment ... (18,000)

Receipts derived from the Eyeglass Program at the New Jersey Training School for Boys and any unexpended balance as of June 30, 2002 are appropriated for the operation of the program.

1510 Juvenile Medium Security Center

DIRECT STATE SERVICES

35-1510 Institutional Control and Supervision $23,177,000

36-1510 Institutional Care and Treatment 1,830,000

99-1510 Administration and Support Services 2,546,000

Total Direct State Services Appropriation, Juvenile Medium Security Center $27,553,000

Direct State Services:

Personal Services:

Salaries and Wages ..... ($11,727,000)

Food in Lieu of Cash ..... (59,000)

Materials and Supplies ..... (579,000)

Services Other Than Personal ..... (637,000)

Maintenance and Fixed Charges ..... (186,000)

Special Purpose:

35 Juvenile Boot Camp ..... (4,046,000)

35 Hayes Unit Expansion - Johnstone .. (3,015,000)

35 144 Bed Secure Facility ..... (6,536,000)

35 Mental Health Unit - State Match ..... (66,000)

99 Johnstone Facility Maintenance ..... (702,000)

19 Central Planning, Direction and Management

DIRECT STATE SERVICES

88-1000 Central Library Services $796,000

99-1000 Administration and Support Services 11,282,000

Total Direct State Services Appropriation, Central Planning, Direction and Management $12,078,000

Direct State Services:

Personal Services:

Salaries and Wages ..... ($7,919,000)

Materials and Supplies ..... (362,000)

Services Other Than Personal ..... (371,000)
Maintenance and Fixed Charges ..... (88,000)
Special Purpose:
99 Fiscal Integrity Unit/Office of the Inspector General ..... (3,100,000)
99 Affirmative Action and Equal Employment Opportunity ..... (198,000)
Additions, Improvements and Equipment ... (40,000)

Notwithstanding the provisions of any law or regulation to the contrary, funds obtained through seizure, forfeiture, or abandonment pursuant to any federal or State statutory or common law and the proceeds of the sale of any such confiscated property or goods, except for such funds as are dedicated pursuant to N.J.S.2C:64-6, are appropriated for law enforcement purposes designated by the Attorney General; provided however, that receipts in excess of $2,000,000 up to $1,900,000 shall lapse to the General Fund.

The Attorney General shall provide the Director of the Division of Budget and Accounting, the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or the successor committees thereto, with written reports on August 1, 2002 and February 1, 2003, of the use and disposition by State law enforcement agencies of any interest in property or money seized, or proceeds resulting from seized or forfeited property, and any interest or income earned thereon, arising from any State law enforcement agency involvement in a surveillance, investigation, arrest or prosecution involving offenses under N.J.S.2C:35-1 et seq. and N.J.S.2C:36-1 et seq. leading to such seizure or forfeiture. The reports shall specify for the preceding period of the fiscal year the type, approximate value, and disposition of the property seized and the amount of any proceeds received or expended, whether obtained directly or as contributive share, including but not limited to the use thereof for asset maintenance, forfeiture prosecution costs, costs of extinguishing any perfected security interest in seized property and the contributive share of property and proceeds of other participating local law enforcement agencies.

Penalties, fines, and other fees collected pursuant to N.J.S.2C:35-20 and deposited in the State Forensic Laboratory Fund, together with the unexpended balance as of June 30, 2002, are appropriated to defray additional laboratory related administration and operational expenses of the "Comprehensive Drug Reform Act of 1987," P.L.1987, c.106 (C.2C:35-1 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

Of the amounts hereinabove appropriated for the Unit of Fiscal Integrity in School Construction/Office of Inspector General, there shall be credited against such amounts such monies as are received by the Unit of Fiscal Integrity/Office of the Inspector General pursuant to a Memorandum of Understanding between the Unit of Fiscal Integrity and the New Jersey Economic Development Authority for oversight services including employee benefit costs in connection with the school construction program.

Receipts derived from the agency surcharge on vehicle rentals pursuant to P.L.2002, c.34, not to exceed $7,200,000, are appropriated for the Office of Counter-

Terrorism and shall be deposited into a dedicated account, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

From amounts appropriated within the Department of Law and Public Safety for the Office of the Attorney General, so much thereof as is necessary shall be expended by the Attorney General to perform a study of the direct and indirect State fiscal, personnel and public safety impacts of the providing of police protection by the State Police to the inhabitants of rural sections of the State pursuant to R.S.53:2-1. The Attorney General shall prepare a written report specifying the results of the study and including any recommendations for legislation that he may suggest which shall be provided to the Governor and the Legislature on or before December 1, 2002.

70 Government Direction, Management and Control
74 General Government Services
DIRECT STATE SERVICES

12-1010 Legal Services	$65,127,000
Total All Operations	$65,127,000
Less:	
Reimbursement From Other Sources 46,267,000	
Total Deductions	***$46,267,000***
Total Direct State Services Appropriation, General Government Services	$18,860,000

Direct State Services:

Personal Services:	
Salaries and Wages	($17,765,000)
Materials and Supplies	(112,000)
Services Other Than Personal	(721,000)
Maintenance and Fixed Charges	(262,000)
Expense:	
Reimbursements From Other Sources	(46,267,000)
Less:	
Reimbursement From Other Sources 46,267,000	

In addition to the $46,267,000 attributable to Reimbursements from Other Sources and the corresponding additional amount associated with employee fringe benefit costs, there are appropriated such sums as may be received or receivable from any State agency, instrumentality or public authority for direct or indirect costs of legal services furnished thereto and attributable to a change in or the addition of a client agency agreement, subject to the approval of the Director of the Division of Budget and Accounting.

The Director of the Division of Budget and Accounting is empowered to credit or transfer to the General Fund from any other department, branch, or non-State fund source, out of funds appropriated thereto, such funds as may be required to cover the costs of legal services attributable to that other department, branch, or non-State fund source as the Director of the Division of Budget and Accounting shall determine. Receipts in any non-State fund are appropriated for the purpose of such transfer.

80 Special Government Services
82 Protection of Citizens' Rights
DIRECT STATE SERVICES

14-1310	Consumer Affairs	$12,729,000
15-1320	Operation of State Professional Boards	17,633,000
	(From General Fund $17,541,000)	
	(From Casino Revenue Fund 92,000)	
16-1350	Protection of Civil Rights	5,340,000
19-1440	Victims of Crime Compensation Board	5,462,000
	Total Direct State Services Appropriation, Protection of Citizens' Rights	$41,164,000
	(Total From General Fund $41,072,000)	
	(Total From Casino Revenue Fund 92,000)	

Direct State Services:

Personal Services:	
Salaries and Wages	($13,844,000)
Salaries and Wages (CRF)	(75,000)
Employee Benefits (CRF)	(11,000)
Materials and Supplies	(659,000)
Services Other Than Personal	(10,322,000)
Services Other Than Personal (CRF)	(6,000)
Maintenance and Fixed Charges	(1,742,000)
Special Purpose:	
14 Consumer Affairs Legalized Games of Chance	(1,390,000)
14 Securities Enforcement Fund	(4,994,000)
14 Consumer Affairs Weights and Measures Program	(2,612,000)
14 Consumer Affairs Charitable Registrations Program	(695,000)
15 Operation of State Professional Boards	(4,000)
15 Personal Care Attendants -- Background Checks	(500,000)
16 Civil Rights Case Tracking System	(350,000)
19 Claims -- Victims of Crime	(3,630,000)
19 Victims of Crime Outreach	(150,000)
Additions, Improvements and Equipment	(180,000)

Receipts derived from the assessment and recovery of costs, fines, and penalties pursuant to the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), are appropriated for additional operational costs of the Division of Consumer Affairs, subject to the approval of the Director of the Division of Budget and Accounting.

All fees, penalties, and costs collected pursuant to P.L.1988, c.123 (C.56:12-29 et seq.) are appropriated for the purpose of offsetting costs associated with the handling and resolution of consumer automotive complaints.

In addition to the amount appropriated hereinabove for Consumer Affairs, receipts in excess of the amount anticipated, attributable to changes in fee structure or fee increases, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Fees and cost recoveries collected pursuant to P.L.1989, c.331 (C.34:8-43 et al.) are appropriated in an amount not to exceed additional expenses associated with mandated duties, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated are appropriated to the Controlled Dangerous Substance Registration Program for the purpose of offsetting the costs of the administration and operation of the program, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

Receipts in excess of the amount anticipated derived pursuant to P.L.1954, c.7 (C.5:8-1 et seq.) from the operations of the Division of Consumer Affairs Legalized Games of Chance program and the unexpended balances as of June 30, 2002, are appropriated for the purpose of offsetting the operational costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Securities Enforcement Fund account is payable from receipts from fees and penalties deposited in the Securities Enforcement Fund pursuant to section 15 of P.L.1985, c.405 (C.49:3-66.1). If receipts are less than anticipated, the appropriation shall be reduced proportionately.

Receipts in excess of the amount anticipated are appropriated to the Securities Enforcement Fund program account to offset the cost of operating this program, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 2002 are appropriated for the purpose of offsetting the operational costs of the Securities Enforcement Fund program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated derived pursuant to R.S.51:1-1 et seq. from the operations of the Division of Consumer Affairs Office of Weights and Measures program and the unexpended balances as of June 30, 2002, are appropriated for the purposes of offsetting the operational costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated derived pursuant to P.L.1994 c.16 (C.45:17A-18 et seq.) from the operations of the Division of Consumer Affairs Charitable Registration and Investigative program and the unexpended balances as of June 30, 2002, are appropriated for the purpose of offsetting the operational costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from penalties and the unexpended balance as of June 30, 2002 in the Consumer Fraud Education Fund program account pursuant to P.L.1999, c.129 (C.56:8-14.2 et seq.) are appropriated for the purpose of offsetting the cost of operating the program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for each of the several State professional boards, advisory boards, and committees shall be provided from receipts of those entities, and any

receipts in excess of the amounts specifically provided to each of the entities are appropriated. The unexpended balances as of June 30, 2002 are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the sale of films, pamphlets, and other educational materials developed or produced by the Division on Civil Rights are appropriated to defray production costs.

Receipts derived from the provision of copies of transcripts and other materials related to officially docketed cases are appropriated.

Notwithstanding the provisions of section 2 of P.L.1983 c.412 (C.10:5-14.1a) any receipts derived from the assessment of fines and penalties pursuant to P.L.1945 c.169 (C.10:5-1 et seq.) are appropriated to the Division on Civil Rights for additional operational costs, subject to the approval of the Director of the Division of Budget and Accounting.

The sum hereinabove for Claims - Victims of Crimes is available for payment of awards applicable to claims filed in prior fiscal years.

Receipts derived from assessments pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) and the unexpended balance as of June 30, 2002 in the Criminal Disposition and Revenue Collection program account, are appropriated for the purpose of offsetting the costs of the design, development, implementation and operation of the Criminal Disposition and Revenue Collection program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from assessments under section 2 of P.L.1979, c.396 (C.2C:43-3.1) in excess of the amount anticipated and the unexpended balance as of June 30, 2002 are appropriated for payment of claims of victims of crime pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and additional board operational costs up to $1,175,000, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 2002 in the Office of Victim-Witness Assistance and in the Victim and Witness Advocacy Fund pursuant to section 2 of P.L.1979, c.396 (C.2C: 43-3.1) are appropriated.

Receipts derived from licensing fees pursuant to subsection f. of N.J.S.2C:58-5 and registration fees pursuant to section 11 of P.L.1990, c.32 (C.2C:58-12) and the unexpended balance as of June 30, 2002 are appropriated for payment of claims for victims of crime pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and additional board operational costs, subject to the approval of the Director of the Division of Budget and Accounting.

Department of Law and Public Safety,
Total State Appropriation $493,075,000

Receipts derived from the provision of copies, the processing of credit cards and other materials related to compliance with P.L.2001, c.404 (C.47:1A-1 et seq.), are appropriated for the purpose of offsetting costs related to public access of government records.

The amount hereinabove is appropriated from the Casino Revenue Fund.

Summary of Department of Law and Public Safety Appropriations
(For Display Purposes Only)

Appropriations by Category:
Direct State Services $450,553,000
Grants-in-Aid 19,822,000
State Aid 14,872,000
Capital Construction 7,828,000
Appropriations by Fund:
General Fund $457,184,000
Casino Control Fund 35,799,000
Casino Revenue Fund 92,000

67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS
10 Public Safety and Criminal Justice
14 Military Services
DIRECT STATE SERVICES

40-3620 New Jersey National Guard Support Services $7,877,000
60-3600 Joint Training Center Management and Operations ... 553,000
99-3600 Administrative and Support Services 5,159,000
Total Direct State Services Appropriation,
Military Service $13,589,000

Direct State Services:
Personal Services:
Salaries and Wages ..... ($7,671,000)
Materials and Supplies ..... (1,257,000)
Services Other Than Personal ..... (612,000)
Maintenance and Fixed Charges ..... (1,053,000)
Special Purpose:
40 Newark Armory, City of Newark
Drum and Bugle Corps ..... (20,000)
40 Weapons of Mass
Destruction Program ..... (280,000)
40 New Jersey National Guard
Challenge Youth Program ..... (1,120,000)
40 Joint Federal-State Operations
and Maintenance Contracts
(State Share) ..... (1,302,000)
99 Affirmative Action and Equal
Employment Opportunity ..... (5,000)
99 Nursing Initiative ..... (250,000)
Additions, Improvements and Equipment ... (19,000)

The unexpended balance as of June 30, 2002 in the National Guard-State Active Duty account is appropriated for the same purpose.

The unexpended balance as of June 30, 2002 in the Joint Federal - State Operations and Maintenance Contracts (State share) account is appropriated for the same purpose.

Receipts derived from the rental and use of armories and the unexpended balance the receipt account as of June 30, 2002 are appropriated for the operation and maintenance thereof, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove, funds received for Distance Learning Program usage are appropriated for the same purposes, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2002 in the NJ Domestic Security Preparedness account is appropriated for the same purpose.

Receipts derived from the agency surcharge on vehicle rentals pursuant to P.L.2002, c.34, not to exceed $1,850,000, are appropriated for security coverage at nuclear power facilities and shall be deposited into a dedicated account, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

GRANTS-IN-AID

40-3620 New Jersey National Guard Support Services $35,000
Total Grants-in-Aid Appropriation, Military Services $35,000

Grants-in-Aid:

40 Civil Air Patrol ..... ($35,000)

CAPITAL CONSTRUCTION

99-3600 Administration and Support Services $779,000
Total Capital Construction Appropriation, Military Services $779,000

Capital Projects:

99 Fire and Life Safety, Statewide ..... ($479,000)
99 Security Enhancements ..... (300,000)

80 Special Government Services
83 Services to Veterans
3610 Veterans' Program Support
DIRECT STATE SERVICES

50-3610 Veterans' Outreach and Assistance $4,198,000
70-3610 Burial Services 1,908,000
Total Direct State Services Appropriation, Veterans' Program Support $6,106,000

Direct State Services:

Personal Services:
Salaries and Wages ..... ($4,267,000)
Materials and Supplies ..... (416,000)
Services Other Than Personal ..... (193,000)
Maintenance and Fixed Charges ..... (93,000)
Special Purpose:
50 Veterans Haven, Yardville ..... (94,000)
50 Vietnam Memorial Perpetual Care ... (150,000)

50 Vietnam Veterans
Educational Center ..... (200,000)
50 Veterans' State Benefits Bureau ..... (136,000)
50 Korean War Memorial
Maintenance Program ..... (90,000)
50 Governor's Veterans' Services Council .. (5,000)
70 Honor Guard Support Services ..... (462,000)

The unexpended balance as of June 30, 2002 in the Korean Veterans Memorial account is appropriated for the same purpose.

Funds collected by and on behalf of the Korean Veterans Memorial Fund are hereby appropriated for the purposes of the fund.

Funds received for Veterans' Transitional Housing from the federal Department of Veterans Affairs and the individual residents, and the unexpended balances as of June 30, 2002, are appropriated for the same purpose.

Funds received for plot interment allowances from the federal Department of Veterans Affairs, burial fees collected, and the unexpended balances as of June 30, 2002 are appropriated for perpetual care and maintenance of burial plots and grounds at the Brigadier General Doyle Veterans' Memorial Cemetery.

GRANTS-IN-AID

50-3610 Veterans' Outreach and Assistance $1,009,000
Total Grants-in-Aid Appropriation,
Veterans' Program Support $1,009,000

Grants-in-Aid:

50 Veterans' Tuition Credit Program ..... ($38,000)
50 POW/MIA Tuition Assistance ..... (11,000)
50 Vietnam Veterans' Tuition Aid ..... (7,000)
50 Veterans Homeless Shelter -
Burlington County ..... (35,000)
50 Veterans Transportation ..... (300,000)
50 Veterans' Orphan Fund -
Education Grants ..... (5,000)
50 Blind Veterans' Allowances. ..... (46,000)
50 Paraplegic and Hemiplegic
Veterans' Allowance ..... (267,000)
50 Post Traumatic Stress Disorder ..... (300,000)

The sums provided hereinabove and the unexpended balances as of June 30, 2002 in the Veterans' Tuition Credit, POW/MIA Tuition Assistance, and the Vietnam Veterans' Tuition Aid accounts are appropriated and available for payment of liabilities applicable to prior fiscal years.

3630 Menlo Park Veterans' Memorial Home
DIRECT STATE SERVICES

20-3630 Domiciliary and Treatment Services $11,943,000
99-3630 Administrative and Support Services 4,657,000
Total Direct State Services Appropriation,
Menlo Park Veterans' Memorial Home $16,600,000

Direct State Services:
Personal Services:
Salaries and Wages ..... ($13,061,000)
Materials and Supplies ..... (1,961,000)
Services Other Than Personal ..... (1,295,000)
Maintenance and Fixed Charges ..... (237,000)
Additions, Improvements and Equipment ... (46,000)
In addition to the amount hereinabove for Menlo Park Adult Day Care, such sums received from the federal Department of Veterans Affairs, New Jersey Department of Health and Senior Services, and New Jersey Assistance for Community Care Giving are appropriated for the same purposes, subject to the approval of the Director of the Division of Budget and Accounting.

3640 Paramus Veterans' Memorial Home
DIRECT STATE SERVICES

20-3640 Domiciliary and Treatment Services $12,419,000
99-3640 Administrative and Support Services 3,939,000
Total Direct State Services Appropriation,
Paramus Veterans' Memorial Home $16,358,000
Direct State Services:
Personal Services:
Salaries and Wages ..... ($13,483,000)
Materials and Supplies ..... (1,625,000)
Services Other Than Personal ..... (1,025,000)
Maintenance and Fixed Charges ..... (184,000)
Additions, Improvements and Equipment ... (41,000)

3650 Vineland Veterans' Memorial Home
DIRECT STATE SERVICES

20-3650 Domiciliary and Treatment Services $12,372,000
99-3650 Administrative and Support Services 4,037,000
Total Direct State Services Appropriation,
Vineland Veterans' Memorial Home $16,409,000
Direct State Services:
Personal Services:
Salaries and Wages ..... ($13,720,000)
Materials and Supplies ..... (1,616,000)
Services Other Than Personal ..... (843,000)
Maintenance and Fixed Charges ..... (176,000)
Additions, Improvements and Equipment ... (54,000)

CAPITAL CONSTRUCTION

99-3650 Administration and Support Services $1,000,000
Total Capital Construction Appropriation,
Vineland Veterans' Memorial Home..... $1,000,000

Capital Projects:
99 Construction of Replacement Facility . ($1,000,000)

Department of Military and Veterans' Affairs,
Total State Appropriation $71,885,000

Balances on hand as of June 30, 2002 of funds held for the benefit of residents in the several veterans' homes, and such funds as may be received, are appropriated for the use of such residents.

Revenues representing receipts to the General Fund from charges to residents' trust accounts for maintenance costs are appropriated for use as personal needs allowances for patients/residents who have no other source of funds for such purposes; provided however, that the allowance shall not exceed $50 per month for any eligible resident of an institution and, provided further, that the total amount herein for such allowances shall not exceed $100,000, and that any increase in the maximum monthly allowance shall be approved by the Director of the Division of Budget and Accounting.

Funds received from the sale of articles made in occupational therapy departments of the several veterans' homes are appropriated for the purchase of additional material and other expenses incidental to such sale or manufacture.

Forty percent of the receipts in excess of the amount anticipated derived from resident contributions and federal reimbursements, as of June 30, 2002 are appropriated for veterans' program initiatives, subject to the approval of the Director of the Division of Budget and Accounting of an itemized plan for the expenditure of these amounts, as shall be submitted by the Adjutant General.

Fees charged to residents for personal laundry services provided by the veterans' homes are appropriated to supplement the operational and maintenance costs of these laundry services.

Of the amount appropriated hereinabove for the Department of Military and Veterans' Affairs, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule included in the Governor's Budget Recommendation Document, dated March 26, 2002, first shall be charged to the State Lottery Fund.

Summary of Department of Military and Veterans' Affairs Appropriations
(For Display Purposes Only)

Appropriations by Category:
Direct State Services $69,062,000
Grants-in-Aid 1,044,000
Capital Construction 1,779,000
Appropriations by Fund:
General Fund $71,885,000

68 DEPARTMENT OF PERSONNEL
70 Government Direction, Management and Control
74 General Government Services
DIRECT STATE SERVICES

01-2710 Personnel Policy Development
and General Administration $4,145,000

02-2720 State and Local Government Operations 14,931,000
04-2740 Merit Services 2,267,000
05-2750 Equal Employment Opportunity
and Affirmative Action 725,000
07-2770 Human Resource Development Institute 4,519,000
Total Direct State Services Appropriation,
General Government Services $26,587,000

Direct State Services:
Personal Services:
Merit System Board ..... ($56,000)
Salaries and Wages ..... (19,745,000)
Materials and Supplies ..... (543,000)
Services Other Than Personal ..... (5,269,000)
Maintenance and Fixed Charges ..... (247,000)
Special Purpose:
01 Affirmative Action and Equal
Employment Opportunity ..... (93,000)
02 Microfilm Service Charges ..... (29,000)
02 Test Validation/Police Testing ..... (434,000)
05 Americans with Disabilities Act ..... (60,000)
Additions, Improvements and Equipment .. (111,000)

Receipts derived from fees charged to applicants for open competitive or promotional examinations and the unexpended fee balance as of June 30, 2002 not to exceed $600,000 collected from fire fighter examination receipts are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from training services and any unexpended balance as of June 30, 2002 are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from Employee Advisory Services are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of N.J.S.11A:6-32, cash awards for suggestions shall be paid from the operating budget of the agency from savings generated by the suggestion subject to the approval of the Director of the Division of Budget and Accounting.

Department of Personnel, Total State Appropriation ... $26,587,000

Summary of Department of Personnel Appropriations
(For Display Purposes Only)

Appropriations by Category:
Direct State Services $26,587,000
Appropriations by Fund:
General Fund $26,587,000

74 DEPARTMENT OF STATE
30 Educational, Cultural and Intellectual Development
36 Higher Educational Services
DIRECT STATE SERVICES

80-2400 Statewide Planning and Coordination for Higher Education $1,072,000
81-2400 Educational Opportunity Fund Programs 387,000
Total Direct State Services Appropriation, Commission on Higher Education $1,459,000

Direct State Services:
Personal Services:
Salaries and Wages ..... ($1,236,000)
Materials and Supplies ..... (21,000)
Services Other Than Personal ..... (170,000)
Maintenance and Fixed Charges ..... (32,000)

GRANTS-IN-AID

80-2400 Statewide Planning and Coordination for Higher Education $8,963,000
81-2400 Educational Opportunity Fund Programs 35,097,000
Total Grants-in-Aid Appropriation, Higher Educational Services $44,060,000

Grants-in-Aid:
80 College Bound ..... ($2,900,000)
80 Statewide Implementation of ARTSYS ..... (563,000)
80 Support for Statewide Network ..... (350,000)
80 Higher Education for Special Needs Students ..... (1,100,000)
80 Program for the Education of Language Minority Students ..... (600,000)
80 Minority Faculty Advancement Program ..... (450,000)
80 Teacher Preparation ..... (3,000,000)
81 Opportunity Program Grants ..... (21,910,000)
81 Supplementary Education Program Grants ..... (12,385,000)
81 Martin Luther King Physician - Dentist Scholarship Act of 1986 ..... (602,000)
81 Ferguson Law Scholarships ..... (200,000)

An amount not to exceed 5% of the total of Higher Education for Special Needs Students and the Program for the Education of Language Minority Students accounts is available for transfer to Direct State Services for the administrative expenses of these programs, as determined by the Director of the Division of Budget and Accounting.

An amount not to exceed $60,000 of the College Bound account is available for transfer to Direct State Services for the administrative expenses of this program, as determined by the Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 2002 for the Minority Faculty Advancement Program are appropriated.

An amount not to exceed $20,000 of the Teacher Preparation account is available for transfer to Direct State Services for the administrative costs of this program, as determined by the Director of the Division of Budget and Accounting.

Refunds from prior years to the Educational Opportunity Fund Programs accounts are appropriated to those accounts.

Notwithstanding the provisions of any other law to the contrary, any funds appropriated as Grants-in-Aid and payable to any senior public college or university which requests approval from the Educational Facilities Authority and the Director of the Division of Budget and Accounting may be pledged as a guarantee for payment of principal and interest on any bonds issued by the Educational Facilities Authority or by the college or university. Such funds, if so pledged, shall be made available by the State Treasurer upon receipt of written notification by the Educational Facilities Authority or the Director of the Division of Budget and Accounting that the college or university does not have sufficient funds available for prompt payment of principal and interest on such bonds, and shall be paid by the State Treasurer directly to the holders of such bonds at such time and in such amounts as specified by the bond indenture, notwithstanding that payment of such funds does not coincide with any date for payment otherwise fixed by law.

2405 Higher Education Student Assistance Authority

DIRECT STATE SERVICES

45-2405 Student Assistance Programs $2,250,000

Total Direct State Services Appropriation, Higher Education Student Assistance Authority $2,250,000

Direct State Services:

Personal Services:

Salaries and Wages ..... ($1,431,000)

Materials and Supplies ..... (43,000)

Services Other Than Personal ..... (754,000)

Maintenance and Fixed Charges ..... (22,000)

At any time prior to the issuance and sale of bonds or other obligations by the Higher Education Student Assistance Authority, the State Treasurer is authorized to transfer from any available moneys in any fund of the Treasury of the State to the credit of any fund of the authority such sums as the State Treasurer deems necessary. Any sums so transferred shall be returned to the same fund of the Treasury of the State by the State Treasurer from the proceeds of the sale of the first issue of authority bonds or other authority obligations.

GRANTS-IN-AID

45-2405 Student Assistance Programs	$191,171,000
Total Grants-in-Aid Appropriation, Higher Education Student Assistance Authority	$191,171,000

Grants-in-Aid:

45 Veterinary Medicine Education Program	($1,337,000)
45 Tuition Aid Grants	(169,856,000)
45 Survivor Tuition Benefits	(65,000)
45 Coordinated Garden State Scholarship Programs	(7,562,000)
45 Part-Time Tuition Aid Grants -- EOF Students	(620,000)
45 Miss New Jersey Educational Scholarship Program	(20,000)
45 Outstanding Scholar Recruitment Program	(11,400,000)
45 NJBEST Scholarship Program	(11,000)
45 New Jersey World Trade Center Scholarship Program	(250,000)
45 Dana Christmas Scholarship for Heroism	(50,000)

The sums provided hereinabove and the unexpended balances as of June 30, 2002, in Student Assistance Programs shall be appropriated and available for payment of liabilities applicable to prior fiscal years.

Amounts from the unexpended balance as of June 30, 2002, including refunds recognized after July 31, 2002, in the Tuition Aid Grants account are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law to the contrary, the Higher Education Student Assistance Authority shall provide to all qualified applicants for full-time Tuition Aid Grants increases to maximum award values that fund, at a minimum, an equal percentage of tuition up to the maximum allowable under the Tuition Aid Grant statute. All other award increases at each institution shall not exceed the percentage increase provided for the maximum award at that institution. Reappropriated balances shall be held as a contingency for unanticipated increases in the number of applicants qualifying for full-time Tuition Aid Grant awards or to fund shifts in the distribution of awards that result in an increase in total program costs.

In addition to the amount appropriated hereinabove for Tuition Aid Grants, there are appropriated such sums as are required to cover the costs of increases in the number of applicants qualifying for full-time Tuition Aid Grants awards or fund shifts in the distribution of awards that result in an increase in total program costs, subject to the approval of the Director of the Division of Budget and Accounting.

Each public institution participating in the Tuition Aid Grant program shall provide institutional grants to students eligible for the maximum Tuition Aid Grant

(TAG) award for that institution in an amount not less than the difference between the maximum 2002-03 TAG award for the institution and the institution's actual 2001-2002 tuition rate.

From the sums provided hereinabove for Student Assistance Programs, such amounts as may be necessary to fund merit scholarship awards shall be available for transfer to the Coordinated Garden State Scholarship Programs, to the Outstanding Scholar Recruitment Program, and to the Miss New Jersey Educational Scholarship Program, N.J.S.18A:71B-25 et seq., subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law or regulation to the contrary, any institution of higher education which participates in the Student Unit Record Enrollment data system may participate in the Outstanding Scholar Recruitment Program.

The amount appropriated hereinabove for the Dana Christmas Scholarship for Heroism shall be awarded in accordance with policies and procedures established by the Higher Education Student Assistance Authority. In general, recipients must have performed the act of heroism for which they are being recognized prior to reaching their twenty-second birthday, awards are for a one time only scholarship of up to $10,000 and awards must be used for educational expenses related to attendance at a postsecondary institution that participates in the federal student assistance programs authorized under Title IV of the "Higher Education Act of 1965," as amended. (20 U.S.C. s.1070 et seq.).

2410 Rutgers, The State University
GRANTS-IN-AID

82-2410 Institutional Support	$1,376,870,000
Subtotal General Operations	$1,376,870,000
Less:	
General Services Income	***$308,962,000***
Auxiliary Funds Income	***178,126,000***
Special Funds Income	***467,919,000***
Employee Fringe Benefits	***116,021,000***
Total Income Deductions	***$1,071,028,000***
Total Appropriation, Rutgers, The State University	$305,842,000
Special Purpose:	
82 General Institutional Operations	($1,376,696,000)
82 Teacher Preparation	(174,000)
Less:	
Income Deductions	***1,071,028,000***

Of the sums hereinabove appropriated for Rutgers, The State University, there is $180,000 for the Masters in Government Accounting Program, $105,000 for the Tomato Technology Transfer Program, $95,000 for the Haskin Shellfish Research Laboratory, $200,000 for the Camden Law School Clinical Legal Programs for the Poor, $200,000 for the Newark Law School Clinical Legal Programs for the Poor, $740,000 for the Civic-Square Project - Debt Service, an amount that is $75,000 above the level received from the University in fiscal

year 2002 for the Walter Rand Institute for Public Affairs and $700,000 for In Lieu of Taxes to New Brunswick. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

Receipts in excess of the amount hereinabove for the Clinical Legal Programs for the Poor are appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

For the purpose of implementing the fiscal year 2003 appropriations act, the number of State-funded positions at Rutgers, The State University shall be 6,246.

2415 Agricultural Experiment Station

GRANTS-IN-AID

82-2415 Institutional Support	$69,743,000
Subtotal General Operations	$69,743,000
Less:	
Special Funds Income ***$30,061,000***	
Federal Research and Extension Funds Income ***7,450,000***	
Employee Fringe Benefits ***6,493,000***	
Total Income Deductions	***$44,004,000***
Total Appropriation, Agricultural Experiment Station	$25,739,000
Special Purpose:	
82 General Institutional Operations ($69,743,000)	
Less:	
Income Deductions ***44,004,000***	

Of the sums hereinabove appropriated for the New Jersey Agricultural Experiment Station, there is $900,000 for Strategic Initiatives Programs, $250,000 for Blueberry and Cranberry Research, $691,000 for the Snyder Farm Planning and Operation, and $500,000 for Fruit Research. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2003 appropriations act, the number of State-funded positions at the Agricultural Experiment Station shall be 414.

2420 University of Medicine and Dentistry of New Jersey

GRANTS-IN-AID

82-2420 Institutional Support	$1,011,467,000
Subtotal General Operations	$1,011,467,000
Less:	
Hospital Services Income ***$427,330,000***	
Core Affiliates Income ***5,848,000***	
General Services Income ***74,224,000***	
Auxiliary Funds Income ***3,817,000***	
Special Funds Income ***220,025,000***	
Employee Fringe Benefits ***83,198,000***	
Total Income Deductions	***$814,442,000***
Total Appropriation, University of Medicine and Dentistry of New Jersey	$197,025,000

Special Purpose:
82 General Institutional Operations. ..... ($1,004,267,000)
82 Governor's Council for Medical Research and Treatment of Infantile Autism ..... (500,000)
82 Cancer Institute of New Jersey and Ancillary Facilities ..... (5,000,000)
82 Child Health Institute ..... (1,700,000)
Less:
Income Deductions 814,442,000

The University of Medicine and Dentistry of New Jersey is authorized to operate its continuing medical-dental education program as a revolving fund and the revenue collected therefrom, and any unexpended balance therein, is retained for such fund.

The unexpended balances as of June 30, 2002, in the accounts hereinabove are appropriated for the purposes of the University of Medicine and Dentistry of New Jersey.

In addition to the sums hereinabove appropriated to the University of Medicine and Dentistry of New Jersey, all revenues from lease agreements between the university and contracted organizations are appropriated.

From the amount hereinabove for the University of Medicine and Dentistry of New Jersey, the Director of the Division of Budget and Accounting may transfer such amounts as deemed necessary to the Division of Medical Assistance and Health Services to maximize federal Medicaid funds.

From the amount hereinabove for the University of Medicine and Dentistry of New Jersey, the Director of the Division of Budget and Accounting may transfer such amounts related to hospital employee fringe benefits costs equal to enhanced Medicaid inpatient hospital payments for a hospital that has been recognized as a nominal charge hospital for the three years prior to June 30, 2000.

Of the sums hereinabove appropriated for the University of Medicine and Dentistry of New Jersey, there is $100,000 for the Inflammatory Bowel Disease Center, $800,000 for Emergency Medical Service - Camden, $975,000 for the Regional Health Education Center - Physical Plant, $750,000 for the Violence Institute of N.J. at UMDNJ, $525,000 for the Regional Health Education Center - Educational Units, $290,000 for the New Jersey Area Health Education Program and $2,700,000 for Debt Service - School of Osteopathic Medicine Academic Center, Stratford. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2003 appropriations act, the number of State-funded positions at the University of Medicine and Dentistry of New Jersey shall be 5,545.

2430 New Jersey Institute of Technology
GRANTS-IN-AID

82-2430 Institutional Support. $202,376,000

Subtotal General Operations $202,376,000
Less:
General Services Income $67,034,000
Auxiliary Funds Income 8,533,000
Special Funds Income 57,200,000
Employee Fringe Benefits 17,225,000
Total Income Deductions $149,992,000
Total Appropriation, New Jersey Institute of Technology $52,384,000
Special Purpose:
82 General Institutional Operations ..... ($201,876,000)
82 Smart Gun Technology Development ..... ($500,000)
Less:
Income Deductions 149,992,000

Of the sums hereinabove appropriated for the New Jersey Institute of Technology, there is $100,000 for the NJIT/Burlington County College Engineering Program. This account shall be considered a special purpose appropriation for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2003 appropriations act, the number of State-funded positions at the New Jersey Institute of Technology shall be 805.

The grant appropriation hereinabove for Smart Gun Technology Development is conditioned upon the New Jersey Institute of Technology entering into a contract with the State of New Jersey whereby the State shares in any financial proceeds derived from the development, patenting, marketing, sale or other disposition of Smart Gun Technology.

2440 Thomas A. Edison State College
GRANTS-IN-AID

82-2440 Institutional Support $20,440,000
Subtotal General Operations $20,440,000
Less:
Fee Increase $325,000
Self Sustaining Income 3,449,000
General Services Income 8,111,000
Employee Fringe Benefits 2,589,000
Total Income Deductions $14,474,000
Total Appropriation, Thomas A. Edison State College ... $5,966,000
Special Purpose:
82 General Institutional Operations .. ($20,440,000)
Less:
Income Deductions 14,474,000

For the purpose of implementing the fiscal year 2003 appropriations act, the number of State-funded positions at Thomas A. Edison State College shall be 171.

2445 Rowan University
GRANTS-IN-AID

82-2445 Institutional Support		$133,829,000
Subtotal General Operations		$133,829,000
Less:		
General Services Income	***$47,363,000***	
Auxiliary Funds Income	***25,500,000***	
Special Funds Income	***6,665,000***	
Employee Fringe Benefits	***15,350,000***	
Total Income Deductions		***$94,878,000***
Total Appropriation, Rowan University		$38,951,000
Special Purpose:		
82 General Institutional Operations	($133,298,000)	
82 Teacher Preparation	(531,000)	
Less:		
Income Deductions	***94,878,000***	

Of the sums hereinabove appropriated for Rowan University, there is $500,000 for the School of Engineering and $215,000 for the Camden Urban Center. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2003 appropriations act, the number of State-funded positions at Rowan University shall be 877.

2450 New Jersey City University
GRANTS-IN-AID

82-2450 Institutional Support		$100,642,000
Subtotal General Operations		$100,642,000
Less:		
General Services Income	***$28,908,000***	
A.H. Moore Program Receipts	***3,625,000***	
Auxiliary Funds Income	***9,679,000***	
Special Funds Income	***13,921,000***	
Employee Fringe Benefits		***12,088,000***
Total Income Deductions		*$68,221,000*
Total Appropriation, New Jersey City University		$32,421,000
Special Purpose:		
82 General Institutional Operations	($100,311,000)	
82 Teacher Preparation	(331,000)	
Less:		
Income Deductions	***68,221,000***	

Of the sums hereinabove appropriated for New Jersey City University, there is $1,078,000 for the A. Harry Moore Laboratory School, and $145,000 for Tidelands Athletic Fields. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2003 appropriations act, the number of State-funded positions at New Jersey City University shall be 784.

2455 Kean University
GRANTS-IN-AID

82-2455 Institutional Support		$120,651,000
Subtotal General Operations		$120,651,000
Less:		
General Services Income	***$31,182,000***	
Auxiliary Funds Income	***10,531,000***	
Special Funds Income.	***24,012,000***	
Employee Fringe Benefits	***14,739,000***	
Total Income Deductions		***$80,464,000***
Total Appropriation, Kean University		$40,187,000
Special Purpose:		
82 General Institutional Operations	($120,071,000)	
82 Teacher Preparation	(580,000)	
Less:		
Income Deductions	***80,464,000***	

Of the sums hereinabove appropriated for Kean University, there is $180,000 for Emerging Needs/Academic Initiatives. This account shall be considered a special purpose appropriation for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2003 appropriations act, the number of State-funded positions at Kean University shall be 888.

2460 William Paterson University of New Jersey
GRANTS-IN-AID

82-2460 Institutional Support		$114,821,000
Subtotal General Operations		$114,821,000
Less:		
General Services Income	***$32,568,000***	
Auxiliary Funds Income	***21,790,000***	
Special Funds Income	***5,703,000***	
Employee Fringe Benefits	***13,657,000***	
Total Income Deductions		***$73,718,000***
Total Appropriation, William Paterson University of New Jersey		$41,103,000
Special Purpose:		
82 General Institutional Operations	($114,674,000)	
82 Teacher Preparation	.(147,000)	
Less:		
Income Deductions	***73,718,000***	

Of the sums hereinabove appropriated for William Paterson University of New Jersey, there is $100,000 for the New Jersey Project and $65,000 for Outcomes

Assessment. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2003 appropriations act, the number of State-funded positions at William Paterson University of New Jersey shall be 947.

2465 Montclair State University
GRANTS-IN-AID

82-2465 Institutional Support		$150,383,000
Subtotal General Operations		$150,383,000
Less:		
General Services Income	***$58,303,000***	
Conservation School Receipts	***975,000***	
Auxiliary Funds Income	***18,742,000***	
Special Funds Income	***7,385,000***	
Employee Fringe Benefits	***18,672,000***	
Total Income Deductions		***$104,077,000***
Total Appropriation, Montclair State University		$46,306,000
Special Purpose:		
82 General Institutional Operations	($150,048,000)	
82 Teacher Preparation	(335,000)	
Less:		
Income Deductions	***104,077,000***	

In addition to the sums hereinabove appropriated for Montclair State University, all revenues from lease agreements between Montclair State University and corporations operating satellite relay stations are appropriated.

Of the sums hereinabove appropriated for Montclair State University, there is $975,000 for the New Jersey State School of Conservation. This account shall be considered a special purpose appropriation for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2003 appropriations act, the number of State-funded positions at Montclair State University shall be 1,102.

2470 The College of New Jersey
GRANTS-IN-AID

82-2470 Institutional Support		$142,736,000
Subtotal General Operations		$142,736,000
Less:		
General Services Income	***$37,400,000***	
Auxiliary Funds Income	***37,910,000***	
Special Funds Income	***15,866,000***	
Employee Fringe Benefits	***13,640,000***	
Total Income Deductions		***$104,816,000***
Total Appropriation, The College of New Jersey		$37,920,000

Special Purpose:
82 General Institutional Operations ..... ($142,586,000)
82 Teacher Preparation ..... (150,000)
Less:
Income Deductions 104,816,000
For the purpose of implementing the fiscal year 2003 appropriations act, the number of State-funded positions at The College of New Jersey shall be 823.

2475 Ramapo College of New Jersey
GRANTS-IN-AID

82-2475 Institutional Support $71,087,000
Subtotal General Operations $71,087,000
Less:
General Services Income $17,703,000
Auxiliary Funds Income 21,880,000
Special Funds Income 3,196,000
Employee Fringe Benefits 8,043,000
Total Income Deductions $50,822,000
Total Appropriation, Ramapo College of New Jersey ... $20,265,000
Special Purpose:
82 General Institutional Operations .. ($71,087,000)
Less:
Income Deductions 50,822,000
Of the sums hereinabove appropriated for Ramapo College of New Jersey, there is $200,000 for the Governor William T. Cahill Recognition Programs. This account shall be considered a special purpose appropriation for accounting and reporting purposes.
For the purpose of implementing the fiscal year 2003 appropriations act, the number of State-funded positions at Ramapo College of New Jersey shall be 481.

2480 The Richard Stockton College of New Jersey
GRANTS-IN-AID

82-2480 Institutional Support $80,878,000
Subtotal General Operations $80,878,000
Less:
General Services Income $28,013,000
Auxiliary Funds Income 16,039,000
Special Funds Income 3,319,000
Employee Fringe Benefits 8,861,000
Total Income Deductions $56,232,000
Total Appropriation, The Richard Stockton College of New Jersey $24,646,000
Special Purpose:
82 General Institutional Operations .. ($80,790,000)
82 Teacher Preparation ..... (88,000)

Less:
Income Deductions. ***56,232,000***

For the purpose of implementing the fiscal year 2003 appropriations act, the number of State-funded positions at the Richard Stockton College of New Jersey shall be 622.

Higher Educational Services

Of the amount hereinabove for Higher Educational Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule included in the Governor's Budget Recommendation Document dated March 26, 2002, first shall be charged to the State Lottery Fund.

Public colleges and universities are authorized to provide a voluntary employee furlough program.

From the sums appropriated hereinabove for Higher Educational Services - Institutional Support in each of the State colleges and universities, there are allocated such sums as are required to provide the reimbursement to cover tuition costs of National Guard members pursuant to subsection b. of section 21 of P.L.1999, c.46 (C.18A:62-24).

30 Educational, Cultural and Intellectual Development
37 Cultural and Intellectual Development Services
DIRECT STATE SERVICES

05-2530 Support of the Arts	$613,000
06-2535 Museum Services	2,722,000
07-2540 Development of Historical Resources	1,458,000
10-2570 Public Broadcasting Services	6,645,000
Total Direct State Services Appropriation, Cultural and Intellectual Development Services	$11,438,000

Direct State Services:

Personal Services:	
Salaries and Wages	($7,970,000)
Materials and Supplies	(217,000)
Services Other Than Personal	(725,000)
Maintenance and Fixed Charges	(205,000)
Special Purpose:	
05 Council Member Expenses	(3,000)
06 Maintenance of Old Barracks	(375,000)
06 War Memorial Operations	(535,000)
07 Historic Site Management	(500,000)
07 Historic Trust	(20,000)
07 Historic Trust/Open Space Administration	(438,000)
10 Affirmative Action and Equal Employment Opportunity	(20,000)
10 New Jersey Network Audience and Revenue Growth Initiative	(140,000)

10 New Jersey Network Extended
Broadcast Day Initiative ..... (290,000)

Of the amount appropriated for Cultural Projects, Grants-In-Aid, an amount not to exceed $75,000 may be used for administrative purposes, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount appropriated for Cultural Projects, Grants-In-Aid, an amount not to exceed $125,000 may be used for the assessment and oversight of cultural projects, including administrative costs attendant to this function, in compliance with all pertinent State and federal laws and regulations, including the Single Audit Act, subject to the approval of the Director of the Division of Budget and Accounting.

A sum, not to exceed $225,000, is appropriated from the "Cultural Centers and Historic Preservation Fund," established pursuant to section 20 of P.L.1987, c.265, for costs attributable to planning and administering grants for the development of cultural centers, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the New Jersey Historic Trust Program is appropriated for all administrative costs and expenses pursuant to the "New Jersey Cultural Trust Act," P.L.2000, c.76 (C.52:16A-72 et seq.); the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.); the "Historic Preservation Revolving Loan Fund," P.L.1991, c.41 (C.13:1B-15.115a et seq.); the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88; and the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other law to the contrary, an amount not to exceed $470,000 shall be transferred from the Garden State Historic Preservation Trust Fund to the General Fund and is appropriated to the Department of State for Historic Trust/Open Space Administrative Costs.

GRANTS-IN-AID

05-2530 Support of the Arts $18,000,000
07-2540 Development of Historical Resources 4,102,000
Total Grants-in-Aid Appropriation, Cultural and
Intellectual Development Services $22,102,000

Grants-in-Aid:

05 Cultural Projects ..... ($18,000,000)
07 Grants in New Jersey History ..... (189,000)
07 Grants in Afro-American History ..... (13,000)
07 Ellis Island New Jersey Foundation .... (400,000)
07 New Jersey Historical Commission -
Research Grants ..... (500,000)
07 New Jersey Historical Commission -
Agency Grants ..... (3,000,000)

The State Council on the Arts may require of recipient groups, and in the case of those receiving over $200,000 shall require, that those groups must demonstrate a Statewide benefit as a result of the grants.

Of the amount hereinabove for Cultural Projects, funds may be used for the purpose of matching federal grants.

Of the amount hereinabove for Cultural Projects, the value of project grants awarded within each county shall total not less than $50,000.

Notwithstanding the provision of any other law to the contrary, of the amount appropriated for Cultural Projects 25% shall be awarded to cultural groups or artists based in the eight southernmost counties (Cape May, Salem, Cumberland, Gloucester, Camden, Ocean, Atlantic, and Burlington). In the calculation of the allocation percentage the first $1,000,000 of any grants that may be awarded to the New Jersey Performing Arts Center or the South Jersey Performing Arts Center shall be disregarded.

Notwithstanding the provisions of section 4 of P.L.1999, c.131 (C.18A:73-22.4), from the amount appropriated for New Jersey Historical Commission Research and Agency Grants, an amount not to exceed $200,000 is appropriated for administrative costs, subject to the approval of the Director of the Division of Budget and Accounting.

STATE AID

06-2535 Museum Services	$2,700,000
Total State Aid Appropriation, Cultural and Intellectual Development Services	$2,700,000
State Aid:	
06 Operational Grant for Newark Museum	($2,700,000)

2541 Division of State Library
DIRECT STATE SERVICES

51-2541 Library Services	$3,335,000
Total Direct State Services Appropriation, Division of State Library	$3,335,000
Direct State Services:	
Personal Services:	
Salaries and Wages.	($2,197,000)
Materials and Supplies	(418,000)
Services Other Than Personal	(200,000)
Maintenance and Fixed Charges	(20,000)
Special Purpose:	
51 Supplies and Extended Services	(500,000)

STATE AID

51-2541 Library Services	$16,931,000
Total State Aid Appropriation, Division of State Library	$16,931,000
State Aid:	
51 Per Capita Library Aid	($8,665,000)
51 Emergency Aid/Incentive Grants	(100,000)

51 Library Network ..... (4,777,000)
51 Library Development Aid ..... (570,000)
51 Virtual Library Aid ..... (1,300,000)
51 Public Library Project Fund ..... (1,519,000)

70 Government Direction, Management and Control
74 General Government Services
2505 Office of the Secretary of State
DIRECT STATE SERVICES

01-2505 Office of the Secretary of State $3,918,000
08-2545 Records Management 1,805,000
Total Direct State Services Appropriation, Office of the Secretary of State $5,723,000

Direct State Services:
Personal Services:
Salaries and Wages ..... ($3,271,000)
Materials and Supplies ..... (124,000)
Services Other Than Personal ..... (289,000)
Maintenance and Fixed Charges ..... (38,000)
Special Purpose:
01 Affirmative Action and Equal Employment ..... (34,000)
01 Center for Youth Policy Programs ... (850,000)
01 Office of Volunteerism ..... (259,000)
01 Martin Luther King, Jr. Commemorative Commission ..... (188,000)
01 Cultural Trust - Administration ..... (385,000)
01 Office of Cultural Affairs ..... (85,000)
Additions, Improvements and Equipment .. (200,000)

The Director of the Division of Budget and Accounting shall transfer from departmental accounts and credit to the Records Management program classification a sum up to $378,000 for cost recoveries in the Division of Records.

The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Microfilm Section any appropriation made to any department for microfilming/imaging costs which had been appropriated or allocated to such department for its share of the costs of the Microfilm/ Imaging Section.

Receipts derived from fees charged for microfilming/ imaging services provided to local governments are appropriated for the same purpose.

An amount not to exceed $709,000 from the unexpended balances in the Office of the Secretary of State as of June 30, 2002 is appropriated for the Governor's Study Commission on Discrimination in State Employment Contracting, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2002 in the Division of Records Management, Integrated Archives and Records Management Data System account, is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

GRANTS-IN-AID

01-2505 Office of the Secretary of State	$12,000,000
Total Grants-in-Aid Appropriation, Office of the Secretary of State	$12,000,000
Grants-in-Aid:	
01 Cultural Trust	($10,000,000)
01 Statewide Cultural Enrichment Grants	(2,000,000)
Department of State, Total State Appropriation	$1,181,924,000

Summary of Department of State Appropriations
(For Display Purposes Only)

Appropriations by Category:	
Direct State Services	$24,205,000
Grants-in-Aid	1,138,088,000
State Aid.	19,631,000
Appropriations by Fund:	
General Fund	$1,181,924,000

78 DEPARTMENT OF TRANSPORTATION
10 Public Safety and Criminal Justice
11 Vehicular Safety
DIRECT STATE SERVICES

01-6400 Motor Vehicle Services	$124,656,000
18-6430 Security Responsibility	10,999,000
Total Direct State Services Appropriation, Vehicular Safety	$135,655,000
Direct State Services:	
Personal Services:	
Salaries and Wages	($46,401,000)
Materials and Supplies	(3,160,000)
Services Other Than Personal	(11,591,000)
Maintenance and Fixed Charges	(879,000)
Special Purpose:	
01 Toll-Free Telephone Service	(750,000)
01 Reflectorized Plates	(3,852,000)
01 Photo Licensing Program	(900,000)
01 Vehicle Inspection Program	(46,478,000)
01 Debt Service for Equipment Purchases	(2,005,000)
01 Agency Operations	(15,617,000)
01 On-Line Registrations	(2,100,000)
01 Security Responsibility -- Agency Operations	(1,427,000)

Additions, Improvements and Equipment . . (495,000)

Sums required for the processing of credit card transaction fees are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for the Uninsured Motorist Program are appropriated for the purpose of implementing an Insurance Verification System, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2002 in the Auto Body Licensing and Enforcement program account, together with any receipts in excess of the amount anticipated, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from motorbus petition and inspection fees are appropriated for the purpose of administering the Motorbus Regulation program, subject to the approval of the Director of the Division of Budget and Accounting.

Funds necessary to defray the cost of collection to implement the provisions of P.L.1994, c.64 (C.17:29A-35 et seq.), as well as the cost of billing and collection of surcharges levied on drivers in accordance with the New Jersey Automobile Insurance Reform Act of 1982 - Merit Rating System Surcharge Program, P.L.1983, c.65 (C.17:29A-33 et al.) as amended, are appropriated from fees in lieu of actual cost of collection receipts and from surcharges derived, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2002 in the Litigation Service Fees - Delinquent Surcharge Program, is appropriated for the implementation and administration of this program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for special plates, derived pursuant to P.L.1964 c.195 (C.39:3-27.3 et seq.), P.L.1968, c.247 (C.39:3-27.5 et seq.), P.L.1977, c.369 (C.39:3-27.8 et seq.), P.L.1979, c.456 (C.39:3-27.13 et seq.), P.L.1979, c.457 (C.39:3-27.15 et seq.), section 12 of P.L.1979, c.224 (C.39:3-19.5), P.L.1981, c.240 (C.39:3-27.27 et seq.), P.L.1981, c.401 (C.39:3-27.29 et seq.), P.L.1983, c.165 (C.39:3-27.33 et seq.), P.L.1959, c.56 (C.39:3-33.3 et seq.), P.L.1987, c.374 (C.39:3-27.35 et seq.), P.L.1991, c.168 (C.39:3-27.42), P.L.1993, c.72 (C.39:3-27.46), P.L.1994, c.29 (C.39:3-27.59 et seq.), and P.L.1949, c.280 (C.39:4-204 et seq.), are appropriated for the purchase of license plates, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other law, if on January 1, 2003, the Digitized Driver's License program is not implemented pursuant to P.L.1999, c.28, and subsequent amendments, such sums are appropriated as are necessary to enable the Director of the Division of Motor Vehicles to continue the existing photo license program, including the charging of fees, until such time that the Digitized Driver's License program becomes implemented, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 2002 in the Digitized Driver's License and Motor Vehicle Services Modernization account are appropriated.

Receipts from In-Terminal School Bus Inspection fees are appropriated for the purpose of administering the In-Terminal School Bus Program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of R.S.39:8-2, balances in the fund are available for other-Clean Air purposes, subject to the approval of the Director of the Division of Budget and Accounting.

The amount appropriated hereinabove for the Vehicle Inspection Program is payable from the "Motor Vehicle Inspection Fund."

Notwithstanding the provisions of P.L.1995, c.112 (C.39:8-41 et al.), there are appropriated such sums as are necessary to fund portions of the Enhanced Inspection and Maintenance Program that are not eligible for federal Congestion Mitigation and Air Quality Improvement funding, subject to the approval of the Director of the Division of Budget and Accounting.

The sum hereinabove for Agency Operations is available for maintaining services at privately operated motor vehicle agencies, provided however, that the expenditures thereof are subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other provision of law, in addition to the amount hereinabove appropriated for On-Line Registrations, such sums as are necessary are appropriated to implement the program pursuant to P.L.1997, c.136 (C.27:1D-1 et seq.), or otherwise allowable by law, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in the "Commercial Vehicle Enforcement Fund" established pursuant to section 17 of P.L.1995, c.157 (C.39:8-75), are appropriated to offset all reasonable and necessary expenses of the Division of State Police and the Department of Transportation-Division of Motor Vehicles in the performance of commercial truck safety and emission inspections, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from the new fees available with the implementation of the Enhanced Inspection and Maintenance Program derived pursuant to subsection d. of section 5 of P.L.1995, c.112 (C.39:8-45), subsection b. of section 7 of P.L.1995, c.112 (C.39:8-47), section 8 of P.L.1995, c.112 (C.39:8-48), subsection a. of section 12 of P.L.1995, c.112 (C.39:8-52), subsection a. of section 13 of P.L.1995, c.112 (C.39:8-53), section 14 of P.L.1995, c.112 (C.39:8-54), paragraph (2) of subsection I. of R.S.39:8-2, and subsections c. and e. of R.S.39:8-9, are deposited in the "Motor Vehicle Inspection Fund" and are appropriated for the Vehicle Inspection Program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived pursuant to the New Jersey Medical Service Helicopter Response Act under section 1 of P.L.1992, c.87 (C.39:3-8.2) are appropriated to the Division of State Police and the Department of Health and Senior Services to defray the operating costs of the program as authorized under P.L.1986, c.106 (C.26:2K-35 et seq.). The unexpended balance as of June 30, 2002 is appropriated to the special capital maintenance reserve account for capital replacement and major maintenance of helicopter equipment, subject to the approval of the Director of the Division of Budget and Accounting.

The amount appropriated hereinabove for the Security Responsibility program classification as well as an amount for central rent, fringe benefits and indirect

costs shall be reimbursed from receipts received from mutual associations and stock companies writing motor vehicle liability insurance within the State under section 2 of P.L.1952, c.176 (C.39:6-59), and any receipts in excess of the amount hereinabove are appropriated to defray additional costs of administration of the security responsibility law, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 2002 in the Graduated Driver's License account are appropriated.

Of the amount appropriated hereinabove for the Vehicle Inspection Program, such sums as are necessary are authorized for the costs associated with implementing the on-board diagnostic test for vehicle emissions at private inspection facilities.

Notwithstanding any other provision of law, such sums as are necessary are appropriated to implement the Insurance Verification System, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other law to the contrary, there is appropriated the sum of $30,500,000 from the New Jersey Automobile Insurance Guaranty Fund to the Market Transition Facility Revenue Fund. Of the amounts due to be paid to the General Fund from the Market Transition Facility trustee pursuant to the Market Transition Facility revenue bond resolution, $30,500,000 is deposited into four dedicated accounts and is appropriated to the Department of Transportation, with the approval of the Director of the Division of Budget and Accounting, to provide $3,512,000 for the purpose of implementing the Insurance Verification program, $10,250,000 to implement the Graduated Drivers License program, $8,638,000 to implement the Digitized Drivers License and Motor Vehicle Services Modernization program, and $8,100,000 in support of Division of Motor Vehicles staff and Information Technology staff assigned to the Division of Motor Vehicles by the Office of Information Technology.

CAPITAL CONSTRUCTION

Notwithstanding the provisions of P.L.1995, c.112 (C.39:8-41 et al.), if the increase in capital costs for the implementation of the Enhanced Inspection and Maintenance program exceeds the available funding from federal Congestion Mitigation and Air Quality Improvement funds, there are appropriated such sums as are necessary for the capital or debt service costs of the Enhanced Inspection and Maintenance program, subject to the approval of the Director of the Division of Budget and Accounting, and the Joint Budget Oversight Committee.

60 Transportation Programs
61 State and Local Highway Facilities
DIRECT STATE SERVICES

06-6100 Maintenance and Operations	$80,872,000
08-6120 Physical Plant and Support Services	8,196,000
Total Direct State Services Appropriation, State and Local Highway Facilities	$89,068,000

Direct State Services:
Personal Services:
Salaries and Wages ..... ($58,662,000)

Materials and Supplies ..... (12,267,000)
Services Other Than Personal ..... (3,037,000)
Maintenance and Fixed Charges ..... (13,313,000)
Special Purpose:
06 Disposal of Dead Deer ..... (503,000)
06 Additions, Improvements
and Equipment ..... (1,286,000)

In addition to the amount appropriated hereinabove for Maintenance and Operations, such additional sums as may be required are appropriated for snow removal costs, not to exceed $5,000,000, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 2002 in excess of $1,000,000 in the accounts hereinabove are appropriated.

Notwithstanding any other law to the contrary, of the amounts appropriated hereinabove for the Department of Transportation from the General Fund, $24,500,000 thereof shall be paid from funds received or receivable from the various transportation-oriented authorities pursuant to contracts between the authorities and the State as are determined to be eligible for such funding pursuant to such contracts, as shall be determined by the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated from the Logo Sign program fees, which include the Trailblazer Sign Program, the Variable Message Advertising Program, the Excess Parcel Advertising Program, and the Land Service Road Advertising Program, are appropriated for the purpose of administering the program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated derived from highway application and permit fees pursuant to subsection (h) of section 5 of P.L.1966, c.301 (C.27:1A-5) are appropriated for the purpose of administering the Access Permit Review program, subject to the approval of the Director of the Division of Budget and Accounting.

The department is permitted to transfer an amount approved by the Director of the Division of Budget and Accounting from funds previously appropriated for State highway projects from the "Transportation Rehabilitation and Improvement Fund of 1979," established pursuant to section 15 of P.L.1979, c.165, for planning, engineering, design, right-of-way acquisition, or other costs related to the construction of projects financed from that fund.

GRANTS-IN-AID

71-6200 Transportation Systems Improvements $9,000,000
Total Grants-In-Aid Appropriation,
State and Local Highway Facilities $9,000,000

Grants-In-Aid:
71 Statewide Livable Communities ..... (9,000,000)

CAPITAL CONSTRUCTION

60-6200 Trust Fund Authority $745,000,000
Total Capital Construction Appropriation, State and Local Highway Facilities $745,000,000

Capital Projects:

Transportation Trust Fund Account ... ($745,000,000)

Receipts representing the State share from the rental or lease of property, and the unexpended balances as of June 30, 2002 of such receipts are appropriated for maintenance or improvement of transportation property, equipment and facilities.

The sum provided hereinabove for the Transportation Trust Fund Account shall be provided from (a) an amount equivalent to revenue derived from $0.09 per gallon from the tax imposed on the sale of motor fuels pursuant to chapter 39 of Title 54 of the Revised Statutes, and (b) revenues received from the petroleum products gross receipts tax pursuant to Article VIII, Section II, paragraph 4 of the State Constitution, and © the sales and use tax pursuant to Article VIII, Section II, paragraph 4 of the State Constitution, together with such additional sums pursuant to P.L.1984, c.73 (C.27:1B-1 et al.) and R.S.54:39-27 as amended, all as may be necessary to satisfy all fiscal year 2003 debt service, bond reserve requirements, and other fiscal obligations of the New Jersey Transportation Trust Fund Authority.

Notwithstanding any other requirements of law, the department may expend necessary sums for improvements to streets and roads providing access to State facilities within the capital city without local participation.

Notwithstanding any other provision of law, the Department of Transportation may transfer Transportation Trust Fund monies to federal projects contracted in federal fiscal years 2001, 2002, and 2003 until such time as federal funds become available for the projects. These transfers shall be subject to the approval of the Director of the Division of Budget and Accounting, and the Legislative Budget and Finance Officer. Subject to the receipt of federal funds, the Transportation Trust Fund shall be reimbursed for all the monies that were transferred to advance federally funded projects.

Notwithstanding the provisions of P.L.1984, c.73 (C.27:1B-1 et al.), there is appropriated the sum of $580,000,000 from the revenues and other funds of the New Jersey Transportation Trust Fund Authority for the specific projects identified under the seven general program headings as follows:

Route	Section	Description	County	Amount
1. CONSTRUCTION				
		Access management	Various	($500,000)
		Access permit application review	Various	(200,000)
		Adopt-A-Highway program	Various	(100,000)
		Airport Safety Fund	Various	(7,000,000)
		Allaire airport	Monmouth	(3,000,000)
		Betterments, bridge preservation	Various	(10,000,000)
		Betterments, roadway		

preservation	Various	(8,000,000)
Betterments, safety	Various	(4,000,000)
Bicycle projects, Local System	Various	(6,000,000)
Bridge, concrete casement removal	Various	(150,000)
Bridge, emergency repair	Various	(5,500,000)
Camden transit street improvements	Camden	(1,750,000)
Construction inspection	Various	(3,000,000)
Culvert inspection program	Various	(500,000)
Dams, betterments	Various	(250,000)
Drainage rehabilitation and maintenance, State	Various	(4,000,000)
Duck Island remediation	Mercer	(100,000)
Economic development	Various	(3,000,000)
Ecotourism grants	Various	(1,000,000)
Electrical and signal safety engineering program	Various	(500,000)
Electrical facilities	Various	(1,600,000)
Emergency response operations	Various	(500,000)
Environmental investigations	Various	(2,500,000)
Equipment: vehicles and construction equipment	Various	(10,000,000)
Equipment, overage reduction program	Various	(3,000,000)
Fast Move program	Various	(5,000,000)
Freight program	Various	(8,000,000)
Good Neighbor landscaping	Various	(1,000,000)
Hackettstown remediation	Warren	(100,000)
Interstate service facilities	Various	(500,000)
Legal costs for right-of-way condemnation and capital project litigation work	Various	(1,300,000)
Local aid for Centers of Place	Various	(3,000,000)
Maritime transportation system	Various	(4,000,000)
Newark circulation improvements	Essex	(6,000,000)
Orphan bridge emergency repairs	Various	(1,000,000)
Pedestrian projects, Local System	Various	(5,000,000)
Perth Amboy Industrial Road; Victory Bridge connector road to vicinity of bay front	Middlesex	(400,000)

Physical plant	Various	(6,000,000)
PRIMIS (Philadelphia Regional Integrated Multi-modal Information Sharing)	Various	(200,000)
Professional auditing services	Various	(450,000)
Program implementation and indirect capital program costs	Various	(75,000,000)
Rail - highway grade crossing program	Various	(1,000,000)
Regional action program	Various	(1,000,000)
Restriping program	Various	(3,000,000)
Resurfacing program, State	Various	(50,000,000)
Sign structure inspection	Various	(1,000,000)
Sign program, State	Various	(1,500,000)
Solid and hazardous waste cleanup, reduction and disposal	Various	(2,110,000)
State Police enforcement and safety services	Various	(2,000,000)
Survey program, National Highway System	Various	(250,000)
Technology evaluation	Various	(100,000)
Traffic signal LED (light emitting diodes) installation	Various	(1,000,000)
Traffic signal relamping	Various	(1,700,000)
Traffic signal replacement	Various	(4,400,000)
Training and technology development	Various	(750,000)
TRANSCOM	Various	(400,000)
Transportation Demand Management/Smart Moves Program	Various	(500,000)
Trenton revitalization improvements	Mercer	(2,000,000)
Unanticipated design, right-of-way, and construction expenses	Various	(15,000,000)
Underground exploration for utility facilities	Various	(150,000)
University Transportation Research Technology	Various	(2,000,000)
Utility reconnaissance and relocation	Various	(1,000,000)
Woodbridge Center, grade-separated interchange at Main Street and Woodbridge Center Drive	Middlesex	(4,000,000)

1&9		Ramps at McClellan Street, safety and operational improvements	Essex	(5,000,000)
9W	1J	Englewood Cliffs, access improvements	Bergen	(6,700,000)
17		Vicinity of Essex Street to Saddle River, drainage improvement	Bergen	(10,180,000)
21		Raymond Boulevard to I-280 overpass, widening and bridge replacement	Essex	(31,140,000)
21		Lafayette Street to Raymond Boulevard, widening	Essex	(13,900,000)
21		I-280 overpass to Passaic Street, widening	Essex	(1,000,000)
22		Mountain Avenue to Bridgewater Commons Mall, pedestrian access improvements	Somerset	(2,500,000)
27	1C	Bridge over Harry's Brook, replacement	Mercer	(2,574,000)
31	6E 6F	River Road to Stanton Station Road, widening	Hunterdon	(11,000,000)
46/80/23	(43)	Routes 46, I-80 and 23, interchange improvements	Passaic	(1,000,000)
78		Potterstown Road to I-287, resurfacing Hunterdon	Somerset	(5,000,000)
94		Sand Hill Road, intersection improvements	Sussex	(360,000)
95 NJTPK		Leonia and Englewood (NJTPK jurisdiction), noise barriers	Bergen	(16,000,000)
168	CR659	Browning Road intersection, improvements	Camden	(500,000)
295 30		Route 30 interchange, noise barriers	Camden	(1,200,000)
676		Ramp FE, bridge deck rehabilitation	Camden	(1,116,000)
2. DESIGN				
		Emerging projects	Various	(2,500,000)
13		Bridge over Inland Waterway Canal, replace drawbridge operating system	Ocean	(500,000)
3. PLANNING				
		Planning and research	Various	(3,000,000)

4.	FEASIBILITY ASSESSMENT				
			Project development, preliminary engineering	Various	(10,000,000)
5.	FINAL SCOPE DEVELOPMENT				
			Maintenance management system	Various	(300,000)
			Millville Industrial Park, access deficiency assessment study	Cumberland	(500,000)
	33		Route 33 from west of Washington Boulevard to Route 130 in vicinity of South Gold Drive, bypass	Mercer	(750,000)
46	159	(52)	Interim intersection improvements at Plymouth Street (CR627) and Clinton Road (Route 159)	Essex Morris	(600,000)
	55		Vicinity of Cedar Bridge Road, Elk Township, noise barriers	Gloucester	(300,000)
6.	RIGHT-OF-WAY ACQUISITION				
			Advance acquisition of right-of-way	Various	(5,000,000)
	1&9		Intersection at North Avenue, operational and safety improvements	Union	(2,920,000)
	10		East of Route 202 to Dryden Way, widening	Morris	(500,000)
	57		Corridor scenic preservation	Warren	(1,000,000)
	130		Pedestrian bridge, Washington Township	Mercer	(1,000,000)
	206		Wetland preservation	Somerset	(3,500,000)
	440		Connector ramps and roadway between Route 440 and High Street	Middlesex	(500,000)
7.	LOCAL AID				
			County Aid	Various	(67,500,000)
			Municipal aid	Various	(67,500,000)
			Discretionary aid: County and municipal	Various	(15,000,000)

Notwithstanding the provisions of subsection d. of section 21 of P.L.1984, c.73 (C.27:1B-21), in order to provide the department with flexibility in administering the appropriations identified, the Commissioner of Transportation may transfer funds among projects within the same general program heading subject to the approval of the Director of the Division of Budget and Accounting. The Commissioner of Transportation shall apply to the Director of the Division of Budget and Accounting for permission to transfer funds among projects within different program headings. If the Director of the Division of Budget and

Accounting shall consent thereto, the request to transfer funds among projects within different program headings shall be transmitted to the Legislative Budget and Finance Officer for approval or disapproval then returned to the Director of the Division of Budget and Accounting. The Joint Budget Oversight Committee or its successor shall be empowered to review all transfers submitted to the Legislative Budget and Finance Officer and may direct said Legislative Budget and Finance Officer to approve or disapprove any transfer.

Notwithstanding the provisions of P.L.1984, c.73 (C.27:1B-1 et al.), there is appropriated the sum of $528,000,000 from the revenues and other funds of the New Jersey Transportation Trust Fund Authority for the specific projects identified as follows:

NEW JERSEY TRANSIT CORPORATION

Route	Section	Description	County	Amount
		Accessibility for people with disabilities; platforms/ stations	Various	($28,235,000)
		Accessibility for people with disabilities; vans for paratransit services	Various	(945,000)
		Amtrak - Northeast Corridor Joint Benefit Agreement	Various	(35,000,000)
		Bridge and tunnel rehabilitation	Various	(29,440,000)
		Building capital leases	Various	(1,260,000)
		Bus acquisition program	Various	(19,190,000)
		Bus maintenance facilities	Various	(15,800,000)
		Bus passenger facilities	Various	(100,000)
		Bus support facilities and equipment	Various	(13,880,000)
		Capital program implementation and in-direct capital program costs	Various	(17,170,000)
		Claims support	Various	(2,000,000)
		Clean Air Programs	Various	(1,385,000)
		Environmental compliance	Various	(2,000,000)
		Geographic information systems	Various	(710,000)
		Hoboken Terminal/ Yard rehabilitation	Hudson	(2,850,000)
		Hudson - Bergen Light Rail Transit System, Minimum Operating Segment I	Hudson Bergen	(5,310,000)

Hudson - Bergen Light Rail Transit System, Minimum Operating Segment II	Hudson Bergen	(88,000,000)
Immediate action program	Various	(14,300,000)
Locomotive overhaul	Various	(1,952,000)
Main/Bergen/Pascack Valley Lines upgrade	Bergen Passaic	(1,000,000)
Miscellaneous	Various	(783,000)
Newark Penn Station	Essex	(2,500,000)
Newark-Elizabeth rail link, Minimum Operating Segment I	Essex Union	(34,982,000)
Other rail station/terminal improvements	Various	(30,400,000)
Penn Station New York	New York	(100,000)
Physical plant	Various	(7,010,000)
Private carrier equipment program	Various	(2,300,000)
Rail capital maintenance	Various	(45,170,000)
Rail fleet overhaul	Various	(6,308,000)
Rail park and ride	Various	(100,000)
Rail rolling stock procurement	Various	(6,550,000)
Rail support facilities and equipment	Various	(21,380,000)
Railroad associated capital maintenance	Various	(8,020,000)
Signals and communications/ electric traction systems	Various	(12,200,000)
Southern New Jersey Light Rail Transit System	Mercer Burlington Camden	(48,000,000)
Study and development	Various	(2,750,000)
Technology improvements	Various	(12,920,000)
Track program	Various	(6,000,000)

Notwithstanding the provisions of subsection d. of section 21 of P.L.1984, c.73 (C.27:1B-21), in order to provide the department with flexibility in administering the appropriations identified, the Commissioner of Transportation may transfer funds among projects within the same general program heading subject to the approval of the Director of the Division of Budget and Accounting. The Commissioner of Transportation shall apply to the Director of the Division of Budget and Accounting for permission to transfer funds among projects within different program headings. If the Director of the Division of Budget and Accounting shall consent thereto, the request to transfer funds among projects within different program headings shall be transmitted to the Legislative Budget and Finance Officer for approval or disapproval then returned to the Director of the Division of Budget and Accounting. The Joint Budget Oversight Committee

or its successor shall be empowered to review all transfers submitted to the Legislative Budget and Finance Officer and may direct said Legislative Budget and Finance Officer to approve or disapprove any transfer.

The unexpended balances as of June 30, 2002 of appropriations from the New Jersey Transportation Trust Fund Authority are appropriated.

From the amount appropriated from the revenues and other funds of the New Jersey Transportation Trust Fund Authority for the fiscal year 2003 capital program, the Commissioner of Transportation shall allocate and transfer a total of $4,000,000 for Program Implementation and Indirect Capital Program Costs from the Equipment (Vehicles and Construction Equipment), Equipment - Overage Reduction Program, and Physical Plant allocations.

62 Public Transportation

GRANTS-IN-AID

04-6050 Railroad and Bus Operations	$1,255,527,000
Total State, Federal and All Other Funds Appropriation	$1,255,527,000
Less:	
Farebox Revenue	***$546,400,000***
Other Resources	***449,100,000***
Total Income Deductions	***$995,500,000***
Total State Grants-in-Aid Appropriation, Public Transportation	$260,027,000
Grants-in-Aid:	
Personal Services:	
Salaries and Wages	($745,627,000)
Materials and Supplies	(193,900,000)
Services Other Than Personal	(87,100,000)
Special Purpose:	
04 Leases and Rentals	(1,900,000)
04 Purchased Transportation	(135,400,000)
04 Insurance and Claims	(26,800,000)
04 Tolls, Taxes and Other Operating Expenses	(64,800,000)
Less:	
Income Deductions	***995,500,000***

STATE AID

04-6050 Railroad and Bus Operations	$24,934,000
(From Casino Revenue Fund	*$24,934,000)*
Total State Aid Appropriation, Public Transportation	$24,934,000
(Total From Casino Revenue Fund	*$24,934,000)*
State Aid:	
04 Transportation Assistance for Senior Citizens and Disabled Residents (CRF)	($24,934,000)

The unexpended balance as of June 30, 2002, in this account is appropriated.

Counties which provide para-transit services for sheltered workshop clients may seek reimbursement for such services pursuant to P.L.1987, c.455 (C.34:16-51 et seq.).

64 Regulation and General Management

DIRECT STATE SERVICES

05-6070 Access and Use Management $1,296,000
99-6000 Administration and Support Services 9,434,000
Total Direct State Services Appropriation,
Regulation and General Management $10,730,000

Direct State Services:
Personal Services:
Salaries and Wages ..... ($3,205,000)
Materials and Supplies ..... (424,000)
Services Other Than Personal ..... (5,136,000)
Maintenance and Fixed Charges ..... (189,000)
Special Purpose:
05 Airport Safety Fund Administration .. (965,000)
99 Office of Maritime Resources ..... (350,000)
99 Affirmative Action and Equal
Employment Opportunity ..... (461,000)

The unexpended balance as of June 30, 2002 and the reimbursements in the department's Stock Purchase Revolving Fund for the purchase of materials and supplies required for the operation of the department are appropriated.

Receipts in excess of the amount anticipated derived from outdoor advertising application and permit fees are appropriated for the purpose of administering the Outdoor Advertising Permit and Regulation program, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2002 in the Airport Safety Fund account together with any receipts in excess of the amount anticipated are appropriated.

Notwithstanding any other provision of law, the amount hereinabove for the Airport Safety Fund is payable out of the "Airport Safety Fund" established pursuant to section 4 of P.L.1983, c.264 (C.6:1-92) and is available for salary and operational costs incurred by the Bureau of Aeronautics in the administration of loans or grants; the acquisition of airports lands or rights in lands; the operation or provision of any program or activity which promotes aviation safety, promotes aviation education, or provides for the promotion of aeronautics; and for those aviation purposes which the department is empowered to undertake pursuant to the Airport Safety Fund Act or under Title 6 and Title 27. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

Receipts derived from fees on placarded rail freight cars transporting hazardous materials in this State are appropriated to defray the expenses of the Placarded Rail Freight Car Transporting Hazardous Materials program, subject to the approval of the Director of the Division of Budget and Accounting.

GRANTS-IN-AID

The unexpended balance as of June 30, 2002 in the Airport Safety Fund account together with any receipts in excess of the amount anticipated are appropriated.

Department of Transportation,
Total State Appropriation $1,274,414,000

Such receipts as may be received by the Department of Transportation from the State's Highway Authorities as reimbursement for services that are performed by the department on behalf of the authorities, including but not limited to maintenance and operations programs, are appropriated for purposes within the department as shall be determined by the Director of the Division of Budget and Accounting.

Summary of Department of Transportation Appropriations
(For Display Purposes Only)

Appropriations by Category:
Direct State Services $235,453,000
Grants-in-Aid 269,027,000
State Aid 24,934,000
Capital Construction 745,000,000
Appropriations by Fund:
General Fund $1,249,480,000
Casino Revenue Fund 24,934,000

82 DEPARTMENT OF THE TREASURY
30 Educational, Cultural and Intellectual Development
36 Higher Educational Services
GRANTS-IN-AID

47-2155 Support to Independent Institutions $26,697,000
49-2155 Miscellaneous Higher Education Programs 71,210,000
Total Grants-in-Aid Appropriation, Higher Educational Services $97,907,000

Grants-in-Aid:
47 Aid to Independent Colleges and Universities ..... ($24,485,000)
47 Clinical Legal Programs for the Poor -- Seton Hall University (P.L.1996, c.52) ..... (200,000)
47 Einstein Chair for Scholarly Studies at the Institute for Advanced Study ..... (65,000)
47 Discrete Mathematics and Computer Science Center -- Institute for Advanced Study ..... .(100,000)
47 Institute for Advanced Study -- Park City Mathematics Institute ..... (100,000)
47 Richard J. Hughes Chair for Constitutional and Public Law and Service at Seton Hall University ..... (65,000)

47 Alfred E. Driscoll Chair in Pharmaceutical/Chemical Studies at F.D.U. ..... (65,000)
47 Laurie Chair in Women's Studies at Douglass College ..... (75,000)
47 Will and Ariel Durant Chair in the Humanities at St. Peters College ..... (65,000)
47 Senator Wynona Lipman Chair in Women's Political Leadership at the Eagleton Institute of Politics at Rutgers University ..... (100,000)
47 Small Business and Entrepreneurship Chair at Rutgers University ..... (65,000)
47 Raoul Wallenberg Visiting Professorship in Human Rights -- Rutgers University ..... (100,000)
47 Millicent Fenwick Research Professorship in Education at Monmouth University ..... (75,000)
47 Research Under Contract with the Institute of Medical Research, Camden . (1,037,000)
47 Institute of Law and Mental Health -- Seton Hall University ..... (100,000)
47 Higher Education Incentive Endowment Fund ..... (2,500,000)
49 Garden State Savings Bonds Incentive .. (100,000)
49 Higher Education Capital Improvement Program -- Debt Service ..... (17,211,000)
49 Equipment Leasing Fund -- Debt Service ..... .(13,354,000)
49 Higher Education Facilities Trust Fund -- Debt Service ..... (21,019,000)
49 Higher Education Technology Bond -- Debt Service ..... (6,419,000)
49 Marine Sciences Consortium ..... (526,000)
49 Dormitory Safety Trust Fund -- Debt Service ..... (8,806,000)
49 Statewide Systemic Initiative to Reform Mathematics and Science Education ..... (1,200,000)
49 Henry John Raimondo Chair in Urban Public Policy Research at New Jersey City University ..... (75,000)

For the purpose of implementing the "Independent College and University Assistance Act," P.L.1979, c.132 (C.18A:72B-15 et seq.), the number of full-time equivalent students (FTE) at the eight State Colleges is 50,807 for fiscal year 2002.

Receipts in excess of the amount hereinabove for Clinical Legal Programs for the Poor - Seton Hall are appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

The sums provided hereinabove for Research under Contract with the Institute of Medical Research, Camden (Coriell Institute) shall be expended on support for research activities, and the Institute shall submit an annual audited financial statement to the Department of the Treasury which shall include a schedule showing the use of these funds.

The unexpended balances as of June 30, 2002 in the Higher Education Incentive Grant Fund and Higher Education Incentive Endowment Fund accounts are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

STATE AID

48-2155 Aid to County Colleges $181,260,000
(From General Fund ..... $163,798,000)
(From Property Tax Relief Fund ..... 17,462,000)
Total State Aid Appropriation,
Higher Educational Services $181,260,000
(From General Fund ..... .$163,798,000)
(From Property Tax Relief Fund ..... 17,462,000)

State Aid:

48 Operational Costs ..... ($140,562,000)
48 Debt Service for Chapter 12
N.J.S.18A:64A-22 (PTRF) ..... (17,462,000)
48 Employer Contributions -- Alternate
Benefit Program ..... (15,908,000)
48 Additional Health Benefits. ..... (6,802,000)
48 Employer Contributions -- FICA
for County College Members of
Teachers' Pension and Annuity Fund .... (450,000)
48 Debt Service on Pension
Obligation Bonds P.L.1997,
c. 114 (C.34:1B-7.50 et seq.) ..... (76,000)

In addition to the sum hereinabove appropriated for Debt Service on Pension Obligation Bonds to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

In addition to the amount hereinabove appropriated for Operational Costs, there is appropriated $20,000,000 from the Supplemental Workforce Fund for Basic Skills for the same purpose.

Such sums as may be necessary for the payment of interest or principal or both, due from the issuance of any bonds authorized under the provisions of section 1 of P.L.1971, c.12 (C.18A:64A-22.1) are appropriated.

In addition to the amounts hereinabove for the County College Capital Projects (Chapter 12) account, the unexpended balances as of June 30, 2002 are appropriated for the same purpose.

Higher Educational Services

Of the amount hereinabove for Higher Educational Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule in the Governor's Budget Recommendation Document dated March 26, 2002, first shall be charged to the State Lottery Fund.

50 Economic Planning, Development and Security
51 Economic Planning and Development
DIRECT STATE SERVICES

38-2049 Economic Development $406,000
Total Direct State Services Appropriation, Economic Planning and Development $406,000

Direct State Services:
Personal Services:
Salaries and Wages ..... ($296,000)
Materials and Supplies ..... (20,000)
Services Other Than Personal ..... (65,000)
Maintenance and Fixed Charges ..... (15,000)
Additions, Improvements and Equipment ... (10,000)

GRANTS-IN-AID

38-2049 Economic Development $13,500,000
Total Direct State Services Appropriation, Economic Planning and Development $13,500,000

Grants-in-Aid:
Grants:
38 Business Employment Incentive Program ..... ($13,500,000)

In addition to the amount hereinabove, there is appropriated to the Department of the Treasury on behalf of the New Jersey Economic Development Authority from the General Fund such sums as may be necessary to fund the Business Employment Incentive Program, the amount of which shall not exceed the total amount of revenues received as withholdings, as defined in section 2 of P.L.1996, c.26 (C.34:1B-125), from all businesses receiving grants pursuant to the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et seq.), as certified by the Director of the Division of Taxation. The authority shall provide the Joint Budget Oversight Committee and the Director of the Division of Budget and Accounting, on or before November 1, 2002, with a report of the grants funded in the prior fiscal year including, but not limited to, a summary of each grant agreement and the amount of each grant funded in that year.

Notwithstanding the provisions of any law to the contrary, there is appropriated from the Sanitary Landfill Facility Contingency Fund $6,000,000 for the Brownfield and Contaminated Site Remediation Fund and is appropriated for the

issuing of payments under the provisions of P.L.1997, c.278, subject to the approval of the Director of Division of Budget and Accounting.

In addition to the amount hereinabove for the Brownfield and Contaminated Site Reimbursement Fund, there are appropriated such sums as may be necessary to make payments under the provisions of P.L.1997, c.278, subject to the approval of the Director of the Division of Budget and Accounting.

2041 New Jersey Commerce and Economic Growth Commission

DIRECT STATE SERVICES

38-2041 Economic Development $17,615,000

Total Direct State Services Appropriation, New Jersey Commerce and Economic Growth Commission $17,615,000

Direct State Services:

Special Purpose:

38 New Jersey Commerce and Economic Growth Commission . ($17,570,000)

38 Council of Economic Advisors ..... (45,000)

Of the sum hereinabove appropriated for the New Jersey Commerce and Economic Growth Commission, there is no less than $6,450,000 for Advertising and Promotion, from which $50,000 shall be allocated to each of the six regional tourism councils for regional tourism promotion; $3,015,000 for Business Retention, Expansion and Attraction; $1,850,000 for the Travel and Tourism Cooperative Marketing Program; $3,000,000 for Nanotechnology and other technologies; $130,000 for the New Jersey Israel Commission; except that the amount for the Cooperative Marketing Program is available for expenditure only to the extent that an amount equal to 25% of the State funds are expended from funds raised by the Commerce Commission, pursuant to subsection j. of section 9 of P.L.1977, c.225 (C.34:1A-53), through contributions from private tourism industry concerns and non-State public entities as determined by the Director of the Division of Budget and Accounting. These accounts shall be considered special purpose appropriations for accounting and reporting purposes. Any grant from the amount allocated for Nanotechnology shall be conditioned on the New Jersey Commerce and Economic Growth Commission and the grant recipient entering into a contract with the State of New Jersey whereby the State shares in any financial proceeds, up to an aggregate amount of $3,000,000, derived from the development, patenting, marketing, sale of other disposition of Nanotechnology attributable to such grants.

Subject to the approval of the Director of the Division of Budget and Accounting, there is appropriated to the New Jersey Commerce and Economic Growth Commission, from the General Fund such sums as may be necessary, as certified by the Commissioner and the Director of the Division of Taxation, to fund business relocation grants made under the "Business Relocation Assistance Act," the amount of which shall not exceed the new income tax revenues as defined in section 2 of P.L.1996, c.25 (C.34:1B-113). In addition to the report required pursuant to section 10 of P.L.1996, c.25 (C.34:1B-121), the Chief Executive Officer and Secretary of the Commission shall provide the Joint

Budget Oversight Committee, on or before November 1, 2002, with a report of the grants funded in the prior fiscal year including, but not limited to, a summary of each grant agreement and the amount of each grant funded in that year.

There is appropriated from the Enterprise Zone Assistance Fund such sums as are necessary for administrative services provided by the New Jersey Commerce and Economic Growth Commission in accordance with the provisions of section 11 of P.L.1993, c.367 (C.52:27H-65.1), subject to the approval of the Director of the Division of Budget and Accounting.

The Chief Executive Officer and Secretary of the Commission shall report semi-annually on the expenditure of State funds and private contributions during the preceding six months for the Advertising and Promotion Program and the Travel and Tourism, Advertising and Promotion - Cooperative Marketing Program. The first semi-annual report covering the first six months of fiscal year 2003 shall be completed not later than January 31, 2003, the second semi-annual report covering the second six months of fiscal year 2003 shall be completed not later than July 31, 2003 and both reports shall be submitted to the Governor and the Joint Budget Oversight Committee.

GRANTS-IN-AID

38-2041 Economic Development $2,050,000
Total Grants-in-Aid Appropriation, New Jersey Commerce and Economic Growth Commission $2,050,000

Grants-in-Aid:

38 Statewide Local Tourism Development ..... ($1,500,000)
38 Prosperity New Jersey, Inc. ..... (550,000)

2042 New Jersey Commission on Science and Technology

GRANTS-IN-AID

39-2042 New Jersey Commission on Science and Technology $13,869,000
Total Grants-in-Aid Appropriation, New Jersey Commission on Science and Technology $13,869,000

Grants-in-Aid:

39 Research and Development Programs ..... ($11,825,000)
39 Business Assistance ..... (2,044,000)

The unexpended balances as of June 30, 2002 in the Science and Technology grant accounts are appropriated.

52 Economic Regulation

DIRECT STATE SERVICES

53-2018 Ratepayer Advocacy $5,734,000
54-2008 Utility Regulation 7,344,000
55-2004 Regulation of Cable Television 1,830,000
97-2016 Regulatory Support Services 3,264,000
99-2003 Administration and Support Services 8,294,000

Total Direct State Services Appropriation,
Economic Regulation $26,466,000
Direct State Services:
Personal Services:
Salaries and Wages ..... ($22,060,000)
Materials and Supplies ..... (360,000)
Services Other Than Personal ..... (3,131,000)
Maintenance and Fixed Charges ..... (620,000)
Special Purpose:
53 Ratepayer Advocacy ..... (20,000)
Additions, Improvements and Equipment ... (275,000)

In addition to the sum hereinabove, such other sums as the Director of the Division of Budget and Accounting shall determine are appropriated on behalf of the Board of Public Utilities under P.L.1968, c.173 (C.48:2-59 et seq.) and P.L.1972, c.186 (C.48:5A-32 et seq.), or other applicable statutes with respect to assessment of public utilities or the cable television industry.

Receipts derived from fees are appropriated.

Fees received from the "Electric Facility Need Assessment Act," P.L.1983, c.115 (C.48:7-16 et seq.) are appropriated.

The unexpended balances as of June 30, 2002 are appropriated.

Receipts of the Division of Ratepayer Advocate in excess of those anticipated are appropriated for the Division of Ratepayer Advocate to defray the costs of this activity under section 16 of P.L.1994, c.58 (C.52:27E-63).

There are appropriated from interest earned by the Petroleum Overcharge Reimbursement Fund such sums as may be required for costs attributable to the administration of the fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law, the balances from the Petroleum Overcharge Reimbursement Fund and the Secondary Stage Refunds and the monies required to be deposited in that fund from projects which have been completed or are no longer viable are reappropriated for new projects consistent with the court rulings which served as the basis for the original awards, subject to the approval of the Director of Budget and Accounting.

70 Government Direction, Management and Control
72 Governmental Review and Oversight
DIRECT STATE SERVICES

03-2015 Employee Relations and Collective Negotiations ... $637,000
07-2040 Office of Management and Budget 19,795,000
Total Direct State Services Appropriation,
Governmental Review and Oversight $20,432,000
Direct State Services:
Personal Services:
Salaries and Wages ..... ($13,759,000)
Materials and Supplies ..... (294,000)
Services Other Than Personal ..... (5,765,000)

Maintenance and Fixed Charges ..... (122,000)
Special Purpose:
07 Independent Audits ..... (460,000)
07 Governmental Accounting Standards Board ..... (32,000)

Such sums as may be necessary for administrative expenses incurred in processing federal benefit payments are appropriated from such sums as may be received or receivable for this purpose.

In addition to the amounts hereinabove, there are appropriated such additional sums as may be necessary for an independent audit of the State's general fixed asset account group, management, performance, and operational audits, and the single audit.

There are appropriated, out of receipts derived from the investment of State funds, such sums as may be necessary for bank service charges, custodial costs, mortgage servicing fees and advertising bank balances under section 1 of P.L.1956, c.174 (C.52:18-16.1).

73 Financial Administration
DIRECT STATE SERVICES

15-2080	Taxation Services and Administration	$85,709,000
16-2090	Administration of State Lottery	21,662,000
17-2105	Administration of State Revenues	29,774,000
19-2120	Management of State Investments	5,882,000
25-2095	Administration of Casino Gambling	26,938,000
	(From Casino Control Fund ..... .$26,938,000)	
50-2027	Commercial Recording	4,703,000
	Total Direct State Services Appropriation, Financial Administration	$174,668,000
	(From General Fund ..... $147,730,000)	
	(From Casino Control Fund ..... 26,938,000)	

Direct State Services:
Personal Services:
Chairman and Commissioners (CCF) .. ($499,000)
Salaries and Wages ..... (93,346,000)
Salaries and Wages (CCF) ..... (18,562,000)
Employee Benefits (CCF) ..... (5,149,000)
Materials and Supplies ..... (5,304,000)
Materials and Supplies (CCF) ..... (248,000)
Services Other Than Personal ..... (45,821,000)
Services Other Than Personal (CCF) ..... (986,000)
Maintenance and Fixed Charges ..... (1,735,000)
Maintenance and Fixed Charges (CCF) ... (1,317,000)
Special Purpose:
17 Wage Reporting/Temporary Disability Insurance ..... .(1,524,000)
25 Administration of Casino Gambling (CCF) ..... (105,000)

25 Additions, Improvements
and Equipment (CCF) . . . . . (72,000)

So much of the receipts derived from the sale of confiscated equipment, materials and supplies under the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.), as may be necessary for confiscation, storage, disposal and other related expenses thereof, are appropriated.

Notwithstanding the provision of any law to the contrary, there shall be no retroactive payment for refunds due under section 9 of P.L.1976, c.141 (C.58:10-23.11h) as amended pursuant to section 1 of P.L.1997, c.134 for the period from January 1, 1996, through June 26, 1997, appropriated from the Spill Compensation Fund.

Such sums as may be necessary for the administration of the homestead property tax reimbursement established pursuant to P.L.1997, c.348 (C.54:4-8.67 et seq.) are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Upon certification of the Director of the Division of Taxation, the State Treasurer shall pay, upon warrants of the Director of the Division of Budget and Accounting, such claims for refund as may be necessary under the provisions of Title 54 of the Revised Statutes, as amended and supplemented.

Notwithstanding any other law to the contrary, there are appropriated out of the receipts in the Solid Waste Services Tax Fund such sums as may be necessary for the cost of administration and collection of taxes pursuant to P.L.1985, c.38 (C.13:1E-136 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

Such sums as are required for the acquisition of equipment essential to the modernization of processing tax returns, are appropriated from tax collections, subject to the approval of the Joint Budget Oversight Committee and the Director of the Division of Budget and Accounting.

The amount necessary to provide administrative costs incurred by the Division of Taxation and the Division of Revenue to meet the statutory requirements of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) is appropriated from the Enterprise Zone Assistance Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Pursuant to the provisions of section 12 of P.L.1992, c.165 (C.40:54D-12) there are appropriated such sums as may be required to compensate the Department of the Treasury for costs incurred in administering the "Tourism Improvement and Development District Act," P.L.1992 c.165 (C.40:54D-1 et seq.).

In addition to the amounts appropriated hereinabove, such additional sums as may be necessary are appropriated to fund costs of the collection and processing of debts, taxes and other fees and charges owed to the State, including but not limited to the services of auditors and attorneys and enhanced compliance programs, subject to the approval of the Director of the Division of Budget and Accounting. The Director of the Division of Budget and Accounting shall provide the Joint Budget Oversight Committee with written reports on the detailed appropriation and expenditure of sums appropriated pursuant to this provision.

Notwithstanding any provision of any other law to the contrary, there are available out of fees derived from the cost of collection pursuant to section 8 of P.L.1987, c.76 (C.54:49-12.1) such sums as may be required for compliance and enforcement activities associated with the collection process as promulgated by the Taxpayers' Bill of Rights under P.L.1992, c.175.

The unexpended balances as of June 30, 2002 in the Tax Amnesty account are appropriated.

There are appropriated, out of revenues derived from escheated property under the various escheat acts, such sums as may be necessary to administer such acts and such sums as may be required for refunds.

There are appropriated out of the State Lottery Fund such sums as may be necessary for costs required to implement the "State Lottery Law," P.L.1970, c.13 (C.5:9-1 et seq.) and for payment for commissions, prizes and expenses of developing and implementing games pursuant to section 7 of P.L.1970, c.13 (C.5:9-7).

In addition to the amounts hereinabove, State Lottery Fund receipts in excess of anticipated contributions to education and State institutions, and reimbursement of administrative expenditures, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee.

Notwithstanding the provisions of any other law to the contrary, there are appropriated out of receipts derived from communications fees such sums as may be necessary for telecommunications costs required in the administration of the State Lottery.

Notwithstanding the provisions of any other law to the contrary, there are appropriated out of receipts derived from the sale of advertising and/or promotional products by the State Lottery, such sums as may be necessary for advertising costs required in the administration of the State Lottery pursuant to P.L.1970, c.13 (C.5:9-1 et seq.).

The unexpended balances as of June 30, 2002 in the Revenue Management System account are appropriated.

The Director of the Division of Budget and Accounting is hereby authorized to transfer or credit such sums as are necessary between the Department of Labor and the Department of the Treasury for the administration of revenue collection and processing functions related to the Unemployment Insurance, Temporary Disability Insurance, Workers Compensation, Special Compensation Programs, the Health Care Subsidy Fund, and Workforce Development Partnership program.

The amounts hereinabove for the Wage Reporting/Temporary Disability Insurance program are payable out of the State Disability Benefits Fund, and in addition to the amounts hereinabove, there are appropriated out of the State Disability Benefits Fund such additional sums as may be required to administer revenue collection associated with the Temporary Disability Insurance program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of those anticipated from the over-the-counter surcharges are appropriated to meet the costs of the Division of Revenue's commercial recording function, subject to the approval of the Director of the Division of Budget and Accounting.

Funds necessary to defray the cost of collection to implement the provisions of P.L.1994, c.64 (C.17:29A-35 et seq.), as well as the cost of billing and collection of surcharges levied on drivers in accordance with the New Jersey Automobile Insurance Reform Act of 1982 - Merit Rating System Surcharge Program, P.L.1983, c.65 (C.17.29A-33 et al.) as amended, are appropriated from fees in lieu of actual cost of collection receipts and from surcharges derived, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated, out of receipts derived from service fees billed to authorities for the handling of investment transactions, such sums as may be necessary to administer the above investment activity.

There are appropriated, out of receipts derived from the investments of State funds, such sums as may be necessary for bank service charges, custodial costs, mortgage servicing fees and advertising bank balances under section 1 of P.L.1956, c.174 (C.52:18-16.1).

Notwithstanding the provisions of any law to the contrary, the expenses of administration for the various retirement systems and employee benefit programs administered by the Division of Pensions and Benefits and the Division of Investments shall be charged to the pension and health benefits funds established by law to receive employer contributions or payments or to make benefit payments under the programs, as the case may be. In addition to the amounts hereinabove, there are appropriated such sums as may be necessary for administrative costs, which shall include bank service charges, investment services, and other such costs as are related to the management of the pension and health benefit programs as the Director of the Division of Budget and Accounting shall determine. In addition, revenue resulting from such charges to the various pensions and health benefit funds, payable on a schedule to be determined by the Director of the Division of Budget and Accounting, shall be credited to the General Fund as anticipated revenue.

The unexpended balance as of June 30, 2002 in the Property Assessment Management System (PAMS) account is appropriated for the same purpose.

In addition to the amount hereinabove for Administration of Casino Gambling, there are appropriated from the Casino Control Fund such additional sums as may be required for operation of the Casino Control Commission, subject to the approval of the Director of the Division of Budget and Accounting.

74 General Government Services
DIRECT STATE SERVICES

02-2069	Garden State Preservation Trust	$468,000
09-2050	Purchasing and Inventory Management	13,929,000
21-2140	Pensions and Benefits	31,625,000
26-2067	Property Management and Construction -- Property Management Services	14,207,000
37-2051	Risk Management	1,826,000
	Total Direct State Services Appropriation, General Government Services	$62,055,000

Direct State Services:

Personal Services:
Salaries and Wages ..... ($33,788,000)
Materials and Supplies ..... (763,000)
Services Other Than Personal ..... (18,388,000)
Maintenance and Fixed Charges ..... (1,589,000)
Special Purpose:
02 Garden State Preservation Trust ..... (468,000)
09 Fleet Renewal
Management Program ..... (6,931,000)
21 State Pension System Audit ..... (128,000)

The Director of the Division of Budget and Accounting is empowered to transfer or credit to any central data processing center any appropriation made to any department which had been appropriated or allocated to such department for its share of costs of such data processing center including the replacement of data processing equipment and the purchase of additional data processing equipment.

There are appropriated, out of receipts derived from service fees billed to political subdivisions for the operating costs of the cooperative purchasing program, such sums as may be necessary to administer and operate the above purchasing activity.

There are appropriated, out of receipts derived from service fees billed to authorities for the handling of insurance procurement and risk management services, such sums as may be necessary to administer the above insurance and risk management activities.

Notwithstanding the provisions of any other law to the contrary, there are appropriated, out of the receipts derived from third party subrogation, such sums as may be necessary for the administrative expenses of this program.

Notwithstanding the provisions of section 15 of article 6 of P.L.1944, c.112 (C.52:27B-67), revenues in excess of the anticipation derived from the sale of surplus state vehicles are available for the replacement of Central Motor Pool temporary assignment vehicles, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, there are appropriated, out of receipts derived from service fees billed to the various State departments for the purpose of travel services, such sums as may be necessary for the administrative expenses of the program.

The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Capitol Post Office revolving fund any appropriation made to any department for postage costs appropriated or allocated to such departments for their share of costs of the Capitol Post Office.

The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Print Shop revolving fund any appropriation made to any department for printing costs appropriated or allocated to such departments for their share of costs of the Print Shop and the Office of Printing Control.

The unexpended balances in the State cafeteria accounts as of June 30, 2002, and receipts obtained from cafeteria operations, are appropriated for the improvement and extension of cafeteria services and facilities pursuant to section 2 of P.L.1951, c.312 (C.52:18A-19.6).

The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Property Management and Construction program classification, from appropriations for construction and improvements, a sufficient sum to pay for the cost of architectural work, superintendence and other expert services in connection with such work.

From the receipts derived from the sale of real property, such sums are appropriated for the costs incurred in order to preserve and maintain the property's value and condition and for costs incurred in the selling of the real property, including appraisal, survey, advertising, maintenance, security and other costs related to the preservation and disposal, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances in excess of $300,000 in the Management of the Department of Environmental Protection Properties account as of June 30, 2002 are appropriated for the same purpose.

Receipts derived from the leasing of State surplus real property are appropriated for the maintenance of leased property subject to the approval of the Director of the Division of Budget and Accounting, provided that a sum not to exceed $100,000 shall be available for the administrative expenses of the program.

There are appropriated such additional sums as may be necessary for the purchase of expert witness services related to the State's defense against inverse condemnation claims of the Land Use Regulation program.

Receipts from employee maintenance charges in excess of $300,000 are appropriated for maintenance of employee housing and associated relocation costs; provided however, that a sum not to exceed $25,000 shall be available for management of the program, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated out of receipts derived from lease proceeds billed to the occupants of the James J. Howard Marine Science Laboratory, such sums as may be required to operate and maintain the facility and for the payment of interest and/or principal due from the issuance of bonds for this facility.

Notwithstanding the provisions of any law to the contrary, there are appropriated such sums as may be required to provide education, outreach, and associated costs in order for the Garden State Preservation Trust to fulfill its statutory responsibility and achieve land preservation goals subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other law to the contrary, an amount not to exceed $468,000 is transferred from the Garden State Farmland Preservation Trust Fund, the Garden State Green Acres Preservation Trust Fund and the Garden State Historic Preservation Trust Fund to the General Fund in an allocation to be determined by the Garden State Preservation Trust and approved by the Director of the Division of Budget and Accounting and such amount is appropriated to the Garden State Preservation Trust.

In addition to the amounts hereinabove, there are appropriated such additional sums as may be necessary for independent audits of the State's pension systems, provided that such appropriations shall be reimbursed to the General Fund from the resources available to the various pension funds.

New Jersey State Library

Notwithstanding the provisions of any law to the contrary, the expenses of administration for the various retirement systems and employee benefit programs administered by the Division of Pensions and Benefits and the Division of Investments shall be charged to the pension and health benefits funds established by law to receive employer contributions or payments or to make benefit payments under the programs, as the case may be. In addition to the amounts hereinabove, there are appropriated such sums as may be necessary for administrative costs, which shall include bank service charges, investment services, and any other such costs as are related to the management of the pension and health benefit programs, as the Director of the Division of Budget and Accounting, shall determine. In addition, revenue resulting from such charges to the various pensions and health benefit funds, payable on a schedule to be determined by the Director of the Division of Budget and Accounting, shall be credited to the General Fund as anticipated revenue.

In addition to the amounts hereinabove, there is appropriated an amount, not to exceed $12,000,000, for the re-engineering of the pension and health benefits computer systems as referenced in the Division of Pensions and Benefits organizational study, provided that such appropriations shall be reimbursed to the General Fund from the resources available to the various pension funds.

There are appropriated sufficient sums as may be required for the expenses of the Pensions and Health Benefits Commission, provided that such appropriation shall be reimbursed to the General Fund from the resources available to the various pensions and health benefits funds.

Notwithstanding the provisions of any law to the contrary, there are appropriated from the Capital City Redevelopment Loan and Grant Fund such sums as may be required to provide for expenses, programs, and strategies which will enhance the vitality of the capitol district as a place to live, visit, work and conduct business, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance in the Gubernatorial Transition - Governor account as of June 30, 2002 is appropriated for the same purpose.

CAPITAL CONSTRUCTION

40-2034 Office of Information Technology $5,500,000
Total Capital Construction Appropriation, General Government Services $5,500,000

Capital Projects:

40 OIT - Availability and Recovery Site (OARS) ..... ($5,500,000)

2026 Office of Administrative Law

DIRECT STATE SERVICES

45-2026 Adjudication of Administration Appeals $7,987,000
(From General Fund ..... $5,060,000)
(From All Other Funds ..... 2,927,000)
Total Appropriation, State and All Other Funds $7,987,000

Less:
All Other Funds ***$2,927,000***
Total Direct State Services Appropriation,
Office of Administrative Law $5,060,000
Direct State Services:
Personal Services:
Salaries and Wages ..... ($7,114,000)
Employee Benefits ..... (147,000)
Materials and Supplies ..... (209,000)
Services Other Than Personal ..... (381,000)
Maintenance and Fixed Charges ..... (130,000)
Special Purpose:
45 Affirmative Action and Equal
Employment Opportunity ..... (6,000)
Less:
All Other Funds ***2,927,000***

In addition to the amount hereinabove, such sums as may be received or receivable from any department or non-State fund source for administrative hearing costs by the Office of Administrative Law and the unexpended balance as of June 30, 2002 of such sums are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Office of Administrative Law any appropriation made to any department for administrative hearing costs which had been appropriated or allocated to such department for its share of such costs.

Receipts derived from the annual license fee, payable to the Office of Administrative Law, and the unexpended balance as of June 30, 2002 of such receipts are appropriated.

Receipts derived from the royalties, payable to the Office of Administrative Law, and the unexpended balance as of June 30, 2002 of such receipts are appropriated.

75 State Subsidies and Financial Aid
GRANTS-IN-AID

33-2078 Homestead Rebates $532,329,000
(From Property Tax Relief Fund .... $532,329,000)
84-2078 Direct Tax Relief 679,142,000
(From Property Tax Relief Fund .... .679,142,000)
Total Grants-in-Aid Appropriation,
State Subsidies and Financial Aid $1,211,471,000
(From Property Tax Relief Fund ... $1,211,471,000)
Grants-in-Aid:
33 Homestead Property Tax
Rebates for Homeowners and
Tenants (PTRF) ..... ($514,329,000)

33 Senior and Disabled Citizens'
Property Tax Freeze (PTRF) . . . . . (18,000,000)
84 NJ SAVER Program (PTRF) . . . . . (679,142,000)

In addition to the amount hereinabove, there are appropriated from the Property Tax Relief Fund such additional sums as may be required for payments to homeowners and tenants qualifying for homestead property tax rebates, subject to the limitations and conditions provided in this act.

In addition to the amount hereinabove, there are appropriated from the Property Tax Relief Fund such additional sums as may be required for payments of property tax credits to homeowners and tenants pursuant to the "Property Tax Deduction Act," P.L.1996, c.60 (C.54A:3A-15 et seq.).

Notwithstanding the provisions of P.L.1997, c.348 (C.54:4-8.67 et seq.), the amount hereinabove for the Senior and Disabled Citizens' Property Tax Freeze, and any additional sum which may be required for this purpose, is appropriated from the Property Tax Relief Fund.

In addition to the amount appropriated hereinabove, there is appropriated from the Property Tax Relief Fund such additional sums as may be required for payments to homeowners and tenants qualifying for direct school tax relief, subject to the limitations and conditions provided in the "New Jersey School Assessment Valuation Exemption Relief and Homestead Property Tax Rebate Act," P.L.1999, c.63 (C.54:4-8.57 et al.), subject to the approval of the Director of the Division of Budget and Accounting.

From the amount appropriated hereinabove for the NJ SAVER program, there are appropriated such sums as may be necessary for the administration of the "New Jersey School Assessment Valuation Exemption Relief and Homestead Property Tax Rebate Act," P.L.1999, c.63 (C.54:4-8.57 et al.), subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of section 4 of P.L.1999, c.63 (C.54:4-8.58b) to the contrary, no amount appropriated hereinabove for the NJ SAVER Program (PTRF) shall be used to pay a NJ SAVER rebate for claimants in a municipality in excess of the NJ SAVER rebate amount paid for the 2000 tax year for claimants in that municipality, or to pay an NJ SAVER rebate amount to any individual or married couple with gross income pursuant to N.J.S.54A:1-1 et seq. in excess of $200,000 for the 2001 taxable year. Provided however, that nothing herein shall limit the payment of an increased NJ SAVER rebate amount to a resident of a "qualified municipality," who has gross income not in excess of $200,000, as that increased NJ SAVER rebate amount may be provided for in any other provision of law (now pending as the Senate Committee Substitute for Senate Bill No.428 of 2002).

STATE AID

28-2078 County Boards of Taxation $1,441,000
29-2078 Locally Provided Services 14,133,000
34-2078 Reimbursement of Senior/Disabled
Citizens' and Veterans' Tax Exemptions 95,719,000
(From Property Tax Relief Fund . . . . . 95,719,000)
35-2078 Consolidated Police and Firemen's Pension Fund . . 31,350,000

(Total From General Fund . . . . . 2,714,000)
(Total From Property Tax Relief Fund .28,636,000)
Total State Aid Appropriation, State
Subsidies and Financial Aid $142,643,000
(Total From General Fund . . . . . $18,288,000)
(Total From Property
Tax Relief Fund . . . . . 124,355,000)

State Aid:

28 County Tax Board Members . . . . . ($1,441,000)
29 South Jersey Port Corporation
Debt Service Reserve Fund . . . . . (5,216,000)
29 School Construction and
Renovation Fund . . . . . (6,917,000)
29 South Jersey Port Corporation
Property Tax Reserve Fund . . . . . (2,000,000)
34 Reimbursement to Municipalities --
Senior and Disabled Citizens'
Tax Exemptions (PTRF) . . . . . (26,000,000)
34 State Reimbursement for Veterans'
Property Tax Exemptions (PTRF) . . . . (69,719,000)
35 State Contribution to Consolidated
Police and Firemen's Pension Fund . . . . (2,714,000)
35 Debt Service on Pension Obligation
Bonds (PTRF) . . . . . (15,897,000)
35 Police and Firemen's Retirement
System, Health Benefits (PTRF) . . . . . (12,739,000)

The Director of the Division of Budget and Accounting shall reduce amounts provided to any municipality from the appropriations hereinabove by the difference, if any, between pension contribution savings, and the amount of Consolidated Municipal Property Tax Relief Aid payable to such municipality.

There are appropriated such additional sums as may be certified to the Governor by the South Jersey Port Corporation as necessary to meet the requirements of the "South Jersey Port Corporation Debt Service Reserve Fund" under section 14 of P.L.1968, c.60 (C.12:11A-14), the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2002 in the School Construction and Renovation Fund account is appropriated for the same purpose.

Of the amount hereinabove appropriated to the School Construction and Renovation Fund, such sums as are necessary for the administrative, insurance, operating and other expenses of the New Jersey Economic Development Authority for implementation of the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), are available for use, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated to the School Construction and Renovation Fund, such sums as are required for payment of retroactive debt service in accordance with section 9 of P.L.2000, c.72 (C.18A:7G-9), may be transferred

to the Department of Education to make such payments to eligible school districts.

In addition to the sum hereinabove appropriated to make payments under the contracts authorized pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18), there are hereby appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

The State Treasurer may pay the amount hereinabove for the South Jersey Port Corporation Property Tax Reserve Fund directly to the city of Camden, any provision of law to the contrary notwithstanding and in the absence of an approved agreement between the corporation and the city pursuant to section 20 of P.L.1968, c.60 (C.12:11A-20), upon notification from the Commissioner of the Department of Community Affairs that the payment is anticipated as revenue in any city budget adopted by the city with the approval of the Camden Financial Review Board.

Notwithstanding the provisions of the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), the sum apportioned to the several counties of the State shall not be distributed and shall be anticipated as revenue for general State purposes.

Notwithstanding the provisions of P.L.1945, c.162 (C.54:10A-1 et seq.), the amounts collected from banking corporations pursuant to the "Corporation Business Tax Act (1945)" shall not be distributed to the counties and municipalities and shall be anticipated as revenue for general State purposes.

The unexpended balance as of June 30, 2002 from the taxes collected pursuant to P.L.1940, c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) shall lapse.

There is appropriated from the Energy Tax Receipts Property Tax Relief Fund the sum of $755,000,000 and an amount to be determined by the Director of the Division of Budget and Accounting, which amount is transferred from the Consolidated Municipal Property Tax Relief Aid (PTRF) account to the fund, such that that amount when added to $755,000,000 shall equal the amount determined for fiscal year 2003 pursuant to subsection e. of P.L.1997, c. 167 (C.52:27D-439). The amount so transferred shall be allocated to municipalities in accordance with the provisions of subsection b. of section 2 of P.L.1997, c.167 (C.52:27D-439). Each municipality that receives an allocation from the amount so transferred shall have its allocation from the Consolidated Municipal Property Tax Relief Aid program reduced by the same amount.

There is appropriated from taxes collected from certain insurance companies, pursuant to the insurance tax act, so much as may be required for payments to counties pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.).

Of the amount hereinabove for School Construction and Renovation, an amount equal to the anticipated earnings of investments of the School Fund shall first be charged to such Fund and earnings in excess of those anticipated are appropriated for the same purpose and charged to such Fund.

Notwithstanding the provisions of paragraph (1) of subsection c. of section 2 of P.L.1999, c.168 (C.52:27D-439) to the contrary, the amount hereinabove for Energy Tax Receipts Property Tax Relief Fund payments shall be distributed on

the following schedule: on or before August 1, 45% of the total amount due; September 1, 30% of the total amount due, October 1, 15% of the total amount due; November 1, 5% of the total amount due; and December 1, 5% of the total amount due.

In addition to the sum hereinabove appropriated for Debt Service on Pension Obligation Bonds to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

In addition to the amount hereinabove, there is appropriated from the Property Tax Relief Fund such additional sums as may be required for State reimbursement to municipalities for senior and disabled citizens' and veterans' property tax exemptions.

76 Management and Administration
DIRECT STATE SERVICES

98-2006 Contract Compliance and Equal Employment Opportunity in Public Contracts	$1,579,000
99-2000 Administration and Support Services	10,719,000
Total Direct State Services Appropriation, Management and Administration	$12,298,000

Direct State Services:

Personal Services:	
Salaries and Wages	($9,722,000)
Materials and Supplies	(93,000)
Services Other Than Personal	(2,134,000)
Maintenance and Fixed Charges	(76,000)
Special Purpose:	
99 Budget Efficiency Savings Team (BEST) Commission	(250,000)
99 Federal Liaison Office, Washington, D.C.	(23,000)

There are appropriated from the investment earnings of general obligation bond proceeds, such sums as may be necessary for the payment of debt service administrative costs.

The unexpended balance as of June 30, 2002 in the Productivity and Efficiency Program is appropriated for the same purpose.

There are appropriated from investment earnings of State funds, from receipts derived from the cost of debt issuance and from service fees billed to State authorities, such sums as may be required for public finance activities.

Such sums as may be necessary for payment of expenses incurred by issuing officials appointed under the several bond acts of the State are appropriated for the purposes and from the sources defined in those acts.

Pursuant to the provisions of P.L.1999, c.12 (C.54A:9-25.12 et seq.) deposits made to the "Drug Abuse Education Fund" and the unexpended balance as of June 30,

2002 of such deposits are appropriated for collection or administration costs of the Department of the Treasury and for transfer to the Department of Education for program costs and grants, subject to the approval of the Director of the Division of Budget and Accounting.

An amount equivalent to the amount due to be paid in fiscal year 2003 to the State by the Port Authority of New York and New Jersey pursuant to the regional economic development agreement dated January 1, 1990 among the States of New York and New Jersey and the Port Authority of New York and New Jersey is appropriated to the Economic Recovery Fund established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12) for the purposes of P.L.1992, c.16 (C.34:1B-7.10 et seq.).

Notwithstanding the provisions of any law to the contrary, there are appropriated from the "Drug Enforcement and Demand Reduction Fund" such sums as may be required to provide for the administrative expenses of the Governor's Council on Alcoholism and Drug Abuse and for programs and grants to other agencies, subject to the approval of the Director of the Division of Budget and Accounting.

Fees collected on behalf of the Contract Compliance and Equal Employment Opportunity in Public Contracts program and the unexpended balance as of June 30, 2002 of such fees are appropriated for program costs, subject to allotment by the Director of the Division of Budget and Accounting.

There are appropriated such additional sums as may be required to pay for the operating expenses of the Casino Revenue Fund Advisory Commission, subject to the approval of the Director of the Division of Budget and Accounting.

80 Special Government Services
82 Protection of Citizens' Rights
DIRECT STATE SERVICES

06-2024	Appellate Services to Indigents	$7,617,000
57-2021	Trial Services to Indigents and Special Programs	65,952,000
58-2022	Mental Health Screening Services	3,161,000
61-2023	Dispute Settlement	342,000
99-2025	Administration and Support Services	2,248,000
	Total Direct State Services Appropriation, Protection of Citizens' Rights	$79,320,000

Direct State Services:

Personal Services:	
Salaries and Wages	($53,286,000)
Materials and Supplies	(741,000)
Services Other Than Personal	(17,103,000)
Maintenance and Fixed Charges	(438,000)
Special Purpose:	
57 Continuous Representation -- Title 9 to Title 30	(4,889,000)
57 Public Defender Pilot Program	(184,000)
57 Law Guardian - Kinship Guardianship	(1,720,000)

58 Representation of Civilly
Committed Sexual Offenders . . . . . (602,000)
99 Affirmative Action and Equal
Employment Opportunity . . . . . (64,000)
Additions, Improvements and Equipment . . . (293,000)
Sums provided for legal and investigative services are available for payment of obligations applicable to prior fiscal years.
In addition to the amount hereinabove for the operation of the Public Defender's office there are appropriated additional sums as may be required for Trial and Appellate services to indigents, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.
Notwithstanding any other provision of law, no State funds are appropriated to fund expenses associated with the legal representation of persons before the State Parole Board or the Parole Bureau.
Lawsuit settlements and legal costs awarded by any court to the Office of the Public Defender are appropriated for the expenses associated with the representation of indigent clients.
The funds appropriated to the Office of the Public Defender are available for expenses associated with the defense of pool attorneys hired by the Public Defender for the representation of indigent clients.
The unexpended balances as of June 30, 2002 are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

GRANTS-IN-AID

57-2021 Trial Services to Indigents and Special Programs . $12,000,000
Total Grants-in-Aid Appropriation, Protection of
Citizens' Rights $12,000,000
Grants-in-Aid:
57 State Legal Services Office . . . . . ($4,000,000)
57 Legal Services of New Jersey --
Legal Assistance in Civil Matters
(P.L.1996, c.52) . . . . . (8,000,000)
Receipts in excess of the amount hereinabove for Legal Services of New Jersey - Legal Assistance in Civil Matters, P.L.1996, c.52, are appropriated for the same purposes, subject to the approval of the Director of the Division of Budget and Accounting.
From the amounts appropriated hereinabove for the State Legal Services Office and for Legal Services of New Jersey - Legal Assistance in Civil Matters, P.L.1996, c.52, there are appropriated and allocated to the Passaic County Legal Aid Society such amounts that are not less than the amounts that were appropriated and allocated to the Passaic County Legal Aid Society in fiscal year 2002.

2029 Public Advocate
DIRECT STATE SERVICES

64-2029 Public Advocate $2,500,000

Total Direct State Services Appropriation,
Public Advocate $2,500,000
Direct State Services:
Special Purpose:
64 Public Advocate ..... ($2,500,000)
The amount hereinabove recommended for the Public Advocate is available pursuant to the passage of enabling legislation.
Of the amount hereinabove, such sums as are required for employee benefits shall be transferred to the Inter-Departmental account for costs attributable to the staff of the Public Advocate, subject to the approval of the Director of the Division of Budget and Accounting.

Department of the Treasury, Total State Appropriation $2,081,020,000

Summary of Department of the Treasury Appropriations
(For Display Purposes Only)

Appropriations by Category:
Direct State Services..... $400,820,000
Grants-in-Aid 1,350,797,000
State Aid 323,903,000
Capital Construction..... 5,500,000
Appropriations by Fund:
General Fund $700,794,000
Property Tax Relief Fund 1,353,288,000
Casino Control Fund 26,938,000

90 MISCELLANEOUS COMMISSIONS
40 Community Development and Environmental Management
43 Science and Technical Programs
9130 Interstate Environmental Commission
DIRECT STATE SERVICES

03-9130 Interstate Sanitation Commission $388,000
Total Direct State Services Appropriation, Interstate Sanitation Commission $388,000
Direct State Services:
Special Purpose:
03 Expenses of the Commission ..... ($388,000)

9140 Delaware River Basin Commission
DIRECT STATE SERVICES

03-9140 Delaware River Basin Commission $867,000
Total Direct State Services Appropriation, Delaware River Basin Commission $867,000
Direct State Services:
Special Purpose:
03 Expenses of the Commission ..... ($867,000)

9148 Council on Local Mandates
DIRECT STATE SERVICES

03-9148 Council on Local Mandates $137,000
Total Direct State Services Appropriation, Council on Local Mandates $137,000

Direct State Services:
Special Purpose:
03 Council on Local Mandates ..... ($137,000)
The unexpended balance as of June 30, 2002 in this account is appropriated for the same purpose.

Miscellaneous Commissions, Total State Appropriation .. $1,392,000

Summary of Miscellaneous Commissions Appropriations
(For Display Purposes Only)

Appropriations by Category:
Direct State Services $1,392,000
Appropriations by Fund:
General Fund $1,392,000

94 INTER-DEPARTMENTAL ACCOUNTS
70 Government Direction, Management and Control
74 General Government Services
DIRECT STATE SERVICES

01-9400 Property Rentals $142,226,000
02-9400 Insurance and Other Services 54,125,000
06-9400 Utilities and Other Services 26,416,000
Total Direct State Services Appropriation, General Government.Services $222,767,000

Direct State Services:
Property Rentals:
Existing and Anticipated Leases ..... ($147,052,000)
Economic Development Authority ..... (17,283,000)
Other Debt Service Leases and Tax Payments ..... (21,566,000)
Less:
Direct Charges and Charges to Non-State Fund Sources 43,675,000
Insurance and Other Services:
Property Insurance ..... (3,000,000)
Special Insurance Policies ..... (220,000)
Tort Claims Liability Fund ..... (11,000,000)
Workers' Compensation Fund ..... (34,900,000)
Vehicle Claims Liability Fund ..... (2,000,000)
Self-Insurance Deductible Fund ..... (500,000)
Self-Insurance Fund-Foster Parents. ..... (125,000)

Utilities and Other Services:
Fuel and Utilities ..... (20,513,000)
Household and Security ..... (5,903,000)

The Director of the Division of Budget and Accounting is empowered to allocate to any State agency occupying space in any State-owned building equitable charges for the rental of such space, to include, but not be limited to the costs of operation and maintenance thereof, and the amounts so charged shall be credited to the General Fund; and, to the extent that such charges exceed the amounts appropriated for such purposes to any agency financed from any fund other than the General Fund, the required additional appropriation shall be made out of such other fund.

Receipts derived from direct charges and charges to non-State fund sources are appropriated for the rental of property, including the costs of operation and maintenance of such properties.

Notwithstanding any other provision of law, and except for leases negotiated by the Division of Property Management and Construction and subject to the approval or disapproval by the State Leasing and Space Utilization Committee pursuant to P.L.1992, c.130 (C.52:18A-191.1 et seq.), and except as hereinafter provided, no lease for the rental of any office or building shall be executed without the prior written consent of the State Treasurer, the Director of the Division of Budget and Accounting, the President of the Senate and the Speaker of the General Assembly.

To the extent that sums appropriated for property rental payments are insufficient, there are appropriated such additional sums, not to exceed $3,000,000 as may be required to pay property rental obligations, subject to the approval of the Director of the Division of Budget and Accounting.

An amount not to exceed $2,000,000 shall be appropriated for the costs of security, maintenance, utilities and other operating expenses related to the Marlboro Psychiatric Hospital and North Princeton Developmental Center closure initiatives, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2002 in the Master Lease Program Fund is appropriated for the same purpose.

There are appropriated such additional sums as may be required to pay tort claims under N.J.S.59:12-1, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine.

The funds appropriated to the Tort Claims Liability Fund are available for the payment of claims of a tortious nature, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine.

The funds appropriated to the Tort Claims Liability Fund are available for the payment of direct costs of legal, administrative and medical services related to the investigation, mitigation and litigation of tort claims under N.J.S.59:12-1, and claims of a tortious nature, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine.

The funds appropriated to the Tort Claims Liability Fund are available for the indemnification of pool attorneys engaged by the Public Defender for the defense of indigents.

The funds appropriated to the Tort Claims Liability Fund are available for the indemnification of designated pathologists engaged by the State Medical Examiner.

Notwithstanding any other law to the contrary, claims paid from the Tort Claims Liability Fund on behalf of entities funded, in whole or in part, from non-State funds may be reimbursed from such non-State fund sources as determined by the Director of the Division of Budget and Accounting.

There are appropriated such additional sums as may be required to pay claims not payable from the Tort Claims Liability Fund or payable under the New Jersey Contractual Liability Act, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine. The funds appropriated are available for the payment of direct costs of legal, administrative and medical services related to the investigation, mitigation and litigation of claims not payable from the Tort Claims Liability Fund or payable under the New Jersey Contractual Liability Act, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine. Notwithstanding any other law to the contrary, claims or costs paid from the monies appropriated under this paragraph on behalf of entities funded, in whole or in part from non-State funds, may be reimbursed from such non-State funds sources as determined by the Director of the Division of Budget and Accounting. Appropriations under this paragraph shall not be available to pay punitive damages and shall not be deemed a waiver of any immunity by the State.

To the extent that sums appropriated to pay Workers' Compensation claims under R.S.34:15-1 et seq. are insufficient, there are appropriated such additional sums as may be required to pay Workers' Compensation claims, subject to the approval of the Director of the Division of Budget and Accounting.

The amount appropriated hereinabove for the Workers' Compensation Self-Insurance Fund under R.S.34:15-1 et seq., is available for the payment of direct costs of legal, investigative, administrative and medical services related to the investigation, mitigation, litigation and administration of claims against the fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other law to the contrary, benefits provided to community work experience participants shall be borne by the Work First New Jersey program funded through the Department of Human Services and any costs related to administration, mitigation, litigation and investigation of claims will be reimbursed to the Bureau of Risk Management by the Work First New Jersey Program funded through the Department of Human Services, subject to the approval of the Director of the Division of Budget and Accounting.

To the extent that sums appropriated to pay auto insurance claims are insufficient, there are appropriated such additional sums as may be required to pay auto insurance claims, subject to the approval of the Director of the Division of Budget and Accounting.

The amount appropriated hereinabove for the Vehicle Claims Liability Fund is available for the payment of direct costs of legal, investigative and medical services related to the investigation, mitigation and litigation of claims against the fund.

The unexpended balance as of June 30, 2002 in the Self-Insurance Deductible Fund is appropriated for the same purposes.

The amount appropriated hereinabove for the Self-Insurance Fund - Foster Parents is available for the payment of direct costs of legal, investigative and medical services related to the investigation, mitigation and litigation of claims against the fund.

The sums hereinabove are available for payment of obligations applicable to prior fiscal years.

There are appropriated out of revenues received from utility companies such sums as may be required for implementation and administration of the Energy Conservation Initiatives Program, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the sums hereinabove for Fuel and Utilities, the Director of the Division of Budget and Accounting shall transfer or credit to this account such sums that accrue from appropriations made to various spending agencies for Fuel and Utilities and Salaries and Wages, to reflect savings associated with electrical deregulation, fuel switch and other energy-conservation initiatives.

Of the unexpended balances in the Petroleum Overcharge Reimbursement Fund available for "Green Power," such sums shall be transferred to the various departments and agencies participating in the State electricity contract, as applicable, to reimburse additional costs associated with "Green Power" sources, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2002 in the Global Energy Statewide Account is appropriated for the same purpose.

There is appropriated from the Petroleum Overcharge Reimbursement Fund such sums as are necessary for the cost of purchasing energy from companies that utilize renewable "Green Power" sources, not to exceed $1,200,000.

To the extent that sums appropriated for property rental payments are insufficient, and notwithstanding any law to the contrary, the Division of Property Management and Construction is empowered to renegotiate lease terms, provided that such renegotiations result in cost savings to the State for State fiscal year 2003 and for the term of the lease. Any lease amendments made as a result of those renegotiations are subject to the review and approval of the State Leasing and Space Utilization Committee.

The unexpended balance as of June 30, 2002 in the Property Rentals account allocated for the installation of sprinkler systems at various Human Services facilities, up to $1,500,000, is appropriated for the same purpose.

GRANTS-IN-AID

09-9400 Aid to Independent Authorities $77,821,000
Total Grants-in-Aid Appropriation, General Government Services $77,821,000

Grants-in-Aid:

09 Sports and Exposition Authority
Operations ..... ($5,000,000)
09 NJSEA Sports Complex --
Debt Service ..... (24,100,000)

09 NJSEA Atlantic City Projects -- Debt Service ..... (15,025,000)
09 NJSEA Higher Education and Other Projects -- Debt Service ..... (3,417,000)
09 NJSEA Wildwood Convention Center -- Debt Service ..... (4,668,000)
09 Camden Aquarium Management Agreement ..... (2,000,000)
09 New Jersey Performing Arts Center, EDA ..... (5,543,000)
09 Liberty Science Center Educational Services ..... (6,600,000)
09 War Memorial Management Agreement ..... (800,000)
09 Solid Waste Management - County Environmental Investment Debt Service Aid, EDA ..... (10,668,000)

In addition to the amounts appropriated hereinabove for the Sports and Exposition Authority - Debt Service, there are appropriated such additional sums as may be necessary, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Newark Performing Arts Center account shall be used to pay the State's obligations pursuant to a lease with the New Jersey Economic Development Authority, for the lease of real property and infrastructure improvements and the Performing Arts Center structure constructed thereon purchased by the authority for the State in the city of Newark, for the purpose of constructing buildings to comprise a Performing Arts Center. Notwithstanding any other provision of law, the State Treasurer may enter into a lease with the New Jersey Economic Development Authority to lease the real property and improvements thereon purchased or caused to be constructed by the authority for the State in the city of Newark for the Performing Arts Center, subject to the prior written consent of the Director of the Division of Budget and Accounting, the President of the Senate and the Speaker of the General Assembly. Upon the final payment of the State's obligations pursuant to the lease for the real property and infrastructure improvements purchased by the authority, the title to the real property and improvements shall revert to the State. The State may sublease the land and facilities for the purpose of operating, maintaining or financing a Performing Arts Center in Newark. Any sublease for use of land and improvements acquired for the State by the New Jersey Economic Development Authority for the Performing Arts Center shall be subject to the prior written approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee, or its successor.

The amount hereinabove for the Liberty Science Center Educational Services shall be used to provide educational services to students in the "Abbott districts" in the science education component of the comprehensive core curriculum standards as established by law.

Such additional sums as may be necessary are appropriated to subsidize county and county authority debt service payments for environmental investments incurred pursuant to the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and the "Solid Waste Utility Control Act," P.L.1970, c.40 (C.48:13A-1 et seq.) as determined by the State Treasurer based upon the need for such financial assistance after taking into account all financial resources available or attainable to pay such debt service. Such sums shall be subject to the approval of the Director of the Division of Budget and Accounting and shall be provided upon such terms and conditions as the State Treasurer may determine.

CAPITAL CONSTRUCTION

08-9400 Capital Projects -- Statewide $169,649,000

Total Capital Construction Appropriation, General Government Services $169,649,000

Capital Projects:

Statewide Capital Projects

08 Life Safety and Emergency Projects -- Statewide ..... ($200,000)

08 Americans with Disabilities Act Compliance Projects -- Statewide ..... (2,000,000)

08 Hazardous Materials Removal Projects -- Statewide ..... (2,000,000)

08 Statewide Security Projects ..... (3,000,000)

New Jersey Building Authority -- Debt Service

General State Projects

08 Southwoods State Prison ..... (22,910,000)

08 State House Renovations ..... (15,404,000)

08 Hughes Justice Complex ..... (8,702,000)

Counter-terrorism Projects

08 State Police Multipurpose Building/ Troop "C" Headquarters ..... (6,681,000)

08 State Police Emergency Operations Center ..... (1,872,000)

08 New Jersey Police Professional Training Center ..... (5,000,000)

08 Renovation Projects, Existing and Anticipated Leases ..... (2,700,000)

08 Statehouse Security Modifications .... (1,180,000)

08 Garden State Preservation Trust Fund Account ..... (98,000,000)

Of the amount hereinabove for the Battleship U.S.S. New Jersey Refurbishment, such sums as are necessary may be transferred to Grants-In-Aid for the Battleship U.S.S. New Jersey Refurbishment and Visitors Center subject to the approval of the Director of the Division of Budget and Accounting, and the unexpended balances are appropriated.

There are appropriated such additional sums as may be required to pay future debt service costs for projects undertaken by the New Jersey Building Authority, subject to the approval of the Director of the Division of Budget and Accounting.

Prior to the unexpended balance as of June 30, 2002 in the Network Infrastructure account intended for the development of the server farm initiative being expended, any participating department shall enter into a Memorandum of Understanding with the Chief Information Officer that no enterprise, data warehousing, application or database servers will be purchased by these departments but that they will participate in the implementation of the server farm.

Notwithstanding the provisions of any law to the contrary, of the amount hereinabove for the Garden State Preservation Trust Fund Account, up to $5,139,000 shall be transferred to the Department of Agriculture for expenditures related to previously approved farmland preservation projects, and is subject to the constitutional amendment on open space (Article VIII, Section II, paragraph 7), and the remainder is subject to the provisions of P.L.1999, c.152 (C.13:8C-1 et al.) and the constitutional amendment on open space (Article VIII, Section II, paragraph 7), provided, however, that the amount herein transferred to the Department of Agriculture shall be counted in the calculation of the Garden State Preservation Trust's allocation of funds to the State Treasurer for deposit into the Garden State Farmland Preservation Trust Fund, pursuant to section 18 of P.L.1999, c.152 (C.13:8C-18) such that it does not affect the allocation of funds to the Garden State Green Acres Preservation Trust Fund.

In addition to the amount appropriated hereinabove for the Garden State Preservation Trust Fund Account, interest earned and accumulated from July 1, 2002 to June 30, 2003 is appropriated.

Notwithstanding the provisions of P.L.1997, c.258 (C.30:4-177.53 et seq.) or the provision of any other law or regulation to the contrary, the amounts hereinabove appropriated to the New Jersey Building Authority Debt Service General State Projects shall be payable in part from monies derived from the sale or conveyance of the former North Princeton Developmental Center, Montgomery, New Jersey, and the former Marlboro Psychiatric Hospital, Marlboro, New Jersey.

9410 Employee Benefits
DIRECT STATE SERVICES

03-9410 Employee Benefits	$937,416,000
Total Direct State Services Appropriation, Employee Benefits	$937,416,000

Direct State Services:
Special Purpose:

03 Public Employees' Retirement System	($31,898,000)
03 Alternate Benefits Program -- Employer Contributions	(971,000)
03 Judicial Retirement System	(8,468,000)
03 Pension Adjustment Program	(1,819,000)

03 Veterans Act Pensions ..... (108,000)
03 P.E.R.S. Minimum Pension Benefit Act -- Pre 1955 Retirees ..... (7,000)
03 Heath Act Pensions ..... (5,000)
03 Debt Service on Pension Obligation Bonds ..... (57,140,000)
03 State Employees' Health Benefits ..... (435,402,000)
03 State Employees' Prescription Drug Program ..... (138,219,000)
03 State Employees' Dental Program -- Shared Cost ..... (20,956,000)
03 State Employees' Vision Care Program ..... (1,000,000)
03 Social Security Tax -- State ..... (291,076,000)
03 Temporary Disability Insurance Liability ..... (5,803,000)
03 Unemployment Insurance Liability . (6,044,000)

Less:
Reimbursements from Agency Accounts 41,500,000
Credit for Cash Management Reserve Fund 20,000,000

There is appropriated a sufficient amount in order that upon application to the Director of the Division of Budget and Accounting, an annuity of $4,000 shall be paid to the widow or widower of any person, now deceased, who was elected and served as Governor of the State; provided such widow or widower was the spouse of such person for all or part of the period during which he or she served as Governor; and provided further, that this shall not apply to any widow or widower receiving a pension granted under R.S. 43:8-2, and continued by R.S.43:7-1 et seq., R.S.43:8-1 et seq., and R.S.43:8-8 et seq.

Such additional sums as may be required for Social Security Tax - State may be allotted from the various departmental operating appropriations to this account, as the Director of the Division of Budget and Accounting shall determine.

Such additional sums as may be required for State Employees' Health Benefits may be allotted from the various departmental operating appropriations to this account, as the Director of the Division of Budget and Accounting shall determine.

Of the amounts hereinabove for the Pension Adjustment Program, such sums as are appropriated in advance for increased retirement benefits for local employee members of State-administered retirement systems shall be repaid to the General Treasury upon reimbursement from local public employers.

Such additional sums as may be required for State Employees' Health Benefits, State Employees' Prescription Drug Program, Social Security Tax - State, Temporary Disability Insurance Liability, and Unemployment Insurance Liability are appropriated, as the Director of the Division of Budget and Accounting shall determine.

Notwithstanding the provisions of the Pension Adjustment Act, P.L.1958, c.143 (C.43:3B-1 et seq.), pension adjustment benefits for members and beneficiaries of the Consolidated Police and Firemen's Pension Fund shall be paid by the fund. Employer appropriations for these benefits as required under the act shall be paid to the fund.

In addition to the sum hereinabove appropriated for Debt Service on Pension Obligation Bonds to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

The unexpended balance as of June 30, 2002 in the Debt Service on Pension Obligation Bonds account is appropriated for the same purpose.

The amounts hereinabove for Employee Benefits may be transferred to the Grants-In-Aid accounts for the same purposes.

Among the amounts appropriated in section 1 of this act that are designated as State aid or grants-in-aid to be distributed by the State to governmental units that participate in the State of New Jersey Cash Management Fund reserve fund, there shall be a corresponding reduction in the distribution of payments from those appropriations amounts, as the Director of the Division of Budget and Accounting shall determine, up to the amount of the funds returned from the reserve fund to those participating governmental units pursuant to this act. The Director of the Division of Budget and Accounting shall provide notice of the payment reductions to the Legislative Budget and Finance Officer on the effective date of any payment reductions. An amount up to the total reduced payments shall be transferred by the Director of the Division of Budget and Accounting from such appropriations to the appropriations made in the Employee Benefits program classification accounts in the Inter-Departmental accounts for the purposes of those accounts, which transferred amounts shall be deemed a "Base Year Appropriations" for the purposes of the "State Appropriations Limitation Act," P.L.1990, c.94 (C.52:9H-24 et seq.).

GRANTS-IN-AID

03-9410 Employee Benefits	$468,162,000
Total Grants-in-Aid Appropriation, Employee Benefits	$468,162,000

Grants-in-Aid:

Special Purpose:

03 Public Employees' Retirement System	($4,809,000)
03 Alternate Benefits Program -- Employer Contributions	(94,720,000)
09 Debt Service on Pension Obligation Bonds	(3,297,000)
09 State Employees' Health Benefits	(163,941,000)

09 State Employees' Prescription Drug Program . . . . . (55,073,000)
09 State Employees' Dental Program -- Shared Cost . . . . . (7,981,000)
09 Social Security Tax -- State . . . . . (132,459,000)
09 Temporary Disability Insurance Liability . . . . . (2,650,000)
09 Unemployment Insurance Liability . (3,232,000)

Such additional sums as may be required for Alternate Benefits Program, State Employees' Health Benefits, State Employees' Prescription Drug Program, Social Security Tax - State, Temporary Disability Insurance Liability, and Unemployment Insurance Liability are appropriated, as the Director of the Division of Budget and Accounting shall determine.

In addition to the sum hereinabove appropriated to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

The unexpended balance as of June 30, 2002 in the Debt Service on Pension Obligation Bonds account is appropriated for the same purpose.

The amounts hereinabove for Employees' Benefits may be transferred to the Direct State Services accounts for the same purposes.

9420 Other Inter-Departmental Accounts
DIRECT STATE SERVICES

04-9420 Other Inter-Departmental Accounts $87,078,000
Total Direct State Services Appropriation, Other Inter-Departmental Accounts $87,078,000

Direct State Services:

Special Purpose:

04 To the Governor, for allotment to the various departments or agencies, to meet any condition of emergency or necessity; provided however, that a sum not in excess of $5,000 shall be available for the expense of officially receiving dignitaries and for incidental expenses, including lunches for non-salaried board members and others for whom official reception shall be beneficial to the State . . . . . ($2,000,000)
04 Contingency Fund . . . . . (1,500,000)
04 Interest on Short Term Notes . . . . . (65,000,000)
04 Notes Issuance Expenses -- Underwriters Costs . . . . . (1,100,000)

04 Catastrophic Illness in Children Relief Fund -- Employer Contributions ..... (125,000)
04 Interest on Interfund Borrowing ... (3,200,000)
04 Statewide 911 Emergency Telephone System ..... (8,085,000)
04 Network Infrastructure ..... (3,600,000)
04 Garden State Network Infrastructure .. (705,000)
04 Automated Document Factory ..... (225,000)
04 Automated Cartridge System Upgrade ..... (150,000)
04 Payment of Military Leave Benefits .. (350,000)
04 Information Technology On-Line State Portal ..... (1,000,000)
04 Enterprise Contingency Planning and Disaster Recovery ..... (38,000)

Unless otherwise indicated, the above amounts may be allotted by the Director of the Division of Budget and Accounting to the various departments and agencies.

Notwithstanding the provisions of N.J.S.2A:153-1 et seq., there is allocated at the discretion of the Governor, an amount up to $50,000, from the Special Purpose amount appropriated hereinabove to meet any condition of emergency or necessity, as a reward for the capture and return of Joanne Chesimard.

There are appropriated to the Emergency Services Fund such sums as are required to meet the costs of any emergency occasioned by aggression, civil disturbance, sabotage, disaster, or for flood expenses for State owned structures to comply with Federal Insurance Administration requirements, as recommended by the Emergency Services Council and approved by the Governor, and subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2002 in the Governor's Contingency Fund is appropriated for the same purpose.

The unexpended balance as of June 30, 2002 in the Geographic Information System (GIS) account is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the sum hereinabove appropriated for Geographic Information System (GIS) Integration, there are appropriated such other sums as may be received from federal, county, municipal governments or agencies and nonprofit organizations for orthoimagery and parcel data mapping.

GRANTS-IN-AID

04-9420 Other Inter-Departmental Accounts $200,000
Total Grants-in-Aid Appropriation, Other Inter-Departmental Accounts $200,000

Grants-in-Aid:

04 Enhanced 911 County Grants ..... ($200,000)

9430 Salary Increases and Other Benefits
DIRECT STATE SERVICES

05-9430 Salary Increases and Other Benefits	$162,092,000
Total Direct State Services Appropriation, Salary Increases and Other Benefits	$162,092,000
Less:	
Attrition Savings	***$17,304,000***
Statewide Savings Initiative	***38,059,000***
Total State Appropriation, Other Inter-Departmental Accounts	$106,729,000
Special Purpose:	
05 Salary Increases and Other Benefits	($155,092,000)
Less:	
Attrition Savings	***$17,304,000***
Statewide Savings Initiative	***38,059,000***
05 Unused Accumulated Sick Leave Benefits	(7,000,000)

The sums hereinabove appropriated to the various State departments, agencies or commissions for the cost of salaries, wages or other benefits shall be allotted, as the Director of the Division of Budget and Accounting shall determine.

Notwithstanding the provisions of any other law, including R.S.34:15-49 and section 1 of P.L.1981, c.353 (C.34:15-49.1), the State Treasurer, the Commissioner of Personnel, and the Director of the Division of Budget and Accounting shall establish directives governing salary ranges and rates of pay, including salary increases. The implementation of such directives shall be made effective at the first full pay period of Fiscal Year 2003 as determined by such directives, with timely notification of such directives to the Joint Budget Oversight Committee or its successor. Such directives shall not be considered an "administrative rule" or "rule" within the meaning of subsection (e) of section 2 of P.L.1968, c.410 (C.52:14B-2), but shall be considered exempt under paragraphs (1) and (2) of subsection (e) of section 2 of P.L.1968, c.410 (C.52:14B-2), and shall not be subject to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Nothing herein shall be construed as applicable to the Presidents of the State Colleges, Rutgers, The State University, the University of Medicine and Dentistry of New Jersey and the New Jersey Institute of Technology.

No salary range or rate of pay shall be increased or paid in any State department, agency, or commission without the approval of the Director of the Division of Budget and Accounting. Nothing herein shall be construed as applicable to unclassified personnel of the Legislative Branch, or the unclassified personnel of the Judicial Branch.

In addition to the amount hereinabove for Unused Accumulated Sick Leave Payments, there are appropriated such sums as may be necessary for payments of unused accumulated sick leave.

Any sums appropriated for Salary Increases and Other Benefits shall be made available for any person holding State office, position or employment whose

compensation is paid directly or indirectly, in whole or in part, from State funds, including any person holding office, position or employment under the Palisades Interstate Park Commission.

The unexpended balance as of June 30, 2002 in the Salary Increases and Other Benefits account is appropriated for the same purposes.

The Director of the Division of Budget and Accounting shall transfer from departmental accounts and credit to the Salary Increases and Other Benefits accounts a sum of $17,304,000 to reflect savings from a managed attrition program. This additional sum is appropriated for Salary Increases and Other Benefits.

Inter-Departmental Accounts,
Total State Appropriation $2,069,822,000

Summary of Inter-Departmental Accounts Appropriations
(For Display Purposes Only)

Appropriations by Category:
Direct State Services $1,353,990,000
Grants-in-Aid 546,183,000
Capital Construction 169,649,000
Appropriations by Fund:
General Fund $2,069,822,000

THE JUDICIARY
10 Public Safety and Criminal Justice
15 Judicial Services
DIRECT STATE SERVICES

01-9710	Supreme Court	$4,887,000
02-9715	Superior Court -- Appellate Division	17,378,000
03-9720	Civil Courts	92,863,000
04-9725	Criminal Courts	92,491,000
05-9730	Family Courts	86,659,000
06-973	Municipal Courts	885,000
07-9740	Probation Services	105,491,000
08-9745	Court Reporting	8,372,000
09-9750	Public Affairs and Education	2,381,000
10-9755	Information Services	15,476,000
11-9760	Trial Court Services	46,067,000
12-9765	Management and Administration	14,722,000
	Total Direct State Services Appropriation, Judicial Services.	$487,672,000

Direct State Services:
Personal Services:
Chief Justice ..... ($161,000)
Associate Justices ..... (944,000)
Judges ..... (59,838,000)

Salaries and Wages ..... (319,057,000)
Materials and Supplies ..... (9,275,000)
Services Other Than Personal ..... (31,201,000)
Maintenance and Fixed Charges ..... (1,940,000)
Special Purpose:
01 Rules Development ..... (200,000)
04 Drug Court Treatment/Aftercare .. (12,418,000)
04 Drug Court Operations ..... (4,444,000)
04 Drug Court Judgeships ..... (1,497,000)
05 Child Placement Review Advisory Council ..... (77,000)
05 Kinship Legal Guardianship ..... (3,144,000)
05 Child Support and Paternity Program Title IV-D (Family Court) ..... (7,273,000)
07 Intensive Supervision Program ... (10,051,000)
07 Juvenile Intensive Supervision Program ..... (1,977,000)
07 Child Support and Paternity Program Title IV-D (Probation) ... (19,469,000)
12 Affirmative Action and Equal Employment Opportunity ..... (703,000)
Additions, Improvements and Equipment . (4,003,000)

Notwithstanding any law to the contrary, receipts derived from fees under the Special Civil Part service of process via certified mailers are appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 2002 in the Civil Arbitration Program are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

The amounts appropriated hereinabove in the Drug Courts Treatment and Aftercare account shall be transferred to the Department of Health and Senior Services to fund treatment, aftercare and administrative services associated with the drug court program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from charges to certain Special Purpose accounts listed hereinabove are appropriated for services provided to these funds.

Receipts from charges to the Superior Court Trust Fund, NJ Lawyers Fund for Client Protection, Disciplinary Oversight Committee, Board on Attorney Certification, Bar Admission Financial Committee, Parents' Education Fund, Automated Traffic System Fund, Municipal Court Administrator Certification, Comprehensive Enforcement Program, and Courts Computerized Information Systems Fund are appropriated for services provided to these funds.

The unexpended balances as of June 30, 2002 not to exceed $3,000,000 in these respective accounts are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the increase in fees collected by the Judiciary pursuant to P.L.2002, c.34 and related increases provided by operation of N.J.S.22A:2-5 and

section 2 of P.L.1993, c.74 (C.22A:5-1) are appropriated from the Court Technology Improvement Fund for the purpose of offsetting the costs of development, establishment, operation and maintenance of the Judiciary computerized court information systems, subject to the approval of the Director of the Division of Budget and Accounting.

The Judiciary, Total State Appropriation $487,672,000

Summary of Judiciary Appropriations
(For Display Purposes Only)

Appropriations by Category:
Direct State Services. $487,672,000
Appropriations by Fund: General Fund . $487,672,000

DEBT SERVICE
42 DEPARTMENT OF ENVIRONMENTAL PROTECTION
40 Community Development and Environmental Management
46 Environmental Planning and Administration

99-4800 Interest on Bonds $24,851,000
99-4800 Bond Redemption 51,982,000
Total Debt Service Appropriation,
Department of Environmental Protection $76,833,000
Special Purpose:
Interest:
Water Conservation Bonds
(P.L.1969, c.127) ..... ($367,000)
State Recreation and Conservation Land Acquisition and Development Bonds
(P.L.1974, c.102) ..... (408,000)
Clean Waters Bonds (P.L.1976, c.92) .... (302,000)
Beaches and Harbors Bonds
(P.L.1977, c.208) ..... (97,000)
State Land Acquisition and Development Bonds (P.L.1978, c.118) ..... (388,000)
Emergency Flood Control Bonds
(P.L.1978, c.78) ..... (50,000)
Natural Resources Bonds
(P.L.1980, c.70) ..... (82,000)
Water Supply Bonds
(P.L.1981, c.261) ..... (56,000)
Hazardous Discharge Bonds
(P.L.1981, c.275) ..... (317,000)
1983 New Jersey Green Acres Bonds
(P.L.1983, c.354) ..... (70,000)
Shore Protection Bonds
(P.L.1983, c.356) ..... (37,000)

Resource Recovery and Solid Waste Disposal Facility Bonds (P.L.1985, c.330) . . . . . (1,006,000)
Pinelands Infrastructure Trust Bonds (P.L.1985, c.302) . . . . . (6,000)
Wastewater Treatment Bonds (P.L.1985, c.329) . . . . . (4,000)
Hazardous Discharge Bonds (P.L.1986 c.113) . . . . . (2,841,000)
1987 Green Acres, Cultural Centers and Historic Preservation Bonds (P.L.1987, c.265) . . . . . (350,000)
1989 New Jersey Open Space Preservation Bonds (P.L.1989, c.183) . . . . . (3,669,000)
Stormwater Management and Combined Sewer Overflow Abatement Bonds (P.L.1989, c.181) . . . . . (235,000)
Green Acres, Clean Water, Farmland and Historic Preservation Bonds (P.L.1992, c.88) . . . . . (6,769,000)
Green Acres, Farmland and Historic Preservation and Blue Acres Bonds (P.L.1995, c.204) . . . . . (6,318,000)
Port of New Jersey Revitalization, Dredging, Bonds (P.L.1996, c.70) . . (1,479,000)

Redemption:
Water Conservation Bonds (P.L.1969, c.127) . . . . . (754,000)
State Recreation and Conservation Land Acquisition and Development Bonds (P.L.1974, c.102) . . . . . (2,519,000)
Clean Waters Bonds (P.L.1976, c.92) . . (2,254,000)
Beaches and Harbors Bonds (P.L.1977, c.208) . . . . . (500,000)
State Land Acquisition and Development Bonds (P.L.1978, c.118) . . . . . (951,000)
Emergency Flood Control Bonds (P.L.1978, c.78) . . . . . (450,000)
Natural Resources Bonds (P.L.1980, c.70) . . . . . (239,000)
Water Supply Bonds (P.L.1981, c.261) . . . . . (1,875,000)
Hazardous Discharge Bonds (P.L.1981, c.275) . . . . . (444,000)
1983 New Jersey Green Acres Bonds (P.L.1983, c.354) . . . . . (975,000)

Shore Protection Bonds
(P.L.1983, c.356) ..... (440,000)
Resource Recovery and Solid Waste
Disposal Facility Bonds
(P.L.1985, c.330) ..... (3,575,000)
Pinelands Infrastructure Trust Bonds
(P.L.1985, c.302) ..... (200,000)
Wastewater Treatment Bonds
(P.L.1985 c.329) ..... (150,000)
Hazardous Discharge Bonds
(P.L.1986, c.113) ..... (5,684,000)
1987 Green Acres, Cultural Centers and
Historic Preservation Bonds
(P.L.1987, c.265) ..... (1,450,000)
1989 New Jersey Open Space
Preservation Bonds
(P.L.1989, c.183) ..... (8,451,000)
Stormwater Management and
Combined Sewer Overflow
Abatement Bonds (P.L.1989, c.181) .. (280,000)
Green Acres, Clean Water, Farmland and
Historic Preservation Bonds
(P.L.1992, c.88) ..... (10,116,000)
Green Acres, Farmland and Historic
Preservation and Blue Acres Bonds
(P.L.1995, c.204) ..... (8,270,000)
Port of New Jersey Revitalization,
Dredging Bonds (P.L.1996, c.70) .. (2,405,000)

Total Debt Service Appropriation, Department of
Environmental Protection $76,833,000

82 DEPARTMENT OF THE TREASURY
70 Government Direction, Management and Control
76 Management and Administration

99-2000 Interest on Bonds $158,849,000
99-2000 Bond Redemption 234,993,000
Total Debt Service Appropriation,
Department of the Treasury $393,842,000
Special Purpose:
Interest:
State Transportation Bonds
(P.L.1968, c.126) ..... ($90,000)
State Mortgage Assistance Bonds
(P.L.1976, c.94) ..... (88,000)

Institutions Construction Bonds
(P.L.1976, c.93) . . . . . (294,000)
Medical Education Facilities Bonds
(P.L.1977, c.235) . . . . . (349,000)
Institutional Construction Bonds
(P.L.1978, c.79) . . . . . (179,000)
Transportation Rehabilitation and Improvement Bonds
(P.L.1979, c.165) . . . . . (1,166,000)
Energy Conservation Bonds
(P.L.1980, c.68) . . . . . (89,000)
Public Purpose Buildings Construction Bonds (P.L.1980, c.119). . . . . (9,000)
Community Development Bonds
(P.L.1981, c.486) . . . . . (394,000)
Jobs, Science and Technology Bonds
(P.L.1984, c.99) . . . . . (4,000)
Human Services Facilities Construction Bonds (P.L.1984, c.157) . . . . . (128,000)
Refunding Bonds
(P.L.1985, c.74, as amended by P.L.1992, c.182) . . . . . (135,855,000)
Correctional Facilities Construction Bonds (P.L.1987, c.178) . . . . . (34,000)
Jobs, Education and Competitiveness Bonds (P.L.1988, c.78) . . . . . (2,810,000)
Public Purpose Buildings and Community-Based Facilities Construction Bonds
(P.L.1989, c.184) . . . . . (789,000)
1989 Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Bonds
(P.L.1989, c.180) . . . . . (1,855,000)
Developmental Disabilities' Waiting List Reduction and Human Services Facilities Construction Bonds
(P.L.1994, c.108) . . . . . (2,887,000)
Statewide Transportation and Local Bridge Bond Act of 1999
(P.L.1999, c.181) . . . . . (4,487,000)
Payments on Future Bond Sales . . . . . (12,342,000)

Redemption:
State Transportation Bonds
(P.L.1968, c.126) . . . . . (1,000,000)
State Mortgage Assistance Bonds
(P.L.1976, c.94) . . . . . (600,000)

Institutions Construction Bonds (P.L.1976, c.93)	(1,900,000)
Medical Education Facilities Bonds (P.L.1977, c.235)	(6,800,000)
Institutional Construction Bonds (P.L.1978, c.79)	(1,200,000)
Transportation Rehabilitation and Improvement Bonds (P.L.1979, c.165)	(3,844,000)
Energy Conservation Bonds (P.L.1980, c.68)	(295,000)
Public Purpose Buildings Construction Bonds (P.L.1980, c.119)	(300,000)
Community Development Bonds (P.L.1981, c.486)	(1,988,000)
Jobs, Science and Technology Bonds (P.L.1984, c.99)	(150,000)
Human Services Facilities Construction Bonds (P.L.1984, c.157)	(728,000)
Refunding Bonds (P.L.1985, c.74, as amended by P.L.1992, c.182)	(194,665,000)
Correctional Facilities Construction Bonds Bonds (P.L.1987, c.178)	(1,150,000)
Jobs, Education and Competitiveness Bonds (P.L.1988, c.78)	(8,791,000)
Public Purpose Buildings and Community-Based Facilities Construction Bonds (P.L.1989, c.184)	(4,540,000)
1989 Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Bonds (P.L.1989, c.180)	(3,161,000)
Developmental Disabilities' Waiting List Reduction and Human Services Facilities Construction Bonds (P.L.1994, c.108)	(4,006,000)
Statewide Transportation and Local Bond Act of 1999 (P.L.1999, c.181)	(4,875,000)
Savings from Refunding and Other Initiatives	(10,000,000)
Total Debt Service Appropriation, Department of The Treasury	$393,842,000

Total Appropriation, Debt Service $470,675,000

Such sums as may be needed for the payment of interest and/or principal due from the issuance of any bonds authorized under the several bond acts of the State are appropriated and shall first be charged to the earnings from the investments of such bond proceeds.

There are appropriated such sums as may be needed for the payment of debt service administrative costs.

Subsequent to the refunding of bonds in fiscal year 2003, the Director of the Division of Budget and Accounting is authorized to reallocate amounts appropriated hereinabove among the various debt service accounts to reflect the debt service savings of the refunding and to permit the proper debt service payments.

Summary of Appropriations -- All Departments
(For Display Purposes Only)

Appropriations by Category:
Direct State Services $5,070,286,000
Grants-in-Aid 7,506,267,000
State Aid 9,332,563,000
Capital Construction 1,021,951,000
Debt Service ..... .470,675,000
Appropriations by Fund:
General Fund $15,676,705,000
Property Tax Relief Fund 7,297,500,000
Casino Revenue Fund 364,800,000
Casino Control Fund 62,737,000
Gubernatorial Elections Fund 0

Total Appropriation, All State Funds $23,401,742,000

FEDERAL FUNDS
10 DEPARTMENT OF AGRICULTURE
40 Community Development and Environmental Management
49 Agricultural Resources, Planning, and Regulation

01-3310 Animal Disease Control $18,000
02-3320 Plant Pest and Disease Control 899,000
03-3330 Resource Development Services 117,000
04-3340 Dairy and Commodity Regulation 104,000
06-3360 Marketing Services 226,517,000
07-3360 Commodity Distribution 1,510,000
08-3380 Farmland Preservation 552,000
Total Appropriation, Agricultural Resources, Planning, and Regulation $229,717,000
Personal Services:
Salaries and Wages ..... ($3,335,000)

Employee Benefits ..... (209,000)
Materials and Supplies ..... (190,000)
Services Other Than Personal ..... .(1,454,000)
Maintenance and Fixed Charges ..... (214,000)
Special Purpose:
Brucellosis Eradication ..... (18,000)
Cooperative Gypsy Moth Suppression ... (420,000)
Plant Pest Survey & Detection Program .... (5,000)
Farm Risk Management
Education Program ..... (117,000)
State Aid and Grants:
Farmland Preservation ..... (552,000)
Child Nutrition - School Lunch .... (145,000,000)
Child Nutrition - Special Milk ..... (1,500,000)
School Breakfast ..... (28,000,000)
Child Care Food ..... (36,000,000)
Child Care Sponsor Administration ... (1,500,000)
Child Care - Cash for Commodities ... (1,870,000)
Summer Food ..... (7,500,000)
Summer Sponsor Administration ..... (736,000)
Child Nutrition - State Administration .... (78,000)
State Aid and Grants ..... (849,000)
Additions, Improvements and Equipment ... (170,000)

Total Appropriation, Department of Agriculture $229,717,000

22 DEPARTMENT OF COMMUNITY AFFAIRS
40 Community Development and Environmental Management
41 Community Development Management

02-8020 Housing Services $185,292,000
18-8017 Uniform Fire Code 110,000
Total Appropriation, Community
Development Management $185,402,000
Personal Services:
Salaries and Wages ..... ($11,384,000)
Employee Benefits ..... (2,957,000)
Materials and Supplies ..... (282,000)
Services Other Than Personal ..... (1,280,000)
Maintenance and Fixed Charges ..... (1,061,000)
Special Purpose:
Shelter Plus Care Program ..... (2,000)
Moderate Rehabilitation
Housing Assistance ..... (319,000)
Section 8 Housing Voucher Program .. (1,082,000)

Housing Opportunities for
Persons with AIDS ..... (12,000)
Small Cities Block Grant Program ..... (22,000)
National Affordable Housing --
HOME Investment Partnerships ..... (53,000)
Other Special Purpose ..... (5,000)
State Aid and Grants ..... (166,789,000)
Additions, Improvements and Equipment .. (154,000)

50 Economic Planning, Development and Security
55 Social Services Programs

05-8050 Community Resources $58,934,000
15-8051 Women's Programs..... 1,476,000
Total Appropriation, Social Services Programs $60,410,000
Personal Services:
Salaries and Wages ..... ($2,211,000)
Employee Benefits ..... (572,000)
Materials and Supplies ..... (10,000)
Services Other Than Personal ..... (408,000)
Maintenance and Fixed Charges ..... (32,000)
Special Purpose:
Weatherization Assistance Program ..... (29,000)
Low Income Home Energy
Assistance Program ..... .(133,000)
Community Services Block Grant ..... (69,000)
Rape Prevention ..... (12,000)
State Aid and Grants ..... (56,929,000)
Additions, Improvements and Equipment .... (5,000)

Total Appropriation, Department of
Community Affairs $245,812,000

26 DEPARTMENT OF CORRECTIONS

10 Public Safety and Criminal Justice
16 Detention and Rehabilitation

08-7040 Institutional Care and Treatment $106,000
08-7050 Institutional Care and Treatment 133,000
08-7060 Institutional Care and Treatment 82,000
08-7065 Institutional Care and Treatment 82,000
08-7070 Institutional Care and Treatment 72,000
08-7075 Institutional Care and Treatment 61,000
08-7080 Institutional Care and Treatment 331,000
08-7085 Institutional Care and Treatment 71,000
08-7090 Institutional Care and Treatment 112,000
08-7110 Institutional Care and Treatment 448,000
08-7120 Institutional Care and Treatment 171,000
08-7130 Institutional Care and Treatment 248,000

13-7025 Institutional Program Support 13,163,000
Total Appropriation, Detention and Rehabilitation $15,080,000
Personal Services:
Salaries and Wages ..... ($14,152,000)
Employee Benefits ..... (320,000)
Materials and Supplies ..... (76,000)
Special Purpose:
Individuals with Disabilities Act -- Part B .. (50,000)
Project In-Side ..... (482,000)

19 Central Planning, Direction and Management

99-7000 Administration and Support Services $258,000
Total Appropriation, Central Planning, Direction and Management $258,000
Special Purpose:
Perkins - Vocational Education ..... ($240,000)
State Aid and Grants ..... (18,000)

Total Appropriation, Department of Corrections $15,338,000

34 DEPARTMENT OF EDUCATION

30 Educational, Cultural and Intellectual Development

31 Direct Educational Services and Assistance

03-5060 Miscellaneous Grants-In-Aid $8,663,000
04-5060 Adult and Continuing Education 14,240,000
04-5062 Adult and Continuing Education 2,525,000
05-5060 Bilingual Education and Equity Issues 13,388,000
05-5064 Bilingual Education and Equity Issues 361,000
06-5060 Programs for Disadvantaged Youth 285,753,000
06-5063 Programs for Disadvantaged Youth 369,000
06-5064 Programs for Disadvantaged Youth 7,979,000
07-5060 Special Education 222,082,000
07-5065 Special Education 27,384,000
Total Appropriation, Direct Educational Services and Assistance $582,744,000
Personal Services:
Salaries and Wages ..... ($6,962,000)
Employee Benefits ..... (1,807,000)
Materials and Supplies ..... (5,174,000)
Services Other Than Personal ..... (6,199,000)
Special Purpose:
Adult Basic Education -- Administration/ Discretionary ..... (396,000)
Adult Basic Education -- Evaluation and Training, Ancillary ..... (245,000)
Vocational Education - Basic Grants ..... (16,000)

Refugee Children School Impact Program . (32,000)
Title I - Reading First State Grant ..... (369,000)
Bilingual and Compensatory Education --
Homeless Children and Youth ..... (110,000)
State Improvement Grant,
Administration ..... (105,000)
IDEA -- Handicapped ..... (2,032,000)
IDEA --Preschool Incentive Grant ..... (20,000)
IDEA Part B -- LRC North ..... (324,000)
Deaf/Blind Children Services --
Administration/Discretionary ..... (10,000)
Pre-School Regional T.A. Project
LRC -- Central ..... (55,000)
IDEA Part B -- Discretionary
Administration ..... (8,600,000)
State Aid and Grants:
Adult Basic Education --
Administration/Discretionary .... (14,240,000)
State Aid and Grants ..... (535,948,000)
Additions, Improvements and Equipment .. (100,000)

32 Operation and Support of Educational Institutions

12-5011 Marie H. Katzenbach School for the Deaf $1,129,000
Total Appropriation, Operation and Support
of Educational Institutions $1,129,000
Personal Services:
Salaries and Wages ..... ($287,000)
Employee Benefits ..... (79,000)
Materials and Supplies ..... (3,000)
Services Other Than Personal ..... (76,000)
Maintenance and Fixed Charges ..... (145,000)
Special Purpose:
Halfway Home Project ..... (122,000)
State Aid and Grants ..... (413,000)
Additions, Improvements and Equipment .... (4,000)

33 Supplemental Education and Training Programs

20-5060 General Vocational Education $22,069,000
20-5062 General Vocational Education 2,611,000
Total Appropriation, Supplemental Education
and Training Programs $24,680,000
Personal Services:
Salaries and Wages ..... ($1,779,000)
Employee Benefits ..... (277,000)
Materials and Supplies ..... (83,000)
Services Other Than Personal ..... (371,000)
Special Purpose:

Vocational Education -- Title II B
Leadership Activities . . . . . (101,000)
State Aid and Grants . . . . . (22,069,000)

34 Educational Support Services

29-5060 Educational Technology $14,250,000
30-5060 Academic Programs and Standards 2,619,000
30-5063 Academic Programs and Standards 83,509,000
31-5060 Grants Management and Development 1,884,000
33-5060 Service to Local Districts 4,425,000
33-5067 Service to Local Districts 2,715,000
34-5064 Office of School Choice 50,000
34-5068 Office of School Choice 186,000
40-5060 Health, Safety and Community Services 15,900,000
40-5064 Health, Safety and Community Services 6,752,000
Total Appropriation, Educational Support Services $132,290,000
Personal Services:
Salaries and Wages . . . . . ($4,421,000)
Employee Benefits . . . . . (1,143,000)
Materials and Supplies . . . . . (134,000)
Services Other Than Personal . . . . . (5,111,000)
Special Purpose:
Teacher Quality Enhancements . . . . . (300,000)
Vocational Education -- Administration . . . . (1,000)
IDEA - Elementary School Proficiencies . (174,000)
Title V -- Innovative Program Strategies . . . (44,000)
Vocational Education -- Leadership . . . . . (23,000)
Vocational Education -- Occupational
Competencies . . . . . (2,000)
Adult Basic Education -- Administration . . (16,000)
Vocational Education -- Basic Grants,
Administration . . . . . (13,000)
Pre-school Incentive Grant -
Administration . . . . . (79,000)
IDEA, Part B -- Child Study Supervisors,
Administration . . . . . (159,000)
IDEA, Part B -- Child Study Supervisors . . (26,000)
Title I Admin Program Improvement . . . . . (52,000)
School Choice . . . . . (10,000)
Rural and Low Income Families . . . . . (2,000)
Community Services - Expelled/
Suspended Students . . . . . (52,000)
Americorps - Homeland Security . . . . . (52,000)
21st Century Schools . . . . . (223,000)
Vocational Education -- Administration . . . . (4,000)
IDEA Handicapped (Part B) . . . . . (18,000)

Title V -- Innovative Program Strategies ... (3,000)
AIDS Prevention Education ..... (59,000)
SDFSCA -- Governor's Portion --
Program Expenses ..... (117,000)
National Community Services - Urban
School Services Corp. ..... (347,000)
Reading Partners Administration ..... (65,000)
National Community Services -
State Commission ..... (40,000)
SDFSCA -- Governor's Portion -- Admin. ... (5,000)
Character Education Partnership ..... (244,000)
Other Special Purpose ..... (100,000)
State Aid and Grants:
State Aid and Grants ..... (118,480,000)
Additions, Improvements and Equipment .. (771,000)

35 Education Administration and Management

42-5120 School Finance $599,000
99-5095 Administration and Support Services 5,310,000
Total Appropriation, Education Administration
and Management $5,909,000
Personal Services:
Salaries and Wages ..... ($3,213,000)
Employee Benefits ..... (867,000)
Materials and Supplies ..... (5,000)
Services Other Than Personal ..... (35,000)
Special Purpose:
Adult Basic Education -- Single Audit ..... (3,000)
Vocational Education -- Basic Grant --
Administration ..... (7,000)
IDEA Part B - Finance/Single Audit .... (101,000)
IASA Consolidated Administration .... (1,675,000)
Additions, Improvements and Equipment .... (3,000)

Total Appropriation, Department of Education $746,752,000

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION

40 Community Development and Environmental Management

42 Natural Resource Management

11-4870 Forest Resource Management $1,471,000
12-4875 Parks Management 32,032,000
13-4880 Hunters' and Anglers' License Fund 9,710,000
14-4885 Shellfish and Marine Fisheries Management 3,189,000
21-4895 Natural Resources Engineering 290,000
Total Appropriation, Natural Resource Management ... $46,692,000
Personal Services:
Salaries and Wages ..... ($3,967,000)

Employee Benefits . . . . . (962,000)
Materials and Supplies . . . . . (1,063,000)
Services Other Than Personal . . . . . (1,257,000)
Maintenance and Fixed Charges . . . . . (183,000)
Special Purpose:
Rural Community Fire
Protection Program . . . . . (179,000)
Forest Resource Management --
Cooperative Forest Fire Control . . . . . (95,000)
Gypsy Moth Suppression . . . . . (60,000)
Nursery - Cm - 4 . . . . . (35,000)
Consolidated Forest Management . . . . . (385,000)
Northeast Regional Biomass Program . . . . . (10,000)
Community Forestry Assessment . . . . . (40,000)
Rural Forestry Assistance . . . . . (16,000)
Conservation Education . . . . . (10,000)
Incentives Program . . . . . (10,000)
Forest Health Monitoring . . . . . (16,000)
Land and Water Conservation Grant . . . (5,000,000)
Pinelands Grant -- Acquisition . . . . . (6,000,000)
Historic Preservation Survey
and Planning . . . . . (857,000)
Endangered Plant Species
Supplemental Funding . . . . . (5,000)
Sussex Branch Trail Improvements . . . . . (500,000)
Seashore Line . . . . . (500,000)
Delaware and Raritan Canal East
Side Path (ISTEA) . . . . . (565,000)
Forest Legacy . . . . . (8,000,000)
Forest Legacy Administration . . . . . (10,000)
National Recreational Trails. . . . . (288,000)
National Coastal Wetlands
Conservation . . . . . (1,000,000)
Sussex Branch Trail Connector (ISTEA) . . (75,000)
Cape May Point State Park
Bikeway (ISTEA) . . . . . (200,000)
Liberty State Park Ferry Slip
Restoration (ISTEA) . . . . . (1,600,000)
Paulinskill Valley Trail
Improvements (ISTEA) . . . . . (605,000)
Liberty State Park Train Sheds --
Structural Report (ISTEA) . . . . . (500,000)
Appalachian Trail Viewshed
Acquisition (ISTEA) . . . . . (500,000)
Delaware and Raritan Canal State Park/
Bordentown Outlet (ISTEA) . . . . . (1,250,000)

Appalachian Trail Improvement (ISTEA) . (50,000)
Archaeological & Historical/GIS
Inventory (ISTEA) ..... (500,000)
D&R Canal Rt. #1 Crossing (ISTEA) .. (1,575,000)
NJ Coastal Heritage Program ..... (90,000)
State Wetlands Conservation Plan ..... (59,000)
Hunters' and Anglers' License Fund .... (925,000)
Hunter Safety Training ..... (170,000)
Boat Access (Fish and Game) ..... (1,000,000)
Fish & Wildlife Input to Activities --
Projects of Others ..... (175,000)
NJ Fish, Wildlife and Anadromous
Fishery Coordination ..... (10,000)
Research In Freshwater
Fisheries Management ..... (90,000)
Fish Culture and Stocking Project ..... (50,000)
Aquatic Recreational Resource
Awareness & Education Project ..... (70,000)
Development of a Computerized Fish
& Wildlife Information System ..... (40,000)
Watchable Wildlife in
New Jersey (PRW) ..... (100,000)
Wildlife Research and Management .... (270,000)
Wildlife Conservation and
Restoration Projects ..... (1,850,000)
Fish and Wildlife Health ..... (8,000)
Marine Fisheries Investigation and
Management ..... (260,000)
Fisheries Management Council ..... (5,000)
Atlantic Coastal Fisheries ..... (48,000)
Inventory of New Jersey Surf
Clam Resource ..... (39,000)
Artificial Reef Program ..... (135,000)
Clean Vessels ..... (650,000)
Atlantic Coastal Cooperative Program .... (16,000)
Community Assistance Program ..... (68,000)
National Dam Safety Program (FEMA) ... (3,000)
Other Special Purpose ..... (1,190,000)
State Aid and Grants ..... (1,304,000)
Additions, Improvements and Equipment .. (199,000)

43 Science and Technical Programs

02-4801	Air Pollution Control	$5,210,000
07-4850	Water Monitoring and Planning	3,500,000
15-4801	Land Use Regulation	3,960,000
18-4810	Science, Research and Technology	800,000
22-4861	New Jersey Geological Survey	325,000

90-4801 Watershed Management	10,610,000
Total Appropriation, Science and Technical Programs	$24,405,000
Personal Services:	
Salaries and Wages	($4,552,000)
Employee Benefits	(1,175,000)
Materials and Supplies	(131,000)
Services Other Than Personal	(1,502,000)
Maintenance and Fixed Charges	(111,000)
Special Purpose:	
Air Pollution Maintenance Program	(937,000)
Greenhouse Gas Emission Bank	(100,000)
Particulate Monitoring Grant	(714,000)
Climate Change	(100,000)
Water Pollution Control Program	(657,000)
Clean Lakes Program	(500,000)
Coastal Zone Management Implementation	(495,000)
Coastal Zone Management Grant -- Section 309	(172,000)
Coastal Zone Management Grant -- Federal Grant	(1,000,000)
Coastal Zone Management -- 310	(1,000,000)
Toxic Substance Compliance	(50,000)
Multi-Media	(220,000)
Offshore Beach Replenishment	(50,000)
Earthquake Hazard Reduction	(15,000)
Strathmere Parcels	(565,000)
Conashank Point	(215,000)
Water Pollution Control	(228,000)
Coastal Wetlands Conservation (Land Acquisition)	(1,000,000)
Good Luck Point Land Acquisition	(480,000)
Sloop/Maple Creek Acquisition	(350,000)
Stout's Creek Land Acquisition	(750,000)
Water Monitoring and Planning	(451,000)
Non-Point Source Implementation (319H) Supplemental	(332,000)
Non-Point Source Implementation (319H)	(1,307,000)
Water Pollution Control - TMDL	(750,000)
Americorps	(300,000)
Beach Monitoring and Notification	(300,000)
Other Special Purpose	(423,000)
State Aid and Grants	(2,981,000)
Additions, Improvements and Equipment	(492,000)

44 Site Remediation

19-4815 Publicly-Funded Site Remediation	$32,250,000
23-4815 Solid and Hazardous Waste Management	360,000
27-4815 Responsible Party Site Remediation	5,055,000
Total Appropriation, Site Remediation	$37,665,000
Personal Services:	
Salaries and Wages	($2,335,000)
Employee Benefits	(603,000)
Materials and Supplies	(35,000)
Services Other Than Personal	(592,000)
Maintenance and Fixed Charges	(79,000)
Special Purpose:	
Brownfields Preliminary Assessment/ Site Investigation	(788,000)
Voluntary Clean-up -- Site Specific	(188,000)
Superfund Core Grant -- Cpca	(350,000)
Voluntary Cleanup Program	(194,000)
Environmental Monitoring for Public Access and Community Tracking	(7,000)
Superfund Grants	(30,000,000)
Hazardous Waste -- Resource Conservation Recovery Act	(47,000)
Preliminary Assessments/ Site Inspections	(987,000)
Underground Storage Tanks	(600,000)
Underground Storage Tanks	(59,000)
Other Special Purpose	(789,000)
Additions, Improvements and Equipment	(12,000)

45 Environmental Regulation

01-4820 Radiation Protection	$500,000
02-4892 Air Pollution Control	1,007,000
05-4840 Water Supply and Watershed Management	23,700,000
09-4860 Public Wastewater Facilities	57,600,000
15-4890 Land Use Regulation	1,750,000
16-4891 Water Monitoring and Planning	710,000
23-4910 Solid and Hazardous Waste Management	2,135,000
Total Appropriation, Environmental Regulation	$87,402,000
Personal Services:	
Salaries and Wages	($3,721,000)
Employee Benefits	(963,000)
Materials and Supplies	(117,000)
Services Other Than Personal	(707,000)
Maintenance and Fixed Charges	(24,000)
Special Purpose:	
Radon Program	(110,000)
Air Pollution Maintenance Program	(89,000)

Community and Public Water
Supply Operators -
Expense Reimbursements ..... (1,500,000)
Safe Drinking Water Act ..... (338,000)
Drinking Water State Revolving Fund (20,000,000)
Clean Water State Revolving Fund ... .(57,600,000)
Coastal Zone Management
Implementation ..... (333,000)
State Wetlands Conservation Plan ..... (250,000)
Publicly Owned Treatment
Works Diagnostic ..... (5,000)
Underground Injection Control ..... (13,000)
NPDES Implementation
Support Program ..... (123,000)
Hazardous Waste -- Resource
Conservation Recovery Act ..... (264,000)
Pollution Prevention Incentive ..... (100,000)
Other Special Purpose ..... (1,015,000)
State Aid and Grants ..... (100,000)
Additions, Improvements and Equipment ... .(30,000)

46 Environmental Planning and Administration

26-4805 Regulatory and Governmental Affairs $150,000
99-4800 Administration and Support Services 2,500,000
Total Appropriation, Environmental Planning
and Administration $2,650,000
Special Purpose:
New Jersey Classroom Reform Grant ... ($150,000)
National Information
Exchange Network ..... (1,550,000)
Environmental Justice ..... (100,000)
State/EPA Data Management Grant ..... (750,000)
National Spatial Data Infrastructure ..... (100,000)

47 Compliance and Enforcement Policy

02-4855 Air Pollution Control $1,802,000
04-4835 Pesticide Control 750,000
08-4855 Water Pollution Control 1,000,000
15-4855 Land Use Regulation 500,000
23-4855 Solid and Hazardous Waste Management 1,886,000
Total Appropriation, Compliance and Enforcement Policy $5,938,000
Personal Services:
Salaries and Wages ..... ($2,304,000)
Employee Benefits ..... (594,000)
Materials and Supplies ..... (35,000)

Services Other Than Personal ..... (151,000)
Maintenance and Fixed Charges. ..... (12,000)
Special Purpose:
Air Pollution Maintenance Program .... (576,000)
Pesticide Technology ..... (110,000)
Pesticide Control Consolidated ..... (39,000)
Pesticide Food Quality Protection ..... (70,000)
Multi-Media Enforcement Grant ..... (1,000,000)
Coastal Zone Management
Implementation ..... (93,000)
Hazardous Waste -- Resource Conservation
Recovery Act ..... (339,000)
Other Special Purpose ..... (467,000)
Additions, Improvements and Equipment .. (148,000)

Total Appropriation, Department of
Environmental Protection $204,752,000

46 DEPARTMENT OF HEALTH AND SENIOR SERVICES
20 Physical and Mental Health
21 Health Services

01-4215 Vital Statistics $850,000
02-4220 Family Health Services 152,434,000
03-4230 Public Health Protection Services 53,077,000
04-4240 Addiction Services 57,919,000
08-4280 Laboratory Services 1,546,000
12-4245 AIDS Services 92,221,000
Total Appropriation, Health Services $358,047,000
Personal Services:
Salaries and Wages ..... ($35,450,000)
Employee Benefits ..... (8,625,000)
Materials and Supplies ..... (2,782,000)
Services Other Than Personal ..... (17,328,000)
Maintenance and Fixed Charges ..... (179,000)
Special Purpose:
Supplemental Food Program - W.I.C. . (66,174,000)
WIC Farmer's Market Nutrition Program (600,000)
Surveillance, Epidemiology and
End Results (SEER) ..... (1,900,000)
Tuberculosis Control Program ..... (142,000)
Toxic Substances Control Act. ..... (52,000)
Other Special Purpose ..... (4,386,000)
State Aid and Grants:
Pediatric EMS System Development for
New Jersey ..... (274,000)
N.J. Project: Providing a MED Home
in a Neighborhood of Services ..... (30,000)

West Nile Virus - Public Health ..... (566,000)
Health Program for
Indochinese Refugees ..... (348,000)
Immunization Project ..... 1,850,000)
Substance Abuse Treatment and
HIV/AIDS Services ..... (450,000)
Title IV-B Family Preservation and
Support Services ..... (200,000)
State Treatment Needs Assessment ..... (154,000)
State Treatment Performance
Outcomes Study ..... (498,000)
State Aid and Grants ..... (214,637,000)
Additions, Improvements and Equipment . (1,422,000)

22 Health Planning and Evaluation

06-4260 Long Term Care Systems $11,969,000
07-4270 Health Care Systems Analysis 19,566,000
Total Appropriation, Health Planning and Evaluation ... $31,535,000
Personal Services:
Salaries and Wages ..... ($5,697,000)
Employee Benefits ..... (1,398,000)
Materials and Supplies ..... (34,000)
Services Other Than Personal ..... (587,000)
Maintenance and Fixed Charges ..... (487,000)
Special Purpose:
Other Special Purpose ..... (4,340,000)
State Aid and Grants ..... (18,266,000)
Additions, Improvements and Equipment ... (726,000)

25 Health Administration

99-4210 Administration and Support Services $1,296,000
Total Appropriation, Health Administration $1,296,000
Personal Services:
Salaries and Wages ..... ($438,000)
Employee Benefits ..... (88,000)
Services Other Than Personal ..... (160,000)
Special Purpose:
Minority AIDS Demo ..... (84,000)
State Aid and Grants ..... (526,000)

26 Senior Services

22-4275 Medical Services for the Aged $1,351,873,000
24-4275 Pharmaceutical Assistance to the
Aged and Disabled 147,808,000
55-4275 Programs for the Aged 45,268,000
56-4275 Office of the Ombudsman 420,000

57-4275 Office of the Public Guardian 250,000
Total Appropriation, Health Administration $1,545,619,000
Personal Services:
Salaries and Wages ..... ($9,844,000)
Employee Benefits ..... (2,066,000)
Materials and Supplies ..... (174,000)
Services Other Than Personal ..... (1,081,000)
Maintenance and Fixed Charges ..... (353,000)
Special Purpose:
Administration of U.S. Department of Health and Human Services Programs ..... (3,092,000)
Community Choice/Acuity Audits ..... (621,000)
Ombudsman for the Institutionalized Elderly: Medicaid Reimbursement ... (70,000)
Other Special Purpose ..... (1,102,000)
State Aid and Grants.
Alternate Family Care ..... (1,000,000)
Assisted Living Residence ..... (10,000,000)
Comprehensive Personal Care Home .. (8,000,000)
Assisted Living Program ..... (1,000,000)
Counseling on Health Insurance for Medicare Enrollees ..... (355,000)
Reducing the Burden of Arthritis and Other Rheumatic Conditions ..... (14,000)
State Aid and Grants ..... (1,506,477,000)
Additions, Improvements and Equipment .. (370,000)

Total Appropriation, Department of Health and Senior Services $1,936,497,000

54 DEPARTMENT OF HUMAN SERVICES
20 Physical and Mental Health
23 Mental Health Services
7700 Division of Mental Health Services

08-7700 Community Services $15,398,000
99-7700 Administration and Support Services 300,000
Total Appropriation, Division of Mental Health Services . $15,698,000
Personal Services:
Salaries and Wages ..... ($405,000)
Special Purpose:
Fraud and Abuse Initiative ..... (300,000)
State Aid and Grants ..... (14,993,000)

24 Special Health Services
7540 Division of Medical Assistance and Health Services

21-7540 Health Services Administration and Management $55,838,000

22-7540 General Medical Services		1,881,688,000
Total Appropriation, Division of Medical Assistance and Health Services		$1,937,526,000
Personal Services:		
Salaries and Wages	($16,787,000)	
Materials and Supplies	(144,000)	
Services Other Than Personal	(6,051,000)	
Maintenance and Fixed Charges	(1,595,000)	
Special Purpose:		
Payments to Fiscal Agent	(20,105,000)	
Professional Standards Review Organization -- Utilization Review	(3,078,000)	
Drug Utilization Review Board -- Administrative Costs	(60,000)	
NJ KidCare A -- Administration	(2,521,000)	
NJ KidCare B, C & D -- Administration	(5,117,000)	
State Aid and Grants:		
Payments for Medical Assistance Recipients -- Personal Care	(5,405,000)	
Managed Care Initiative	(515,201,000)	
Hospital Health Care Subsidy	(72,688,000)	
Hospital Relief Offset Payment	(28,812,000)	
Payments for Medical Assistance Recipients --		
Other Treatment Facilities	(5,285,000)	
Inpatient Hospital	(209,124,000)	
Prescription Drugs	(322,123,000)	
Outpatient Hospital	(158,302,000)	
Physician	(21,138,000)	
Home Health	(18,137,000)	
Medicare Premiums	(67,961,000)	
Dental	(10,181,000)	
Psychiatric Hospital	(8,187,000)	
Medical Supplies	(14,200,000)	
Clinic	(43,264,000)	
Transportation	(22,974,000)	
Other Services	(11,181,000)	
Home Health Background Checks --		
Title XIX federal matching funds	(1,800,000)	
Eligibility Determination Services	(4,557,000)	
Health Benefit Coordination Services	(5,748,000)	
Children's System of Care Initiative	(9,200,000)	
State Aid and Grants	(326,220,000)	
Additions, Improvements and Equipment	(380,000)	

27 Disability Services
7545 Division of Disability Services

27-7545	Disability Services	$141,150,000
	Total Appropriation, Division of Disability Services	$141,150,000
	Personal Services:	
	Salaries and Wages	($466,000)
	Materials and Supplies	(4,000)
	Services Other Than Personal	(31,000)
	Maintenance and Fixed Charges	(9,000)
	State Aid and Grants:	
	Payments for Medical Assistance Recipients -- Personal Care	(116,324,000)
	Payments for Medical Assistance Recipients --	
	Waiver Initiatives	(17,535,000)
	Other Services	(1,899,000)
	Traumatic Brain Injury Grant	(198,000)
	DMB -- Infrastructure Development Grant	(500,000)
	Real Choice System Starter	(50,000)
	Real Choice System Grant	(2,000,000)
	Community Supports to Allow Discharges from Nursing Homes	(2,000,000)
	Prevention of Secondary Conditions	(134,000)

30 Educational, Cultural and Intellectual Development
32 Operation and Support of Educational Institutions

01-7601	Purchased Residential Care	$163,810,000
02-7601	Social Supervision and Consultation	16,830,000
03-7601	Adult Activities	28,211,000
04-7601	Education and Day Training	1,506,000
05-7610	Residential Care and Habilitation Services	7,296,000
05-7620	Residential Care and Habilitation Services	24,749,000
05-7630	Residential Care and Habilitation Services	20,325,000
05-7640	Residential Care and Habilitation Services	21,537,000
05-7650	Residential Care and Habilitation Services	29,861,000
05-7660	Residential Care and Habilitation Services	25,169,000
05-7670	Residential Care and Habilitation Services	25,514,000
99-7600	Administration and Support Services	6,452,000
99-7610	Administration and Support Services	2,295,000
99-7620	Administration and Support Services	1,938,000
99-7630	Administration and Support Services	1,833,000
99-7640	Administration and Support Services	3,397,000
99-7650	Administration and Support Services	3,804,000
99-7660	Administration and Support Services	1,396,000
99-7670	Administration and Support Services	3,303,000
	Total Appropriation, Operation and Support of Educational Institutions	$389,226,000

Personal Services:
Salaries and Wages ..... ($193,345,000)
Materials and Supplies ..... (34,000)
Services Other Than Personal ..... (964,000)
Maintenance and Fixed Charges ..... (2,000)
State Aid and Grants
Community Nursing Care Initiative - FY2002 ..... (437,000)
Community Services Waiting List Reduction Initiative - FY2002 ..... (4,644,000)
Community Transition Initiative - FY2002 ..... (2,822,000)
Home Assistance ..... (2,248,000)
State Aid and Grants ..... (184,730,000)

33 Supplemental Education and Training Programs

11-7560 Services for the Blind and Visually Impaired $8,467,000
99-7560 Administration and Support Services 1,857,000
Total Appropriation, Supplemental Education and Training Programs $10,324,000
Personal Services:
Salaries and Wages ..... ($4,024,000)
Materials and Supplies ..... (116,000)
Services Other Than Personal ..... (708,000)
Maintenance and Fixed Charges ..... (254,000)
State Aid and Grants ..... (4,916,000)
Additions, Improvements and Equipment ... (306,000)

50 Economic Planning, Development and Security
53 Economic Assistance and Security

15-7550 Income Maintenance Management $867,259,000
Total Appropriation, Economic Assistance and Security $867,259,000
Personal Services:
Salaries and Wages ..... ($16,817,000)
Materials and Supplies ..... (432,000)
Services Other Than Personal ..... (14,685,000)
Maintenance and Fixed Charges ..... (1,148,000)
Special Purpose:
Electronic Benefits Transfer, Evaluation & Development, Food Stamps ..... (182,000)
Work First New Jersey -- Electronic Benefits Transfer -- Design & Development ..... (64,000)

Work First New Jersey Technology
Investment -- Food Stamps ..... (3,523,000)
EBT -- Operational Food Stamp Match
for CWA's ..... (1,671,000)
Work First New Jersey -- Benefits
Transfer Operational ..... (588,000)
Work First New Jersey --
Technology Investments ..... (11,981,000)
Child Support Medical Notice ..... (3,248,000)
Work First New Jersey -- Technology
Investments -- Title XIX ..... (2,122,000)
Hospital Paternity Program ..... (959,000)
Work First New Jersey -- Technology
Investment -- Title IV-D ..... (5,658,000)
Work First New Jersey -- Child Support --
Program Legislative Initiatives .... (8,318,000)
SSI Attorney Fees ..... (1,000,000)
Child Support Initiatives --
New Hires-- TANF ..... (6,000)
State Aid and Grants
SSBG CWA Administration
TANF Transfer ..... (5,163,000)
Child Care Evaluation ..... (630,000)
Faith Based Initiatives ..... (1,000,000)
Criminal Background Evaluations ..... (1,000,000)
Domestic Violence and Prevention
Training and Assessment ..... (450,000)
TANF Child Care Cost of
Living Adjustment ..... (5,334,000)
Homeless Assistance ..... (2,000,000)
TANF Child Care Expenses ..... (11,977,000)
State Aid and Grants .....(767,139,000)
Additions, Improvements and Equipment .. (164,000)

55 Social Services Programs

16-7570 Services to Children and Families $179,917,000
99-7570 Administration and Support Services 11,285,000
Total Appropriation, Social Services Programs $191,202,000
Personal Services:
Salaries and Wages ..... ($110,217,000)
Materials and Supplies ..... (1,924,000)
Services Other Than Personal ..... (8,623,000)
Maintenance and Fixed Charges ..... (10,206,000)
State Aid and Grants:
Independent Services
Living Expansion ..... (1,500,000)
State Aid and Grants ..... (53,969,000)

Additions, Improvements and Equipment . (4,763,000)

70 Government Direction, Management and Control
76 Management and Administration
7500 Division of Management and Budget

99-7500 Administration and Support Services $64,262,000
Total Appropriation, Division of Management and Budget $64,262,000
Personal Services:
Salaries and Wages ..... ($150,000)
Special Purpose:
Community Based Residential Program Grant ..... (1,000,000)
DHS Adult Basic Education Program .... (211,000)
Deaf Blind Grant VI-C PL 94-142 ..... (92,000)
Federal Cost Recoveries ..... (39,701,000)
Child Support Enforcement Program .... (299,000)
Title IV-B Child Welfare Services ..... (134,000)
Title IV-E Foster Care. ..... (288,000)
Low Income Energy Assistance Block Grant ..... (126,000)
Title XIX, ICF/MR ..... (8,243,000)
Title XIX, Medical Assistance ..... (2,600,000)
Refugee Resettlement Program ..... (18,000)
Social Service Block Grant ..... (2,326,000)
Vocational Rehabilitation Act -- Section 120 ..... (100,000)
Food Stamp Program ..... (447,000)
Temporary Assistance to Needy Families Block Grant ..... (604,000)
Payments to Fiscal Agent ..... (5,000,000)
State Aid and Grants ..... (2,923,000)

Total Appropriation, Department of Human Services $3,616,647,000

62 DEPARTMENT OF LABOR

50 Economic Planning, Development and Security
51 Economic Planning and Development

18-4570 Planning and Analysis $9,199,000
Total Appropriation, Economic Planning and Development $9,199,000
Personal Services:
Salaries and Wages ..... ($5,490,000)
Employee Benefits ..... (1,396,000)
Materials and Supplies ..... (125,000)

Services Other Than Personal ..... (686,000)
Maintenance and Fixed Charges ..... (179,000)
Special Purpose:
ES 202 Covered Employment and Wages . (76,000)
Current Employment Statistics ..... (76,000)
Local Area Unemployment Statistics ..... (13,000)
Occupational Employment Statistics ..... (64,000)
Permanent Mass Layoff Plant Closings ....(14,000)
ES 202 RELATED ..... (21,000)
Redesigned Occupational Safety and Health (ROSH) ..... (25,000)
One Stop Labor Market Information .... (111,000)
OSHA Data Collection Survey ..... (9,000)
JTPA Title III LMI. ..... (454,000)
Occupational Information Coordinating Program ..... (19,000)
Other Special Purpose ..... (168,000)
Additions, Improvements and Equipment .. (273,000)

53 Economic Assistance and Security

01-4510 Unemployment Insurance $98,275,000
02-4515 Disability Determination 46,623,000
Total Appropriation, Economic Assistance and Security $144,898,000
Personal Services:
Salaries and Wages ..... ($76,091,000)
Employee Benefits ..... (18,358,000)
Materials and Supplies ..... (1,400,000)
Services Other Than Personal ..... (15,000,000)
Maintenance and Fixed Charges ..... (9,450,000)
Special Purpose:
Unemployment Insurance ..... (10,000,000)
Employment Security Revenue ..... (140,000)
Disability Determination Services ..... (3,000,000)
State Aid and Grants ..... (10,209,000)
Additions, Improvements and Equipment . (1,250,000)

54 Manpower and Employment Services

07-4535 Vocational Rehabilitation Services $48,680,000
09-4545 Employment Services 38,185,000
10-4545 Employment and Training Services 86,560,000
12-4550 Workplace Standards 3,965,000
Total Appropriation, Manpower and Employment Services $177,390,000
Personal Services:
Salaries and Wages ..... ($44,027,000)
Employee Benefits ..... (11,425,000)
Materials and Supplies ..... (905,000)

Services Other Than Personal ..... (7,642,000)
Maintenance and Fixed Charges ..... (7,200,000)
Special Purpose:
Vocational Rehabilitation Act of 1973 . (2,400,000)
Employment Services ..... (1,550,000)
Disabled Veterans' Outreach Program .... (200,000)
Local Veterans' Employment
Representatives ..... (150,000)
Trade Adjustment Assistance Project .... (150,000)
Employment Services Grants -- Alien
Labor Certification ..... (125,000)
Work Opportunity Tax Credit ..... (85,000)
Employment Services Cost Reimbursable
Grants -- Migrant Housing ..... (5,000)
Agricultural Wage Surveys ..... (10,000)
NAFTA Transitional
Adjustment Assistance ..... (25,000)
ES REEMPLOYMENT SERVICES ..... (75,000)
Employment Services Rapid
Response Team ..... (300,000)
WIA Title IIID Discretionary Funding . . .(500,000)
Occupational Safety Health Act, On-Site
Consultation ..... (160,000)
Mine Safety Educational Program ..... (5,000)
Other Special Purpose ..... (2,101,000)
State Aid and Grants:
Technology Related Assistance Project . . . (700,000)
State Aid and Grants ..... (96,595,000)
Additions, Improvements and Equipment . (1,055,000)

Total Appropriation, Department of Labor $331,487,000

66 DEPARTMENT OF LAW AND PUBLIC SAFETY
10 Public Safety and Criminal Justice
12 Law Enforcement

06-1200 State Police Operations $138,252,000
09-1020 Criminal Justice 37,400,000
Total Appropriation, Law Enforcement $175,652,000
Personal Services:
Salaries and Wages ..... ($7,076,000)
Cash in Lieu of Maintenance ..... (132,000)
Employee Benefits ..... (1,490,000)
Services Other Than Personal ..... (14,000)
Special Purpose:
Federal Highway Hazardous
Materials Transportation ..... (1,085,000)

Forensic DNA Laboratory ..... (500,000)
Domestic Marijuana Eradication
Suppression Program ..... (280,000)
D.W.I. Training ..... (49,000)
Breathalyser Training OHTS ..... (44,000)
Forensic Crime Laboratory
Improvement Program ..... (2,500,000)
Northern New Jersey Heroin and
Money Laundering ..... (200,000)
FFY01 Domestic Preparedness Grant .. (1,740,000)
BJA State Police Communications
Upgrade Grant ..... (30,000,000)
World Trade Center Victim
Counseling Grant ..... (8,600,000)
COPS MORE 2002 Grant ..... (400,000)
FEMA Pre-Disaster Mitigation Grant ... (750,000)
FFY03 Domestic Preparedness
Equipment Grant ..... (25,000,000)
FFY03 Domestic Preparedness
Communications Grant ..... (25,000,000)
FEMA State Police Emergency
Operations Center Grant ..... (25,000,000)
Domestic Preparedness Training ..... (8,000,000)
Hazardous Materials Transportation .... (350,000)
NIEHS Worker Health Safety Training ... (74,000)
Incident Command ..... (486,000)
EMPG -- Non -Terrorism ..... (3,375,000)
EMPG -- Terrorism ..... (1,000,000)
Bulletproof Vest Partnership ..... (550,000)
Community Prosecutors Block Grant . .(1,000,000)
State Aid and Grants ..... (29,241,000)
Additions, Improvements and Equipment . (1,716,000)

13 Special Law Enforcement Activities

03-1160 Office of Highway Traffic Safety $14,110,000
21-1400 Regulation of Alcoholic Beverages. 760,000
25-1421 Election Management and Coordination 12,000,000
Total Appropriation, Special Law
Enforcement Activities $26,870,000
Personal Services:
Salaries and Wages ..... ($1,479,000)
Employee Benefits ..... (265,000)
Materials and Supplies. ..... (87,000)
Services Other Than Personal ..... (702,000)
Maintenance and Fixed Charges ..... (41,000)
Special Purpose:
FHWA Program Management ..... (2,000)

Pedestrian Safety Grant ..... (154,000)
Selective Enforcement Management ..... (37,000)
Highway Safety Data Improvement Grant (125,000)
Safety Incentive Grants ..... (1,800,000)
Highway Safety -- Alcohol Education
and Public Awareness Coordinator .... (49,000)
Child Passenger Protection Education .... (250,000)
Drunk Driver Protection ..... (5,000)
Innovative Seat Belt Use ..... (800,000)
Combating Underage Drinking ..... (360,000)
Combat Underage Drinking --
Discretionary ..... (400,000)
Election Reform Grant Program ..... (12,000,000)
Other Special Purpose ..... (37,000)
State Aid and Grants
NHTSA 402 - Youthful Driver ..... (20,000)
Pedestrian Safety Grant ..... (282,000)
Safety Incentive Grants ..... (3,200,000)
Highway Safety -- Alcohol Education
and Public Awareness Coordinator ... (252,000)
School Bus Set Aside Program ..... (5,000)
Drunk Driver Prevention ..... (546,000)
Innovative Seat Belt Use ..... (100,000)
State Aid and Grants ..... (3,859,000)
Additions, Improvements and Equipment .... (13,000)

18 Juvenile Services

34-1500 Juvenile Community Programs $7,340,000
36-1505 Institutional Care and Treatment 369,000
36-1510 Institutional Care and Treatment 1,200,000
99-1500 Administration and Support Services 4,234,000
Total Appropriation, Juvenile Services $13,143,000
Personal Services:
Salaries and Wages ..... ($2,175,000)
Employee Benefits ..... (371,000)
Special Purpose:
Juvenile Mentoring Programs -
Juvenile Justice Initiative ..... (117,000)
Juvenile Accountability
Incentive Block Grant ..... (5,373,000)
Title I - Part D, Neglected
and Delinquent ..... (228,000)
Challenge Grant ..... (128,000)
Title V Funding ..... (1,500,000)
Other Special Purpose ..... (91,000)
State Aid and Grants ..... (3,157,000)

Additions, Improvements and Equipment .... (3,000)

19 Central Planning, Direction and Management

99-1000 Administration and Support Services $2,000,000
Total Appropriation, Central Planning, Direction and Management $2,000,000
Special Purpose ..... ($2,000,000)

80 Special Government Services
82 Protection of Citizens' Rights

16-1350 Protection of Civil Rights $630,000
19-1440 Victims of Crime Compensation Board 4,800,000
Total Appropriation, Protection of Citizens' Rights $5,430,000
Personal Services:
Salaries and Wages ..... ($630,000)
State Aid and Grants ..... (4,800,000)

Total Appropriation, Department of Law and Public Safety $223,095,000

67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS

10 Public Safety and Criminal Justice
14 Military Services

40-3620 New Jersey National Guard Support Services $24,942,000
99-3600 Administration and Support Services 22,000,000
Total Appropriation, Military Services $46,942,000
Personal Services:
Salaries and Wages ..... ($5,475,000)
Employee Benefits ..... (998,000)
Materials and Supplies ..... (3,655,000)
Services Other Than Personal ..... (2,577,000)
Maintenance and Fixed Charges ..... (744,000)
Special Purpose:
Federal VA Distance Learning Program . (500,000)
Facilities Support Contract ..... (3,371,000)
Army Facilities Service Contracts ..... (1,292,000)
Atlantic City Air Base -- Service Contracts ..... (478,000)
Maguire Air Force Base -- Service Contracts ..... (525,000)
Air National Guard Security Agreement -- Atlantic City ..... (182,000)
Air National Guard Security Agreement -- Maguire ..... (3,000)
Fire Fighter/Crash Rescue Service Cooperative Funding Agreement ..... (52,000)

Training Site Facilities Maintenance
Agreements ..... (16,000)
Atlantic City Operations and Maintenance . (12,000)
New Jersey National Guard Counter Drug
Program Interservice State ..... (12,000)
New Jersey National Guard Challenge
Youth Program ..... (146,000)
Combined Logistics Facility ..... (22,000,000)
Other Special Purpose ..... (1,600,000)
Additions, Improvements and Equipment . (3,304,000)

80 Special Government Services
83 Services to Veterans

20-3630 Domiciliary and Treatment Services $2,495,000
20-3640 Domiciliary and Treatment Services 1,961,000
20-3650 Domiciliary and Treatment Services 151,000
50-3610 Veterans' Outreach and Assistance 1,451,000
70-3610 Burial Services 5,300,000
99-3650 Administration and Support Services 3,953,000
Total Appropriation, Services to Veterans $15,311,000
Personal Services:
Salaries and Wages ..... ($1,008,000)
Employee Benefits ..... (91,000)
Materials and Supplies ..... 5,335,000)
Services Other Than Personal ..... (431,000)
Special Purpose:
Medicare Part A Receipts for
Resident Care and
Operational Costs ..... (2,829,000)
Menlo Adult Day Care Funds ..... (725,000)
Veterans' Education Monitoring ..... (61,000)
Transitional Housing ..... (800,000)
Other Special Purpose ..... (45,000)
Additions, Improvements and Equipment . (3,986,000)

Total Appropriation, Department of
Military and Veterans' Affairs $62,253,000

74 DEPARTMENT OF STATE

30 Educational, Cultural and Intellectual Development
36 Higher Educational Services

45-2405 Student Assistance Programs $19,671,000
80-2400 Statewide Planning and Coordination
of Higher Education 2,264,000
Total Appropriation, Higher Educational Services $21,935,000

Personal Services:
Salaries and Wages ..... ($8,961,000)
Employee Benefits ..... (2,385,000)
Materials and Supplies ..... (403,000)
Services Other Than Personal ..... (4,165,000)
Maintenance and Fixed Charges ..... (844,000)
Special Purpose:
Student Loan Administrative Cost
Deduction and Allowance ..... (244,000)
Other Special Purpose ..... (10,000)
State Aid and Grants ..... (4,023,000)
Additions, Improvements and Equipment . . .(900,000)

30 Educational, Cultural and Intellectual Development
37 Cultural and Intellectual Development Services

05-2530 Support of the Arts $785,000
06-2535 Museum Services 315,000
10-2570 Public Broadcasting Services 1,250,000
Total Appropriation, Cultural and Intellectual
Development Services $2,350,000
Personal Services:
Salaries and Wages ..... ($398,000)
Special Purpose:
Folk Art ..... (35,000)
Delaware Water Gap National
Recreational Area. ..... (104,000)
Institute of Museum Services --
General Support Grant ..... (113,000)
National Endowment for the Arts --
Museum Exhibition ..... (50,000)
National Telecommunications
Information Agency ..... (1,250,000)
State Aid and Grants:
National Endowment for the
Arts Partnership ..... (400,000)

Total Appropriation, Department of State $24,285,000

82 DEPARTMENT OF TRANSPORTATION
10 Public Safety and Criminal Justice
11 Vehicular Safety

01-6400 Motor Vehicle Services $7,308,000
Total Appropriation, Vehicular Safety $7,308,000
Special Purpose:
Motor Carrier Safety
Assistance Program ..... ($7,308,000)

60 Transportation Programs
61 State and Local Highway Facilities

02-6200	Transportation Systems Improvements -- Planning	$28,953,000
10-6300	Interstate Program	41,320,000
28-6300	Demonstration Program	99,058,348
29-6300	Congestion Mitigation and Air Quality Program	31,785,000
36-6300	National Highway System	145,175,000
37-6300	Surface Transportation Program	175,750,000
40-6300	Bridge Program	230,054,000
50-6300	Minimum Guarantee	48,830,000
55-6300	Ferry Program	8,484,005
56-6300	Recreational Trails	793,000
57-6300	National Boating Infrastructure Grant Program	4,000,000
58-6300	Public Lands Highways	2,000,000
59-6300	Emergency Repairs	3,000,000
60-6300	Redistribution	4,965,000
71-6200	Supportive Services Program	500,000
	Total Appropriation, State and Local Highway Facilities	$824,667,353

Special Purpose:

Highway Planning and Research	($15,367,000)
Metropolitan Planning Funds	(10,586,000)
New Jersey Transportation Planning Assistance	(3,000,000)
Supportive Services Highway Construction Training Program	(500,000)
Recreational Trails	(793,000)
National Boating Infrastructure Grant	(4,000,000)
Public Lands Highways, Discretionary Program	(2,000,000)
Emergency Repairs: Replace Route 46 bridge over Peckmans River, Passaic County	(3,000,000)
Redistribution: Interchange improvements at I-287 and Route 24, Morris County	(4,965,000)

Route	Section	Description	County	Amount
Special Purpose:				
		INTERSTATE PROGRAM		
1.		CONSTRUCTION		
		Interstate pavement preservation	Various	($3,000,000)
78	6J, 6K	Route I-78 eastbound and westbound, truck weigh stations	Warren	(3,000,000)

80 95	E & J	Palisades Avenue to I-95, rehabilitation and operational improvements	Bergen	(5,000,000)
80	I	Westbound local lanes from Route 17 to vicinity of Kennedy Avenue off ramp, rehabilitation and operational improvements	Bergen	(10,500,000)
295		South of County Route 561 to north of Route 38 interchange, rehabilitation	Burlington Camden	(10,000,000)
295		Klockner Road to vicinity of East State Street Extension, noise barriers	Mercer	(1,220,000)
2. DESIGN				
287		Truck weigh station, southbound	Bergen	(3,000,000)
3. FEASIBILITY ASSESSMENT				
295/42 I-76		I-295/42/I-76 interchange, proposed improvements	Camden	(1,800,000)
295		Vicinity of Tomlin Station Road to Berlin-Haddonfield Road, proposed rehabilitation/reconstruction	Gloucester Camden	(1,000,000)
4. FINAL SCOPE DEVELOPMENT				
195		Vicinity of Lakeside Drive to west of Yardville-Hamilton Square Road, proposed noise barriers	Mercer Burlington	(500,000)
295	38	Missing Moves, Mount Laurel - Route 295; vicinity of Route interchange: Route 38; vicinity of Briggs Road, proposed interchange improvements	Burlington	(1,300,000)
5. RIGHT-OF-WAY				
78		Interchange improvements at County Route 655 (Diamond Hill Road)	Union	(150,000)
80		I-80 westbound from Dewey Avenue to Ramp C, noise barriers	Passaic	(300,000)
80	20	I-80 at Route 20, interchange improvements	Passaic	(400,000)
676		Martin Luther King Boulevard: ramps, improvements	Camden	(150,000)

Special Purpose			
DEMONSTRATION PROGRAM			
1. CONCEPT DEVELOPMENT			
130	Airport Circle to County Route 541 (High Street), proposed corridor rehabilitation and operational improvements	Burlington Camden	($500,000)
2. CONSTRUCTION			
	Baldwin Avenue, intersection improvements	Hudson	(1,000,000)
	Bedminster bicycle path, Robertson Drive to I-287	Somerset	(468,700)
	Cooper Hospital helipad	Camden	(1,500,000)
CR605	County Route 523 to Route 179, roadway improvements	Hunterdon	(1,197,400)
CR641	County Route 626 to High Bridge borough line, roadway improvements	Hunterdon	(997,800)
	Delaware River aerial tram from Camden waterfront to Penns Landing, Philadelphia	Camden Philadelphia	(8,000,000)
	Delaware Water Gap Recreation Area	Warren	(1,000,000)
	Garden State Parkway, interchange improvements in Cape May	Cape May	(4,181,673)
	Halls Mill Road, reconstruction and improvement	Monmouth	(7,982,400)
	International intermodal center	Hudson Union Essex	(52,669)
	Lewisville Road, roadway improvements	Mercer	(498,900)
	Market Street, Essex Street, Rochelle Avenue/Main Street, improvements	Bergen	(3,848,754)
	Princeton Township, roadway improvements	Mercer	(498,900)
	Rosedale Road and Provinceline Road, roadway improvements	Mercer	(249,400)
	School Road East, roadway improvements	Monmouth	(1,197,400)
	Secaucus connector, Route 1&9 to New Jersey Turnpike	Hudson	(2,927,170)

		South Amboy Intermodal Center: proposed roadway, marina, and ferry slip	Middlesex	(13,316,013)
		Toms River bridge, improve traffic flow on Route 166 northbound	Ocean	(2,209,253)
		TRANSMIT program	Various	(2,500,000)
		Transportation and Community System Preservation program	Various	(4,850,000)
		Union City Intermodal Facility: Bergenline Avenue, reconstruction	Hudson	(2,000,000)
		West Deptford, bicycle trails and riverside improvements	Gloucester	(700,000)
1&9	35	South of Routes 1&9&35 to Tappan Street, interchange replacement	Middlesex	(1,400,000)
29		Delaware River bluffs, Stockton to Frenchtown	Hunterdon	(1,000,000)
46		Main Street, Lodi, operational improvements	Bergen	(3,700,000)
168	41	Route 41 to Sixth Avenue, Runnemede drainage	Camden	(500,000)
3. DESIGN				
		University Heights Connector, First Street from Sussex Avenue to West Market Street, improvements	Essex	(1,200,000)
22		Chimney Rock Road, interchange improvements	Somerset	(2,000,000)
30	130	Vicinity of Comly Avenue to north of PATCO railroad bridge, eliminate Collingswood Circle	Camden	(1,200,000)
295	42	Missing moves, Bellmawr; ramps between I-295 and Route 42	Camden	(2,000,000)
4. FEASIBILITY ASSESSMENT				
		Bergen Arches rail cut through Jersey City Palisades, needs assessment	Hudson	(5,225,000)
		CARGOMATE	Essex Union	(750,000)
		Elizabeth ferry project	Union	(500,000)
		Freehold, roadway improvements	Monmouth	(249,400)

		Kapkowski Road, North Avenue and Trumbull Street, planning study	Union	(52,669)
9	CR520	Robertsville Road, intersection improvements	Monmouth	(200,000)
17		Bridge over New York, Susquehanna and Western Railroad, proposed rehabilitation or replacement	Bergen	(203,000)
35		Eatontown, intersection improvements	Monmouth	(497,800)
71	CR547	Broad Street (Route 71) and Wyckoff Road	Monmouth	(149,670)
5. FINAL SCOPE DEVELOPMENT				
31		Flemington area congestion mitigation; Route 202 to Route 31, highway on new alignment	Hunterdon	(1,000,000)
130		Campus Drive	Burlington	(375,000)
130		Neck Road	Burlington	(375,000)
6. RIGHT-OF-WAY				
CR530		South Pemberton Road; Route 206 to County Road 644, improvements	Burlington	(2,000,000)
17	(3)	Essex Street bridge over Route 17, replacement	Bergen	(2,224,377)
30 130		Vicinity of Comly Avenue to north of PATCO bridge, eliminate Collingswood Circle	Camden	(1,000,000)
46 CR614/623	(47)	Van Houten Avenue and Grove Street, interchange improvements	Passaic	(7,980,000)
70	(4)	Bridge over Manasquan River, replacement	Monmouth Ocean	(1,600,000)
Special Purpose: CONGESTION MITIGATION AND AIR QUALITY PROGRAM				
1. CONSTRUCTION				
		Advance technology emissions reduction program	Various	($1,000,000)
		Bicycle and pedestrian facilities/accommodations	Various	(3,000,000)
		Bicycle projects, Local System	Various	(1,000,000)

	Camden City, signalized intersection upgrade	Camden	(1,050,000)
	Enhanced vehicle inspection and maintenance program	Various	(1,000,000)
	Freight program	Various	(2,000,000)
	Local air quality improvement initiatives	Various	(3,000,000)
	Smart Move program	Various	(5,000,000)
	Transportation Management Associations	Various	(3,200,000)
	Transportation Demand Management/Transit Village Program	Various	(1,000,000)
9	Northfield sidewalk replacement, Tilton Road to Ridgewood Avenue	Atlantic	(250,000)
29	Delaware River; Landing Street to Marine Terminal, pedestrian/bike path	Mercer	(5,940,000)
130	Penns Grove sidewalk replacement, various locations	Salem	(300,000)
295	South of County Route 561 to north of Route 38 interchange, rehabilitation	Burlington Camden	(2,500,000)
2. DESIGN			
80	Howard Boulevard, NJ Transit park & ride	Morris	(500,000)
3. FEASIBILITY ASSESSMENT			
	Project development, preliminary engineering	Various	(275,000)
4. FINAL SCOPE DEVELOPMENT			
29	Baldpate Mountain	Mercer	(100,000)
29	Trenton, intelligent transportation system	Mercer	(250,000)
5. PLANNING			
	Transportation Management Association program support	Various	(420,000)
Special Purpose:			
NATIONAL HIGHWAY SYSTEM			
1. CONSTRUCTION			
1, 130 6T 16E 171 1B	Route 1 and Route 130, interchange improvements	Middlesex	($21,000,000)
1	North of Garden State Parkway to Green Street, Conrail bridge replacement and roadway widening	Middlesex	(12,870,000)

1&9	35	South of Route 1&9 and Route 35 interchange to Tappan Street, replace interchange	Middlesex	(3,000,000)
4	2AC	Farview Avenue to Johnson Avenue, rehabilitation and operational improvements	Bergen	(10,000,000)
15	4C	Houses Corner Road, realignment with Route 15 and railroad grade separation	Sussex	(2,500,000)
18 Ext	2A	River Road to Hoes Lane Extension along Metlars Lane, highway on new alignment	Middlesex	(30,000,000)
27	6M	Amtrak structure over Evergreen Road, replacement	Middlesex	(10,800,000)
29		South of Lalor Street to vicinity of Cass Street, landscape improvements	Mercer	(8,600,000)
33	9A	Route 35 to Route 71 (Corlies Avenue), widening	Monmouth	(1,000,000)
33		Howell Road, Five Points Road and Oakerson Road, intersection improvements	Monmouth	(3,050,000)
46	(34)	Vicinity of Fairfield Road overpass connector to vicinity of Passaic River, cost sharing agreement	Essex	(6,800,000)
46 CR635	(46)	Browertown Road, interchange improvements	Passaic	(7,500,000)
46		Bridge over Peckmans River, replacement	Passaic	(1,200,000)
206	(39)	Old York Road and Raising Sun Road, I-295 to Route 68, operational improvements	Burlington	(1,853,000)
2. DESIGN				
18	2F 7E 11H	Vicinity of Route 1 to south of Route 27, rehabilitation and operational improvements	Middlesex	(10,000,000)
18 Ext	3A	Hoes Lane extension to Route I-287 at Possumtown Road, rehabilitation	Middlesex	(1,000,000)
73		Fox Meadow Road/ Fellowship Road, vicinity of Route 41 to Conrail bridge, operational improvements	Burlington	(3,000,000)
130	(16)	Renaissance Boulevard to		

	Adams Lane, intersection improvements	Middlesex	(300,000)
130	Bridge over Mae Brook, replacement	Middlesex	(300,000)
3. FINAL SCOPE DEVELOPMENT			
1 CR571	Route 1 in vicinity of Washington Road to Harrison Street, environmental impact statement	Mercer	(100,000)
1	Quakerbridge Road area, interim operational and safety improvements	Mercer	(500,000)
29 95	Interchange roundabout	Mercer	(500,000)
73 70	Marlton Circle, elimination	Burlington	(400,000)
4. RIGHT-OF-WAY			
1&9 (28)	Secaucus Road to Broad Avenue	Hudson Bergen	(1,100,000)
30 73	Vicinity of Berlin Circle, improvements	Camden	(7,802,000)
Special Purpose: SURFACE TRANSPORTATION PROGRAM			
1. CONCEPT DEVELOPMENT			
	Ocean view operational improvements	Cape May	($200,000)
	South Jersey Visitor Center	Salem	(100,000)
2. CONSTRUCTION			
	Accident reduction program	Various	(1,000,000)
CR635 CR537	Ark Road (CR635) and Marne Highway(CR637), intersection improvements	Burlington	(1,190,000)
	Bergen Avenue, Section II, JFK Boulevard to Montgomery Street	Hudson	(1,300,000)
	Bridge painting	Various	(9,000,000)
CR670	Buckshutem Road: Fairton-Millville Road to Cedarville Road, resurfacing	Cumberland	(300,000)
	Camden City streets, reconstruction and resurfacing	Camden	(2,294,000)
CR610	Cedarville Road: Bridgeton-Port Norris Road to Newport- Centergrove Road, resurfacing	Cumberland	(800,000)
	Churchtown Road: Route 49 to Hook Road, resurfacing	Salem	(300,000)
CR565	County Route 628 to County		

	Route 639, resurfacing	Sussex	(1,400,000)
CR646	Court House-South Dennis Road: Goshen-Swainton Road to Route 47, resurfacing	Cape May	(1,059,000)
	Disadvantaged Business Enterprises	Various	(200,000)
	Doremus Avenue: Wilson Avenue to Raymond Boulevard, reconstruction	Essex	(13,500,000)
	Drainage rehabilitation	Various	(1,000,000)
	Delaware Valley Regional Planning Commission - future projects	Various	(1,049,000)
	East Atlantic Avenue over Peter's Creek, eliminate bridge	Camden	(650,000)
	Emergency Service Patrol	Various	(7,100,000)
	Fixed object safety treatment	Various	(500,000)
CR522	Georges Road to Kingston Avenue, noise barriers; Section II	Middlesex	(750,000)
	Gloucester County, bus purchase	Gloucester	(60,000)
	Gloucester County, resurface various routes	Gloucester	(1,500,000)
	Gloucester County, sign management system	Gloucester	(850,000)
	Gloucester County, multi-purpose trail	Gloucester	(240,000)
	Hamden Road bridge, bicycle/pedestrian improvements	Hunterdon	(250,000)
CR549	Herbertsville Road, Route 70 to Monmouth County border, roadway improvements	Ocean	(600,000)
	Hunterdon County, historic bridge preservation program	Hunterdon	(400,000)
	Intersection improvement program	Various	(2,000,000)
	JFK Boulevard, Section XIII, Neptune Avenue to Communipaw Avenue, roadway improvements	Hudson	(850,000)

CR620	King's Highway: Pointers-Auburn Road to Nimrod Road, resurfacing	Salem	(600,000)
CR527	Main Street, Maple Avenue to Franklin corporate line, roadway improvements	Somerset	(300,000)
	Market Street and Elizabeth Avenue, resurfacing	Essex	(3,000,000)
	Monmouth County sidewalk safety program	Monmouth	(1,400,000)
	Montclair/Secaucus Line, station revitalization	Various	(1,000,000)
	Motor vehicle accident record processing	Various	(2,000,000)
CR615N	Northeast Boulevard: Park Avenue to Weymouth Road, resurfacing	Cumberland	(650,000)
	Pre-apprenticeship training for minorities and females	Various	(1,000,000)
	Quality assurance	Various	(600,000)
	Rail-highway grade crossing program, Cape May Seashore Lines	Cape May	(750,000)
	Rail-highway grade crossing program	Various	(4,500,000)
	Restriping program	Various	(4,500,000)
	Resurfacing program	Various	(1,000,000)
	Safety management system	Various	(5,400,000)
CR585	Shore Road: Ocean Heights Avenue to Goll Road, resurfacing	Atlantic	(600,000)
	South East Boulevard: Elmer Road to Walnut Street, resurfacing	Cumberland	(132,000)
	Spring Road: Landis Avenue to Maple Avenue and Magnolia Road to Chestnut Avenue, resurfacing	Cumberland	(455,000)
CR619	Stuyvesant Avenue, South Orange Avenue to Union County line, roadway improvements	Essex	(4,000,000)
	Traffic operations centers	Various	(6,100,000)
	Transportation Demand Management/Smart Moves Program	Various	(1,700,000)
	Transportation		

		Enhancements	Various	(10,000,000)
		Transportation grants	Various	(1,000,000)
		Union County resurfacing, FY2003	Union	(2,700,000)
		Union County traffic signal modernization, Rahway	Union	(3,150,000)
		Utility reconnaissance and relocation	Various	(1,000,000)
		Warren County sign management	Warren	(300,000)
		Washington Street bridge over Jersey City reservoir, replacement	Morris	(7,910,000)
		Youth employment and TRAC programs	Various	(550,000)
1		Pedestrian bridge over Delaware and Raritan Canal	Mercer	(3,784,000)
9W		Vicinity of Montammy Drive to New York State Line, rehabilitation	Bergen	(230,000)
21		Newark waterfront, community access study	Essex	(500,000)
35	5H	Hollow Brook culvert and channel, culvert replacement	Monmouth	(1,590,000)
40	(2)	Malaga Lake Dam over Scotland Run, replacement	Gloucester	(400,000)
71		Route 71 intersection with Wall Street, improvements	Monmouth	(1,970,000)
130		Vicinity of Pochack Creek culvert, drainage improvements	Camden	(5,940,000)
206		Kittatiny Brook to south of Struble Road, intersection improvements at entrance to Stokes State Park	Sussex	(2,520,000)
3. DESIGN				
		Atlantic County, highway resurfacing	Atlantic	(230,000)
		Routes 40, 42, 206 and 676: drainage improvements	Camden Gloucester Burlington Salem	(840,000)
CR625		Sea Isle Boulevard, Phase II; reconstruction between Garden State Parkway and		

	Ludlam's Thorofare	Cape May	(425,000)
CR615S	Vineland Boulevards, Phase I: signalization and reconstruction at Sherman Avenue	Cumberland	(200,000)
9	Interchange at Garden State Parkway Exit 127A (southbound), drainage improvement	Middlesex	(100,000)
22	Vicinity of Crab Brook and North Drive, drainage improvements	Somerset	(400,000)
22	Vicinity of Evergreen Court, drainage improvements	Union	(450,000)
22	Vosseller Avenue, drainage improvements	Somerset	(250,000)
23	Silver Grove Road to Holland Road, improvements	Sussex	(1,000,000)
29	Various locations between Old River Road and Lambertville, drainage improvements	Hunterdon	(300,000)
30	Operational improvements in Absecon area	Atlantic	(500,000)
30	Intersection at Clementon Road and Gibbsboro Road, safety improvements	Camden	(400,000)
30 CR575	Intersection improvements at Pomona Road	Atlantic	(500,000)
34 CR537	Route 34 and County Route 537, intersection improvements	Monmouth	(1,000,000)
35 36	Eatontown, intersection improvements	Monmouth	(500,000)
35	Curtis Point Drive to Delaware Avenue, drainage and shoulder improvements	Ocean	(1,630,000)
36	Vicinity of Flat Creek, drainage improvements	Monmouth	(930,000)
38	Vicinity of Cherry Hill Mall, pedestrian bridge replacement	Camden	(300,000)
46	Bridge over tributary to Delaware River, replacement	Warren	(350,000)

72	East Road: Garden State Parkway to Route 9, operational improvements	Ocean	(1,300,000)
82	Garden State Parkway to midtown Elizabeth: landscape, urban design and intersection improvements	Union	(1,000,000)
94	Drainage improvements in Hardyston and Vernon Townships	Sussex	(500,000)
130	Northbound and southbound bridges over abandoned Kinkora Branch rail line: removal; construct new roadway	Burlington	(300,000)
173	Lakeview Avenue to New Street, rehabilitation	Hunterdon	(600,000)
202	Intersection improvements at Case Boulevard	Hunterdon	(700,000)
206	Vicinity of Arreton Road, drainage improvements	Mercer	(250,000)
4. PLANNING			
	Metropolitan planning	Various	(506,000)
5. FEASIBILITY ASSESSMENT			
CR581	Commissioner's Pike, Route 40 to Gloucester County line	Salem	(250,000)
	Delaware Valley Regional Planning Commission, project development	Various	(2,000,000)
	North Jersey Transportation Planning Authority, project development	Various	(2,000,000)
	Portway	Union Essex Hudson	(5,000,000)
6. FINAL SCOPE DEVELOPMENT			
CR613	Breakwater Road: Route 9 to Seashore Road, proposed extension	Cape May	(450,000)
	Chestnut Street over Amtrak, proposed rehabilitation/ replacement	Mercer	(500,000)
	Delaware River Heritage Trail	Mercer Burlington	(50,000)

		East State Street bridge over Conrail, proposed replacement/ rehabilitation	Mercer	(500,000)
CR551		King's Highway and Berkley Road, proposed intersection improvements	Gloucester	(50,000)
		Maintenance management system	Various	(1,170,000)
		Monmouth Street bridge over Amtrak, proposed rehabilitation/replacement	Mercer	(500,000)
		Delaware Valley Regional Planning Commission - geographic information systems	Various	(256,000)
		Whistle ban demonstration program	Various	(250,000)
9		Bennetts Crossing, proposed intersection improvements	Cape May	(500,000)
9	109	Intersection improvements at Route 109	Cape May	(150,000)
9 CR563		Tilton Road at Route 9, safety and operational improvements	Atlantic	(200,000)
29		Guiderails	Hunterdon Mercer	(100,000)
29		Roadside enhancements	Hunterdon Mercer	(100,000)
29		Rockfall mitigation	Hunterdon Mercer	(100,000)
29		Utility relocation	Hunterdon Mercer	(100,000)
30	130	Vicinity of Cooper River bridge at Park Drive to 200 feet north of PATCO railroad bridge	Camden	(1,000,000)
30		Cooper River, drainage improvement	Camden	(450,000)
40	(4)	Route 77 to Elmer Lake, rehabilitation	Salem	(100,000)
47		Intersection at Chapel Heights Avenue and East Holly Avenue, improvements; bridge over Mantua Creek, rehabilitation	Gloucester	(350,000)
48		Game Creek bridge, proposed replacement	Salem	(500,000)

130	33	Intersections of Hankins Road and Conover Road, study	Mercer	(500,000)
206		Atsion Lake dam, rehabilitation	Burlington	(400,000)
206		Vicinity of Jack's Run, drainage improvements	Burlington	(200,000)
7. RIGHT-OF-WAY				
CR617		Sussex Turnpike: Route 10 to West Hanover Avenue, reconstruction	Morris	(200,000)
1&9		Haynes Avenue over Waverly Yards and Haynes Avenue over Amtrak, bridge replacements; southbound ramps at Haynes Avenue, safety and operational improvements	Essex	(4,000,000)
9		Intersection at Crest Haven		
CR609		Road (CR 609), operational improvements	Cape May	(200,000)
9W		Vicinity of Montammy Drive to New York State Line, rehabilitation	Bergen	(50,000)
28		West Broad Street to Prospect Street, operational improvements	Union	(200,000)
31		Intersection improvements at	Mercer	
CR518		County Route 518	Hunterdon	(1,100,000)
33		Intersection improvements at Halls Mill Road and Kozlozki Road	Monmouth	(1,000,000)
44		Vicinity of Fowler Lane, drainage improvements	Gloucester	(400,000)
46		Bridge over tributary to Delaware River, replacement	Warren	(40,000)
57	1B	Bridge over Merill's Creek, replacement	Warren	(1,000,000)
73		Copper Folly Road to Fellowship Road, median closings	Camden Burlington	(50,000)
173		Lakeview Avenue to New Street, rehabilitation	Hunterdon	(100,000)
206		Cat Swamp Mountain, safety and operational improvements	Sussex	(550,000)

Special Purpose:			
BRIDGE PROGRAM			
1. CONSTRUCTION			
	Bridge inspection, local bridges	Various	($7,770,000)
	Bridge inspection, State bridges	Various	(16,700,000)
	Bridge scour	Various	(4,000,000)
CR581	Kelly's Sawmill Bridge, Alloway-Mullica Hill Road over Alloway Creek, bridge replacement	Salem	(1,500,000)
CR528	Mantoloking Bridge over Barnegat Bay, bridge replacement	Ocean	(10,000,000)
	Race Street bridge over South Branch of Rancocas Creek	Burlington	(3,500,000)
	Toms River bridge, improve traffic flow on Route 166 northbound	Ocean	(800,000)
1 and 9 3 (24)	Routes 1&9 over Amtrak, bridge replacement; modify Routes 1&9 and Route 3 merge	Hudson	(9,500,000)
1&9	New structure over Rahway River	Union	(3,000,000)
1&9T (25)	St. Paul's Avenue bridge over St. Paul's Avenue and Conrail, replacement	Hudson	(7,000,000)
9 1M	Rehabilitate existing bridge over Raritan River	Middlesex	(21,433,000)
9 17B	Bridge over Bass River, replacement	Burlington	(13,116,000)
9 23	Bridge over County Route 522 and Conrail, replacement	Monmouth	(13,365,000)
9 35 25C, 25L	Grade separated interchange at Routes 9 and 35, eliminate Victory Circle	Middlesex	(7,400,000)
35 12T	Victory Bridge over Raritan River, replacement	Middlesex	(28,000,000)
49 2A	Bridge over Salem River	Salem	(16,800,000)
2. DESIGN			
	Bridge deck replacement, Delaware Valley Regional Planning Commission	Various	(1,000,000)

		Buckshutem Road bridge at Laurel Lake, rehabilitation	Cumberland	(250,000)
CR538		Coles Mill Road over Scotland Run, rehabilitation or replacement	Gloucester	(150,000)
CR646		Delilah Road over Water Mains to Delilah Road/Route 30 interchange, replacement	Atlantic	(750,000)
CR616		Hanover Street over Rancocas Creek, replacement	Burlington	(200,000)
		Sanatorium Road over Spruce Run, replacement	Hunterdon	(500,000)
CR684		Smithville Road over Rancocas Creek, replacement or rehabilitation	Burlington	(100,000)
		West Mountain Road bridge over New York, Susquehanna, and Western Railroad, replacement	Sussex	(500,000)
1	6V	North of Ryders Lane to south of Milltown Road, replacement	Middlesex	(2,000,000)
1& 9	(6)	Magnolia Avenue bridge over Route 1&9, replacement	Union	(1,500,000)
1&9T	(25)	St. Paul's Avenue bridge over St. Paul's Avenue and Conrail, replacement	Hudson	(6,000,000)
3		Bridge over Passaic River, replacement; vicinity of Main Avenue to Route 17, service road operational improvements	Bergen Passaic	(3,500,000)
27	6L	Conrail Port Reading Branch bridge, improvement	Middlesex	(450,000)
27		Lake Avenue over abandoned South Plainfield Branch Line, replacement	Middlesex	(150,000)
50	2E, 3B	Tuckahoe River bridge, vicinity of Marshall Avenue to Main Street, replacement and roadway improvements	Cape May Atlantic	(1,500,000)
52		Bridges over Beach Thorofare, Rainbow Channel, Elbow Thorofare, and Ship Channel,		

		replacement; eliminate Somers Point Circle	Cape May Atlantic	(8,000,000)
56		Bridge over Maurice River, replacement	Salem Cumberland	(400,000)
70		Bridge over Bisphams Mill Creek, replacement	Burlington	(375,000)
179		Bridge over Alexauken Creek	Hunterdon	(400,000)
206	(41)	Bridge over Crusers Brook, replacement	Somerset	(200,000)
3. FEASIBILITY ASSESSMENT				
		Project development, preliminary engineering	Various	(2,000,000)
4. FINAL SCOPE DEVELOPMENT				
		Bridge management system	Various	(300,000)
		Final scope development, North Jersey Transportation Planning Authority	Various	(2,000,000)
		Frankfurt Avenue over Atlantic City Line, proposed elimination	Atlantic	(500,000)
		Maple Avenue (Pennsauken)/ Chapel Avenue, NJ Transit bridges	Camden	(100,000)
CR621		Ocean Drive over Middle Thorofare, proposed replacement; bridges over Mill Creek and Upper Thorofare, proposed replacement; Ocean Drive from Route 109 to Upper Thorofare bridge, proposed roadway improvement	Cape May	(250,000)
		Smithville - Port Republic Road bridge over Nacote Creek, proposed reconstruction	Atlantic	(500,000)
CR557		Tuckahoe Road bridge over Cape May Branch (Jim Lee Crossing), proposed replacement	Atlantic	(500,000)
CR699		United States Avenue bridge over Atlantic City Line	Camden	(100,000)
33		Bridge over Conrail, proposed replacement	Mercer	(500,000)
54		Route 322 to Cape May Point Branch bridge	Atlantic	(700,000)

49	Bridge over Cohansey River, replacement	Cumberland	(700,000)
130	Bridge over Raccoon Creek, proposed rehabilitation or replacement	Gloucester	(600,000)
5. RIGHT-OF-WAY			
CR521	Hope Road bridge over Lackawanna Cutoff, rehabilitation	Warren	(820,000)
CR607	Tomlin Station Road bridge over Nehonsey Brook and White Sluice Race, replacement	Gloucester	(300,000)
	Wilson Road bridge over tributary from Bell's Lake to South Branch Timber Creek, replacement	Gloucester	(75,000)
1&9T (25)	Bridge over St. Paul's Avenue and Conrail, replacement	Hudson	(25,000,000)
139	12th Street Viaduct and 14th Street Viaduct, rehabilitation	Hudson	(2,300,000)
139	Hoboken Viaduct and Conrail Viaduct, rehabilitation	Hudson	(1,000,000)
Special Purpose: MINIMUM GUARANTEE			
1. CONSTRUCTION			
	State Police enforcement and safety services	Various	($3,000,000)
	Incident and congestion management, operational support	Various	(2,600,000)
41 1A2A 42Fwy 14M	Singley Avenue to Cooper Street, operational improvements	Gloucester Camden	(8,330,000)
47 4D, 5E	Bridge over Dennis Creek, replacement; intersection improvements	Cape May	(3,300,000)
47 40	Route 47: New Street to Marshall Mill Road; Route 40: Old Delsea Drive to Morris Avenue, roadway improvement and bridge replacement	Gloucester	(2,060,000)

47	Vicinity of Sharp Street to vicinity of Sherman Avenue, operational improvements	Cumberland	(300,000)
2. DESIGN			
	Emerging projects	Various	(1,000,000)
35	6th Street to Curtis Point Drive, drainage and shoulder restoration	Ocean	(1,240,000)
3. FEASIBILITY ASSESSMENT			
	Project development, preliminary engineering	Various	(2,500,000)
4. FINAL SCOPE DEVELOPMENT			
	Final scope development, North Jersey Transportation Planning Authority	Various	(15,000,000)
	Pavement management system	Various	(3,000,000)
5. PLANNING			
	Traffic monitoring system	Various	(6,500,000)
Special Purpose			
FERRY PROGRAM			
1. CONSTRUCTION			
	Ferry program	Various	(8,484,005)

In order to provide the department with the flexibility to administer appropriations of federal funds, the commissioner may use moneys from the federal programs identified hereinabove as Interstate Program, Demonstration Program, Congestion Mitigation and Air Quality Program, National Highway System, Surface Transportation Program, Bridge Program, Minimum Guarantee, Ferry Program, Recreational Trails, National Boating Infrastructure Grant Program, and Public Lands Highways to finance the cost of the construction, design, right-of-way, planning, and project development phases of work of any project listed under any federal program pursuant to the following transfer provisions. The Commissioner of Transportation may transfer federal funds among projects having the same phase of work, subject to the approval of the Director of the Division of Budget and Accounting. The commissioner shall apply to the Director of the Division of Budget and Accounting for permission to transfer federal funds among projects having different phases of work. If the Director of the Division of Budget and Accounting shall consent thereto, the request to transfer federal funds among projects having different phases of work shall be transmitted to the Legislative Budget and Finance Officer for approval or disapproval and returned to the Director of the Division of Budget and Accounting. The Joint Budget Oversight Committee or its successor shall be empowered to review all transfers submitted to the Legislative Budget and Finance Officer and may direct the Legislative Budget and Finance Officer to approve or disapprove any transfer.

62 Public Transportation

29-6310	Congestion Mitigation and Air Quality Program .	$65,000,000
96-6310	Federal Transit Administration	419,870,000
	Total Appropriation, Public Transportation	$484,870,000

CONGESTION MITIGATION AND AIR QUALITY PROGRAM		
Bus acquisition program	Various	($13,700,000)
Bus support facilities and equipment	Various	(2,420,000)
Clean Air programs	Various	(2,720,000)
Emission control/ rebuilt engines: retrofit bus fleet	Various	(1,000,000)
Hudson - Bergen Light Rail Transit System, Minimum Operating Segment I	Hudson Bergen	(15,000,000)
Private carrier equipment program	Various	(9,000,000)
Rail rolling stock procurement	Various	(13,800,000)
Rail support facilities and equipment	Various	(7,360,000)
Special Purpose:		
FEDERAL TRANSIT ADMINISTRATION:		
Bridge and tunnel rehabilitation	Various	($14,570,000)
Building capital leases	Various	(9,150,000)
Bus support facilities and equipment	Various	(4,320,000)
Cumberland County bus program	Cumberland	(653,000)
Hoboken Terminal / Yard rehabilitation	Hudson	(7,340,000)
Hudson-Bergen Light Rail Transit System, Minimum Operating Segment I	Hudson Bergen	(20,000,000)
Hudson-Bergen Light Rail Transit System, Minimum Operating Segment II	Hudson Bergen	(50,000,000)
Job Access and Reverse Commute Program	Various	(3,000,000)
Main/Bergen/Pascack Valley Lines upgrade	Bergen Passaic	(12,110,000)
Major bridge program	Various	(1,000,000)
Newark-Elizabeth Rail Link, Minimum Operating Segment I	Essex Union	(60,000,000)
Preventive maintenance- bus	Various	(96,150,000)
Preventive maintenance - rail	Various	(93,050,000)
Rail fleet overhaul	Various	(19,010,000)
Rail rolling stock procurement	Various	(6,400,000)
Rail support facilities and equipment	Various	(2,000,000)
Section 5310 Program: purchase buses and small vans for services to elderly and disabled persons	Various	(1,985,000)
Section 5310 Program: purchase buses and small vans for services to elderly and disabled persons	Burlington	(108,000)

Section 5310 Program: purchase buses and small vans for services to elderly and disabled persons	Camden	(158,000)
Section 5310 Program: purchase buses and small vans for services to elderly and disabled persons	Gloucester	(168,000)
Section 5310 Program: purchase buses and small vans for services to elderly and disabled persons	Mercer	(108,000)
Section 5311 Program: rural public transportation program	Various	(2,291,000)
Section 5311 Program: rural public transportation program	Burlington	(242,000)
Section 5311 Program: rural public transportation program	Camden	(27,000)
Section 5311 Program: rural public transportation program	Gloucester	(91,000)
Section 5311 Program: rural public transportation program	Mercer	(189,000)
Signals and communications/electric traction systems	Various	(1,500,000)
Track program	Various	(14,000,000)
Transit enhancements	Various	(250,000)

64 Regulation and General Management

05-6070 Access and Use Management $21,000,000
Total Appropriation, Regulation and General Management $21,000,000
Special Purpose:
Aviation Block Grant Program ... ($21,000,000)

Total Appropriation, Department of Transportation $1,337,845,353

The unexpended balances of federal appropriations as of June 30, 2002 in this department are appropriated for expenditure on previously and currently authorized projects.

82 DEPARTMENT OF THE TREASURY

50 Economic Planning, Development and Security

52 Economic Regulation

54-2007 Utility Regulation $600,000
56-2014 Energy Resource Management 2,025,000
Total Appropriation, Economic Regulation $2,625,000
Personal Services:
Salaries and Wages ..... ($1,117,000)
Employee Benefits ..... (323,000)

Materials and Supplies ..... (26,000)
Services Other Than Personal ..... (427,000)
Maintenance and Fixed Charges ..... (90,000)
Special Purpose:
Division of Gas Expansion ..... (600,000)
Diamond Shamrock Administration ..... (42,000)

80 Special Government Services
82 Protection of Citizens' Rights

57-2048 Trial Services to Indigents and Special Programs . $1,228,000
58-2022 Mental Health Screening Services 223,000
Total Appropriation, Protection of Citizens' Rights $1,451,000
Personal Services:
Salaries and Wages ..... ($290,000)
Employee Benefits ..... (15,000)
Materials and Supplies ..... (1,000)
Special Purpose:
State Legal Services Office ..... (7,000)
State Aid and Grants ..... (1,138,000)

Total Appropriation, Department of the Treasury $4,076,000

98 THE JUDICIARY

10 Public Safety and Criminal Justice
15 Judicial Services

04-9725 Criminal Courts $100,000
05-9730 Family Courts 3,968,000
05-9813 Family Courts 1,138,000
05-9823 Family Courts 1,002,000
05-9833 Family Courts 560,000
05-9843 Family Courts 852,000
05-9853 Family Courts 1,176,000
05-9863 Family Courts 1,172,000
05-9873 Family Courts 1,271,000
05-9883 Family Courts 847,000
05-9893 Family Courts 607,000
05-9903 Family Courts 705,000
05-9913 Family Courts 1,432,000
05-9923 Family Courts 888,000
05-9933 Family Courts 665,000
05-9943 Family Courts 467,000
05-9953 Family Courts 1,373,000
07-9740 Probation Services 6,669,000
07-9814 Probation Services 2,029,000
07-9824 Probation Services 2,238,000
07-9834 Probation Services 2,059,000

07-9844 Probation Services	3,510,000
07-9854 Probation Services	5,295,000
07-9864 Probation Services	2,938,000
07-9874 Probation Services	2,077,000
07-9884 Probation Services	1,885,000
07-9894 Probation Services	2,109,000
07-9904 Probation Services	1,233,000
07-9914 Probation Services	2,166,000
07-9924 Probation Services	2,098,000
07-9934 Probation Services	1,745,000
07-9944 Probation Services	1,509,000
07-9954 Probation Services	2,931,000
Total Appropriation, Judicial Services	$60,714,000
Personal Services:	
Salaries and Wages	($38,312,000)
Employee Benefits	(9,843,000)
Materials and Supplies	(1,229,000)
Services Other Than Personal	(2,697,000)
Maintenance and Other Fixed Charges	(152,000)
Special Purpose:	
Drug Court -- OJP -- Direct	(100,000)
NJ State Court Improvement Grant	(164,000)
State Access and Visitation Program	(84,000)
Juvenile Drug Court Grant	(1,425,000)
Juvenile Mentoring Program (JUMP)	(200,000)
State Aid and Grants	(6,076,000)
Additions, Improvements and Equipment	(432,000)
Total Appropriation, Judiciary	$60,714,000
Total Appropriation, Federal Funds	$9,039,270,353

Notwithstanding any State law to the contrary, no State agency shall accept or expend federal funds except as appropriated by the Legislature or otherwise provided in this act.

In addition to the federal funds appropriated in this act, there are appropriated the following federal funds, subject to allotment by the Director of the Division of Budget and Accounting: emergency disaster aid funds; pass-through grants to political subdivisions of the State over which the State is not permitted to exercise discretion in the use or distribution of the funds and for which no State matching funds are required; the first 25 percent of unanticipated grant awards, and up to 25 percent of increases in previously anticipated grant awards for which no State matching funds are required except, for the purpose of this section, federal funds received by one executive agency that are ultimately expended by another executive agency shall not be considered pass-through grants; federal financial aid funds for students attending post-secondary educational institutions in excess of the amount specifically appropriated, provided however, that the Director of

the Division of Budget and Accounting shall notify the Legislative Budget and Finance Officer of such grants; and all other grants of $500,000 or less which have been awarded competitively.

For the purposes of federal funds appropriations, "political subdivisions of the State" means counties, municipalities, school districts, or agencies thereof, regional, county or municipal authorities, or districts other than interstate authorities or districts; "discretion" refers to any action in which an agency may determine either the amount of funds to be allocated or the recipient of the allocation; and "grants" refers to one-time, or time limited awards, which are received pursuant to submission of a grant application in competition with other grant applications.

The unexpended balances of federal funds as of June 30, 2002 are continued for the same purposes. The Director of the Division of Budget and Accounting shall inform the Legislative Budget and Finance Officer by November 1, 2002 of any unexpended balances which are continued.

The appropriate executive agencies shall prepare and submit to the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or their successors, by March 1, 2003, reports on proposed expenditures during fiscal year 2003 for the following federal programs: the alcohol, drug abuse and mental health block grant; the education block grant; the community services block grant; the jobs training partnership block grant; the low income energy assistance block grant; the maternal and child health block grant; the preventive health and health services block grant; the small cities block grant; the social services block grant; and the child care block grant. These reports shall account for all federal, State and local funds which are anticipated to be expended on block grant programs, shall provide an accounting of block grant expenditures during the prior fiscal year, and shall provide a detailed list of contracts awarded to provide services under the block grants.

Out of the appropriations herein, the Director of the Division of Budget and Accounting is empowered to approve payments to liquidate any unrecorded liabilities for materials delivered or services rendered in prior fiscal years, upon the written recommendations of any department head or the department head's designated representative. The Director of the Division of Budget and Accounting shall reject any recommendations for payment which the director deems improper.

The sum herein appropriated to the Department of Transportation for the Hudson-Bergen Light Rail Transit System is hereby appropriated, to the extent necessary, to pay the principal of and interest on the grant anticipation notes issued by the New Jersey Transit Corporation.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the General Medical Services program classification, and within the federal matching funding, in the Division of Medical Assistance and Health Services in the Department of Human Services, and within the Medical Services for the Aged program classification, and within the federal matching funding, in the Division of Senior Services in the Department of Health and Senior Services, subject to the approval of the Director

of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Grand Total Appropriation, All Funds $32,441,012,353

2. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting and with the approval of the Legislative Budget and Finance Officer, private contributions, revolving funds and dedicated funds received, receivable or estimated to be received for the use of the State or its agencies in excess of those anticipated, unless otherwise provided herein, and the unexpended balances as of June 30, 2002 of such funds, subject to the approval of the Director of the Division of Budget and Accounting.

3. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting, the following: sums required to refund amounts credited to the State Treasury which do not represent State revenue; sums received representing insurance to cover losses by fire and other casualties and the unexpended balance as of June 30, 2002 of such sums; sums received by any State department or agency from the sale of equipment, when such sums are received in lieu of trade-in value in the replacement of such equipment; and sums received in the State Treasury representing refunds of payments made from appropriations provided in this act.

4. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting, sums required to satisfy receivables previously established from which non-reimbursable costs and ineligible expenditures have been incurred.

5. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting, from federal or other non-State sources amounts not to exceed the cost of services necessary to document and support retroactive claims.

6. There are appropriated such sums as may be required to pay interest liabilities to the federal government as required by the Treasury/State agreement pursuant to the provisions of the Cash Management Improvement Act of 1990, Pub.L.101-453 (31 U.S.C. s.6501 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

7. There are appropriated, subject to the approval of the Director of the Division of Budget and Accounting, from interest earnings of the various bond funds such sums as may be necessary for the State to comply with the federal "Tax Reform Act of 1986," Pub.L.99-514 (26 U.S.C. s.1 et seq.), which requires issuers of tax-exempt debt obligations to rebate any arbitrage earnings to the federal government.

8. There are appropriated from the General Fund, subject to the approval of the Director of the Division of Budget and Accounting, such sums as are necessary to pay interest, at the average rate of earnings during the fiscal year from the State's general investments, to those bond funds that have borrowed money from the General Fund or other bond funds and that have insufficient resources to accrue and pay the interest expense on such borrowing.

9. In addition to the amounts appropriated hereinabove, such additional sums as may be necessary are appropriated to fund the costs of the collection of debts, taxes and other fees and charges owed to the State, including but not limited to the services of auditors and attorneys and enhanced compliance programs, subject to the approval of the Director of the Division of Budget and Accounting.

10. There is appropriated $11,600,000 from the Legal Services Trust Fund established pursuant to section 6 of P.L.1996, c.52 (C.22A:2-51), for transfer to the General Fund as State revenue to fund the following programs: $8,000,000 for Legal Services of New Jersey grant, $3,000,000 for ten additional judgeships in the Judiciary, and $600,000 for Clinical Legal Programs for the Poor at the Rutgers-Camden Law School, the Rutgers-Newark Law School and Seton Hall Law School.

11. The unexpended balances as of June 30, 2002 in the accounts of the several departments and agencies heretofore appropriated or established in the category of Additions, Improvements and Equipment are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

12. The unexpended balances as of June 30, 2002 in the Capital Construction accounts for all departments and agencies are appropriated.

13. Unless otherwise provided, balances remaining as of June 30, 2002 in accounts of appropriations enacted subsequent to April 1, 2002 are appropriated.

14. The unexpended balances as of June 30, 2002 in accounts that are funded by Interfund Transfers are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

15. The unexpended balances as of June 30, 2002 in accounts of items of appropriations that are funded by items of appropriations in P.L.2001, c.130 that were not recommended in the Fiscal Year 2002 Governor's Budget Recommendation Document, and that required the submission of the Division of Budget and Accounting Special Purpose Funding form, are appropriated.

16. Notwithstanding any other provisions in this act, no unexpended balances as of June 30, 2002 are appropriated without the approval of the Director of the Division of Budget and Accounting, except that the Legislative Branch of State government shall be exempt from this provision. The Director of the Division of

Budget and Accounting shall notify the Legislative Budget and Finance Officer of those instances in which unexpended balances are not appropriated pursuant to this section.

17. The administrative costs of the Special Education Medicaid Initiative and the Early Periodic Screening, Diagnosis and Treatment (EPSDT) program, including the participation of a consultant, are appropriated and shall be paid from the revenue received, subject to the approval of the Director of the Division of Budget and Accounting.

18. The following transfer of appropriations rules are in effect for fiscal year 2003:

a. To permit flexibility in the handling of appropriations, any department or agency that receives an appropriation by law, may, subject to the provisions of this section, or unless otherwise provided in this act, apply to the Director of the Division of Budget and Accounting for permission to transfer funds from one item of appropriation to a different item of appropriation. For the purposes of this section, "item of appropriation" means the spending authority identified by an organization code, appropriation source, and program code, unique to the item. If the director consents to the transfer, the amount transferred shall be credited by the director to the designated item of appropriation and notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer. However, the director, after consenting thereto, shall submit the following transfer requests to the Legislative Budget and Finance Officer for legislative approval or disapproval unless otherwise provided in this act:

(1) Requests for the transfer of State and other nonfederal funds, in amounts greater than $300,000, to or from any item of appropriation;

(2) Requests for the transfer of State and other nonfederal funds, in amounts greater than $50,000, to or from any Special Purpose account, as defined by major object 5, or Grant account, as defined by major object 6, within an item of appropriation, from or to a different item of appropriation;

(3) Requests for the transfer of State and other nonfederal funds, in amounts greater than $50,000, to or from any Special Purpose or Grant account in which the identifying organization code, appropriation source, and program code, remain the same, provided that the transfer would effect a change in the legislative intent of the appropriations;

(4) Requests for the transfer of State funds, in amounts greater than $50,000, between items of appropriation in different departments or between items of appropriation in different appropriation classifications herein entitled as Direct State Services, Grants-In-Aid, State Aid, Capital Construction and Debt Service;

(5) Requests for the transfer of federal funds, in amounts greater than $300,000, from one item of appropriation to another item of appropriation, if the amount of the transfer to an item in combination with the amount of the appropriation to that item would result in an amount in excess of the appropriation authority for that item, as defined by the program class;

(6) Requests for such other transfers as are appropriate in order to ensure compliance with the legislative intent of this act.

b. The Joint Budget Oversight Committee or its successor may review all transfer requests submitted for legislative approval and may direct the Legislative Budget and Finance Officer to approve or disapprove any such transfer request. Transfers submitted for legislative approval pursuant to paragraph (4) of subsection a. of this section shall be made only if approved by the Legislative Budget and Finance Officer at the direction of the committee.

c. The Legislative Budget and Finance Officer shall approve or disapprove requests for the transfer of funds submitted for legislative approval within 10 working days of the physical receipt thereof and shall return them to the director. If any provision of this act or any supplement thereto requires the Legislative Budget and Finance Officer to approve or disapprove requests for the transfer of funds, the request shall be deemed to be approved by the Legislative Budget and Finance Officer if, within 20 working days of the physical receipt of the request, he has not disapproved the request and so notified the requesting officer. However, this time period shall not pertain to any transfer request under review by the Joint Budget Oversight Committee or its successor, provided notice of such review has been given to the director.

d. No amount appropriated for any capital improvement shall be used for any temporary purpose except extraordinary snow removal or extraordinary transportation maintenance subject to the approval of the Director of the Division of Budget and Accounting. However, an amount from any appropriation for an item of capital improvement may be transferred to any other item of capital improvement subject to the approval of the director, and, if in an amount greater than $300,000, subject to the approval of the Legislative Budget and Finance Officer.

e. The provisions of subsections a. through d. of this section shall not apply to appropriations made to the Legislative or Judicial branches of State government. To permit flexibility in the handling of these appropriations, amounts may be transferred to and from the various items of appropriation by the appropriate officer or designee with notification given to the director on the effective date thereof.

f. Notwithstanding any provisions of this section to the contrary, transfers to and from the Special Purpose appropriation to the Governor for emergency or necessity under the Other Inter-Departmental Accounts program classification and transfers from the appropriations to the various accounts in the category of Salary Increases and Other Benefits, both in the Inter-Departmental Accounts, shall not be subject to legislative approval or disapproval.

19. The Director of the Division of Budget and Accounting shall make such correction of the title, text or account number of an appropriation necessary to make such appropriation available in accordance with legislative intent. Such correction shall be by written ruling, reciting in appropriate detail the facts thereof, and reasons therefor, attested by the signature of the Director of the Division of Budget and Accounting and filed in the Division of Budget and Accounting of the Department of the Treasury as an official record thereof, and any action thereunder, including disbursement and the audit thereof, shall be legally binding and of full force and virtue. An official copy of each such written ruling shall be transmitted to the Legislative Budget and Finance Officer, upon the effective date of the ruling.

20. The Legislative Budget and Finance Officer with the cooperation and assistance of the Director of the Division of Budget and Accounting is authorized to adjust this appropriations bill to reflect any reorganizations which have been implemented since the presentation of the Governor's Budget Recommendation Document dated March 26, 2002.

21. None of the funds appropriated to the Executive Branch of State government for Information Processing, Development, Telecommunications, and Related Services and Equipment shall be available to pay for any of these services or equipment without the review of the Office of Information Technology, and compliance with Statewide policies and standards and an approved department Information Technology Strategic Plan; authorization and approval by the Office of Information Technology is required for expenditure of amounts in excess of $25,000, as shall be specified by Circular Letter.

22. If the sum provided in this act for a State aid payment pursuant to formula is insufficient to meet the full requirements of the formula, all recipients of State aid shall have their allocation proportionately reduced, subject to the approval of the Director of the Division of Budget and Accounting.

23. When the duties or responsibilities of any department or branch, except for the Legislature and any of its agencies, are transferred to any other department or branch, it shall be the duty of the Director of the Division of Budget and Accounting and the director is hereby empowered to transfer funds appropriated for the maintenance and operation of any such department or branch to such department or branch as shall be charged with the responsibility of administering the functions so transferred. The Director of the Division of Budget and Accounting shall have the authority to create such new accounts as may be necessary to carry out the intent of the transfer. Information copies of such transfers shall be transmitted to the Legislative Budget and Finance Officer upon the effective date thereof. If such transfers may be required among appropriations made to the Legislature and its agencies, the Legislative Budget and Finance Officer, subject to the approval of the President of the Senate and the Speaker of the General Assembly, is hereby empowered and it shall be that officer's duty to effect such transactions hereinabove described and to notify the Director of the Division of Budget and Accounting upon the effective date thereof.

24. The Director of the Division of Budget and Accounting is empowered and it shall be the director's duty in the disbursement of funds for payment of expenses classified as salary increases and other benefits, employee benefits, debt service, rent, telephone, data processing, motor pool, insurance, travel, postage, lease payments on equipment purchases, additions, improvements and equipment, and compensation awards to credit or transfer to the Department of the Treasury, to an Inter-Departmental account, or to the General Fund, as applicable, from any other department, branch or non-State fund source out of funds appropriated or credited thereto, such sums as may be required to cover the costs of such payment attributable to such other department, branch or non-State fund source, or to

reimburse the Department of the Treasury, an Inter-Departmental account, or the General Fund for reductions made representing Statewide savings in the above expense classifications, as the director shall determine. Receipts in any non-State funds are appropriated for the purpose of such transfer.

25. The Governor is empowered to direct the State Treasurer to transfer from any State department to any other State department such sums as may be necessary for the cost of any emergency occasioned by aggression, civil disturbance, sabotage, disaster, or for flood loss expenses for State owned structures to comply with Federal Insurance Administration requirements.

26. Upon request of any department receiving non-State funds, the Director of the Division of Budget and Accounting is empowered to transfer such funds from that department to other departments as may be charged with the responsibility for the expenditure thereof.

27. The Director of the Division of Budget and Accounting is empowered to transfer or credit appropriations to any State agency for services provided, or to be provided, by that agency to any other agency or department; provided further, however, that funds have been appropriated or allocated to such agency or department for the purpose of purchasing these services.

28. Notwithstanding any law to the contrary, should appropriations in the Property Tax Relief Fund exceed available revenues, the Director of the Division of Budget and Accounting is authorized to transfer General Fund unreserved, undesignated fund balances into the Property Tax Relief Fund, providing unreserved, undesignated fund balances are available from the General Fund, as determined by the Director of the Division of Budget and Accounting.

29. Notwithstanding any law to the contrary, should appropriations in the Casino Revenue Fund exceed available revenues, the Director of the Division of Budget and Accounting is authorized to transfer General Fund unreserved, undesignated fund balances into the Casino Revenue Fund, providing unreserved, undesignated fund balances are available from the General Fund, as determined by the Director of the Division of Budget and Accounting.

30. No funds shall be expended by any State Department in the Executive Branch in connection with a contract for the production of films, videotapes, video conferences, video-assisted training or multi-media projects that include video images unless the New Jersey Public Broadcasting Authority (PBA) has the opportunity to match any successful bid as part of any formal or informal contract award process. This is not a requirement to award a contract to PBA since the decision to award a contract may also be based on non-cost considerations.

31. Notwithstanding the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), sums appropriated for services for the various State departments and agencies may be

expended for the purchase of contract services from the New Jersey Marine Sciences Consortium as if it were a State government agency pursuant to subsection (a) of section 5 of P.L.1954, c.48 (C.52:34-10).

32. Out of the appropriations herein, the Director of the Division of Budget and Accounting is empowered to approve payments to liquidate any unrecorded liabilities for materials delivered or services rendered in prior fiscal years, upon the written recommendation of any department head, or the department head's designated representative. The Director of the Division of Budget and Accounting shall reject any recommendations for payment which the director deems improper.

33. Whenever any county, municipality, school district or a political subdivision thereof withholds funds from a State agency, or causes a State agency to make payment on behalf of a county, municipality, school district or a political subdivision thereof, then the Director of the Division of Budget and Accounting may withhold State aid payments and transfer the same as payment for such funds, as the Director of the Division of Budget and Accounting shall determine.

34. The Director of the Division of Budget and Accounting is empowered to establish revolving and dedicated funds as required. Notice of the establishment of such funds shall be transmitted to the Legislative Budget and Finance Officer, upon the effective date thereof.

35. The Director of the Division of Budget and Accounting may, upon application therefor, allot from appropriations made to any official, department, commission or board, a sum to establish a petty cash fund for the payment of expenses under rules and regulations established by the director. Allotments thus made by the Director of the Division of Budget and Accounting shall be paid to such person as shall be designated as the custodian thereof by the official, department, commission or board making a request therefor, and the money thus allotted shall be disbursed by such custodian who shall require a receipt therefor from all persons obtaining money from the fund. The director shall make regulations governing disbursement from petty cash funds.

36. From appropriations to the various departments of State government, the Director of the Division of Budget and Accounting is empowered to transfer sums sufficient to pay any obligation due and owing in any other department or agency.

37. Notwithstanding the provision of any other law, the State Treasurer may transfer from any fund in the State Treasurer's custody, deposited with the State Treasurer pursuant to law, sufficient sums to enable payments from any appropriation made herein for any obligations due and owing. Any such transfer shall be restored out of the taxes or other revenue received in the Treasury in support of this act. Except for transfers from the several funds established pursuant to statutes that provide for interest earnings to accrue to those funds, all such transfers shall be without interest. If the statute provides for interest earnings, it shall be calculated at

the average rate of earnings during the fiscal year from the State's general investments.

38. Any qualifying State aid appropriation, or part thereof, made from the General Fund may be transferred and recorded as an appropriation from the Property Tax Relief Fund, as deemed necessary by the State Treasurer, in order that the Director of the Division of Budget and Accounting may warrant the necessary payments; provided however, that the available unreserved, undesignated fund balance in the Property Tax Relief Fund, as determined by the State Treasurer, is sufficient to support the expenditure.

39. Notwithstanding any other provisions of this act, the State Treasurer, upon warrant of the Director of the Division of Budget and Accounting, shall pay any claim not exceeding $4,000 out of any appropriations made to the several departments, provided such claim is recommended for payment by the head of such department. The Legislative Budget and Finance Officer shall be notified of the amount and description of any such claim at the time such payment is made. Any claimant who has presented a claim not exceeding $4,000, which has been denied or not recommended by the head of such department, shall be precluded from presenting said claim to the Legislature for consideration.

40. Unless otherwise provided, federal grant and project receipts representing reimbursement for agency and central support services, indirect and administrative costs, as determined by the Director of the Division of Budget and Accounting, shall be transmitted to the Department of the Treasury for credit to the General Fund; provided however, that a portion of the indirect and administrative cost recoveries received which are in excess of the amount anticipated may be reclassified into a dedicated account and returned to State departments and agencies, as determined by the Director of the Division of Budget and Accounting, who shall notify the Legislative Budget and Finance Officer of the amount of such funds returned, the departments or agencies receiving such funds and the purpose for which such funds will be used, within 10 working days of any such transaction. Such receipts shall be forwarded to the Director of the Division of Budget and Accounting upon completion of the project or at the end of the fiscal year, whichever occurs earlier.

41. Notwithstanding any other law to the contrary, each local school district that participates in the Special Education Medicaid Initiative (SEMI) shall receive a percentage of the federal revenue realized for current year claims. The percentage share shall be 15% of the first $36,000,000 of federal reimbursements realized for claims submitted to the State by June 30. After federal reimbursements are realized in excess of $36,000,000, local school districts shall receive 50% of their pro rata share of federal revenues realized in excess of $36,000,000.

42. Notwithstanding any other law to the contrary, each local school district that participates in the Early Periodic Screening, Diagnosis and Treatment (EPSDT) initiative shall receive a percentage of the federal revenue realized for current year claims. The percentage share shall be 15% of the first $29,000,000 of federal

reimbursements for claims submitted to the State by June 30. After federal reimbursements are realized in excess of $29,000,000, local school districts shall receive 50% of their pro rata share of federal revenues realized in excess of $29,000,000.

43. Notwithstanding the provisions of P.L.1943, c.188 (C.52:14-17.1 et seq.), the rate of reimbursement for mileage allowed for employees traveling by personal automobile on official business shall be $.31 per mile.

44. State agencies shall prepare and submit a copy of their agency or departmental budget requests for Fiscal Year 2004 by October 1, 2002 to the Director of the Division of Budget and Accounting and a copy of their spending plans involving all State, federal and other non-State funds to the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer by November 1, 2002, and updated spending plans on February 1, and May 1, 2003. The spending plans shall account for any changes in departmental spending which differ from this appropriations act and all supplements to this act. The spending plans shall be submitted on forms specified by the Director of the Division of Budget and Accounting.

45. The Director of the Division of Budget and Accounting shall provide the Legislative Budget and Finance Officer with copies of all BB-4s, Application for Non-State funds, and accompanying project proposals or grant applications, which require a State match and that may commit or require State support after the grant's expiration.

46. In order to provide effective cash flow management for revenues and expenditures of the General Fund and the Property Tax Relief Fund in the implementation of the fiscal year 2003 annual appropriations act, there are appropriated from the General Fund such sums as may be required to pay the principal of and interest on tax and revenue anticipation notes including notes in the form of commercial paper (hereinafter collectively referred to as short-term notes), together with any costs or obligations relating to the issuance thereof or contracts related thereto, according to the terms set forth herein. Provided further that, to the extent that short-term notes are issued for cash flow management purposes in connection with the Property Tax Relief Fund, there are appropriated from the Property Tax Relief Fund such sums as may be required to pay the principal of those short-term notes.

47. The State Treasurer is authorized to issue short-term notes, which notes shall not constitute a general obligation of the State or a debt or a liability within the meaning of the State Constitution, and the State Treasurer is authorized to pay any costs or obligations relating to the issuance of such short-term notes or contracts relating thereto. Such short-term notes shall be issued in such amounts and at such times as the State Treasurer shall deem necessary for the above stated purposes and for the payment of related costs, and on such terms and conditions, sold in such manner and at such prices, bearing interest at such fixed or variable rate or rates,

renewable at such time or times, and entitled to such security, and using such paying agents as shall be determined by the State Treasurer. The State Treasurer is authorized to enter into such contracts and to take such other actions, all as determined by the State Treasurer to be appropriate to carry out the above cash flow management purposes. The State Treasurer shall give consideration to New Jersey-based vendors in entering into such contracts. Whenever the State Treasurer issues such short-term notes, the State Treasurer shall report on each such issuance to the Chairman of the Senate Budget and Appropriations Committee and the Chairman of the Assembly Appropriations Committee.

48. The Tobacco Settlement Fund, created and established in the Department of the Treasury as a separate non-lapsing fund pursuant to section 53 of P.L.1999, c.138, is reestablished and continued. The unexpended balances in the Tobacco Settlement Fund as of June 30, 2002 are appropriated. The Tobacco Settlement Fund shall be the repository for payments made by the tobacco manufacturers pursuant to the settlement agreement entered into by the tobacco manufacturers and the State on November 23, 1998 that resolved the State's pending claims against the tobacco industry and all other moneys, including interest earnings on balances in the fund, credited or transferred thereto from any other fund or source pursuant to law. Balances in the Tobacco Settlement Fund shall be deposited in such depositories as the State Treasurer may select. Amounts transferred from the Tobacco Settlement Fund to the General Fund as anticipated revenue in excess of $1,351,706,000 shall be excluded when calculating deposits to the Surplus Revenue Fund pursuant to P.L.1990, c.44 (C.52:9H-14 et seq.).

49. Notwithstanding any provisions of this act providing that appropriations are made from dedicated or other sources of funds or any other law to the contrary, amounts appropriated or reappropriated for State transportation projects and for State aid or grants to municipalities, school districts, and senior public colleges and universities, and for State capital construction projects, subject to the designation of such appropriation accounts and the amounts thereof by the Director of the Division of Budget and Accounting. are appropriated in an aggregate amount not to exceed $1,075,000,000 from funds paid to the State from any net proceeds, earnings thereon or residual interests from the sale of tobacco settlement revenues as authorized pursuant to P.L.2002, c.32 (C.52:18B-1 et seq.).

50. Notwithstanding any other provision of law, funds derived from the sale or conveyance of any lands and buildings or proceeds from the sale of all fill material held by a department are appropriated for demolition, acquisition of land, rehabilitation or improvement of existing facilities and construction of new facilities subject to the approval of the Director of the Division of Budget and Accounting.

51. Any change by the Office of Information Technology to their rate structure that would affect the rates charged to the various State agencies for Office of Information Technology services shall first be approved by the Director of the Division of Budget and Accounting.

52. Notwithstanding the provisions of section 29 of P.L.1983, c.303 (C.52:27H-88), or any other law to the contrary, interest earned in fiscal 2003 on balances in the Enterprise Zone Assistance Fund, shall be credited to the General Fund.

53. Notwithstanding any other law to the contrary, funds may be transferred from the State Disability Benefits Fund to the General Fund during the fiscal year ending June 30, 2003, which transfer amount shall be based upon the actual receipt of revenue in the State Disability Benefits Fund as shall be determined by the State Treasurer in consultation with the Commissioner of Labor, subject to the approval of the Director of the Division of Budget and Accounting.

54. There is appropriated $2,000,000 from the Casino Simulcasting Fund for transfer to the Casino Revenue Fund.

55. In all cases in which language authorizes the appropriation of additional receipts not to exceed a specific amount, and the specific amount is insufficient to cover the amount due for fringe benefits and indirect costs, there are appropriated from receipts such additional amounts as are required to fully cover the amount due for fringe benefits and indirect costs, subject to the approval of the Director of the Division of Budget and Accounting.

56. There are appropriated, out of receipts derived from any structured financing transaction, such sums as may be necessary to satisfy any obligation incurred in connection with any structured financing agreement, subject to the approval of the Director of the Division of Budget and Accounting. In addition, there are appropriated such sums as may be necessary to pay costs incurred in connection with any proposed structured financing transaction, subject to the approval of the Director of the Division of Budget and Accounting.

57. Notwithstanding any other law or regulation to the contrary, there is appropriated from the State of New Jersey Cash Management Fund reserve fund such amounts as are necessary for the State Treasurer to return funds held on behalf of participating governmental units other than the State Government to those units that receive monies from appropriations made in this act. Funds attributable to participants in the reserve fund that do not receive State appropriations in the act shall continue to be held in the reserve fund.

58. Notwithstanding the provisions of any departmental language or statute, no receipts in excess of those anticipated or appropriated as provided in the Departmental Revenue Statements (BB-103's) in the fiscal 2003 budget submission are available for expenditure until a comprehensive expenditure plan is submitted to and approved by the Director of the Division of Budget and Accounting.

59. Such sums as may be necessary are appropriated or transferred from existing appropriations for the purpose of promoting awareness to increase

participation in programs that are administered by the State subject to the approval of the Director of the Division of Budget and Accounting.

60. Notwithstanding the provisions of any law to the contrary, there is appropriated an amount not to exceed $1,290,000 from the New Jersey Insurance Development Fund for transfer to the General Fund as State revenue.

61. Notwithstanding the provisions of any law to the contrary, there is appropriated $77,000,000 from the University of Medicine and Dentistry of New Jersey Self Insurance Reserve Fund for transfer to the General Fund as State revenue.

62. There may be transferred an amount not to exceed $48,286,000, subject to the approval of the Director of the Division of Budget and Accounting, from the General Fund Unreserved Undesignated fund balance to the Debt Avoidance and Retirement Fund which is within the General Fund. Any amounts in the Debt Avoidance and Retirement Fund are hereby appropriated and shall be used for General Fund appropriations made in section 1 of this act, subject to the approval of the Director of the Division of Budget and Accounting that a) economically defease or retire long term State obligations in order to realize debt service savings for the State, and b) avoid the issuance of new long-term obligations by paying on current basis for capital projects, as the State Treasurer determines to be in the best interest of the State.

63. There are appropriated such additional sums as may be required to pay the amount of any civil penalty imposed on a State officer, employee or custodian pursuant to section 12 of P.L.2001, c.404 (C.47:1A-11), as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine.

64. Receipts derived from the provision of copies and other materials related to compliance with P.L.2001, c.404, are appropriated for the purpose of offsetting agency and departmental expenses of complying with the public access law, subject to the approval of the Director of the Division of Budget and Accounting.

65. Notwithstanding the provisions of any law to the contrary, there is appropriated an amount not to exceed $2,900,000 from the Emergency Services Fund for transfer to the General Fund as State revenue.

66. There is appropriated $5,000,000 from "the mutual workers' compensation security fund" for transfer to the General Fund as State Revenue.

67. Notwithstanding the provisions of section 35 of P.L.1975 c.326 (C.13:17-10.1), sections 10 and 11 of P.L.1981, c.306 (C.13:1E-109 and C.13:1E-110), section 8 of P.L.1985, c.368 (C.13:1E-176), or any rules and regulations adopted pursuant thereto, or any order issued by the Board of Public Utilities to the contrary,

an amount equal to $61,500,000 of the calendar year 2002 aggregate balance in the closure and post-closure escrow accounts established by the New Jersey Meadowlands Commission for the closure and post-closure monitoring of the sanitary landfill facilities operated by the commission shall be withdrawn from the escrow accounts by the New Jersey Meadowlands Commission and paid to the State Treasurer for deposit in the General Fund for general use.

68. Notwithstanding any provision of law to the contrary, there is appropriated from the unemployment compensation auxiliary fund $1,000,000 for transfer to the General Fund as State revenue.

69. Notwithstanding the provisions of any law to the contrary, $46,000,000 deposited in the Urban Enterprise Assistance Fund on or after July 1, 2002 is transferred to the General Fund as State revenue. Notwithstanding the provisions of P.L.1983 c.303 (C:52:27H-60 et. seq.) or any rule or regulation, each municipality in which an urban enterprise zone is designated whose separate account in the Urban Enterprise Zone Assistance Fund is reduced by this transfer, shall be entitled during FY 2003 to borrow an amount up to an amount equal to its annual account payment in FY 2000, FY 2001 or FY 2002, whichever is highest, from amounts on deposit in various separate municipal accounts in the Enterprise Zone Assistance Fund that would not otherwise be utilized in FY 2003 for projects for the designated municipality, such sums to be repaid by the borrowing municipality to the respective project accounts within the Enterprise Zone Assistance Fund in payments of at least 25% per year in FY 2004 through FY 2007. Provided, however, that no money shall be transferred to the General Fund from project funds for municipalities whose account receipts in FY 2001 were less than $1 million. Those municipalities whose separate project accounts are reduced by the transfer of the $46,000,000 to the General Fund shall have the designation as an eligible municipality extended by two years.

70. This act shall take effect July 1, 2002.

Approved July 1, 2002.

CHAPTER 39

AN ACT concerning membership on the Fire Protection Equipment Advisory Committee and the installation or maintenance of fire protection equipment, and amending P.L.2001, c.289.

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

1. Section 2 of P.L.2001, c.289 (C.52:27D-25o) is amended to read as follows:

C.52:27D-25o "Fire Protection Equipment Advisory Committee."

2. a. There is created within the Division of Fire Safety in the Department of Community Affairs a "Fire Protection Equipment Advisory Committee." The committee shall be comprised of the Director of the Division of Fire Safety who shall serve ex officio and eleven public members, appointed by the Governor. One of the public members shall be a chief administrator of the fire department of a municipality with a population of 100,000 or more according to the most recent federal decennial census, and one of the public members shall be a representative of a volunteer fire organization. Each of the remaining nine public members shall be selected by the Governor from a list of three nominees provided to the Governor by each of the following fire protection organizations or their successor organizations:

New Jersey Association of Fire Equipment Distributors,
National Fire Sprinkler Association,
National Association of Fire Equipment Distributors,
American Fire Sprinkler Association,
Fire Suppression Systems Association,
Automatic Fire Alarm Association,
New Jersey Electrical Contractors Association,
New Jersey Burglar and Fire Alarm Association, and
New Jersey State Fire Prevention and Protection Association.

b. The Governor shall appoint each member for a term of three years, except that of the members first appointed, four shall serve for terms of three years, four shall serve for terms of two years and three shall serve for terms of one year.

c. Any vacancy in the membership of the committee shall be filled for the unexpired term in the manner provided for the original appointment. No appointed member of the committee may serve more than two successive terms in addition to any unexpired term to which he has been appointed.

d. The committee shall annually elect from among its members a chair and vice-chair. The committee shall meet at least four times a year and may hold additional meetings as necessary to discharge its duties. In addition to such meetings, the committee shall meet at the call of the chair or the commissioner.

e. Members of the committee shall be compensated and reimbursed for actual expenses reasonably incurred in the performance of their official duties and reimbursed for expenses and provided with office and meeting facilities and personnel required for the proper conduct of the committee's business.

f. The committee shall make recommendations to the commissioner regarding rules and regulations pertaining to professional training, standards,

identification and record keeping procedures for certificate holders and their employees, classifications of certificates necessary to regulate the work of certificate holders, and other matters necessary to effectuate the purposes of this act.

2. Section 25 of P.L.2001, c.289 is amended to read as follows:

25. This act, P.L.2001, c.289, shall take effect on June 30, 2003 except that section 24 of P.L.2001, c.289 (C.52:27D-25gg), shall take effect immediately.

3. This act shall take effect immediately.

Approved July 1, 2002.

CHAPTER 40

AN ACT revising and updating the corporation business tax and concerning filing fees for certain returns and designated the Business Tax Reform Act, amending and supplementing P.L.1945, c.162, amending P.L.1947, c.50, P.L.1993, c.170, P.L.1993, c.173, P.L.1997, c.350, and N.J.S.54A:8-6, and repealing various parts of the statutory law.

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

1. Section 2 of P.L.1945, c.162 (C.54:10A-2) is amended to read as follows:

C.54:10A-2 Payment of annual franchise tax.

2. Every domestic or foreign corporation which is not hereinafter exempted shall pay an annual franchise tax for each year, as hereinafter provided, for the privilege of having or exercising its corporate franchise in this State, or for the privilege of deriving receipts from sources within this State, or for the privilege of engaging in contacts within this State, or for the privilege of doing business, employing or owning capital or property, or maintaining an office, in this State. And such franchise tax shall be in lieu of all other State, county or local taxation upon or measured by intangible personal property used in business by corporations liable to taxation under this act.

A foreign corporation shall not be deemed to be deriving receipts, engaging in contacts, doing business, employing or owning capital or property in the State, for the purposes of this act, by reason of (1) the maintenance of cash balances with banks or trust companies in this State, or (2) the ownership of shares of stock or securities in this State if such shares or securities are pledged as collateral security, or deposited with one or more banks or trust companies or brokers who are members of a recognized security exchange, in safekeeping or custody accounts, or (3) the taking of any action by any such bank or trust company or broker, which is incidental to the rendering of safekeeping or custodian service to such corporation.

A taxpayer's exercise of its franchise in this State is subject to taxation in this State if the taxpayer's business activity in this State is sufficient to give this State jurisdiction to impose the tax under the Constitution and statutes of the United States.

2. Section 3 of P.L.1945, c.162 (C.54:10A-3) is amended to read as follows:

C.54:10A-3 Corporations exempt.

3. The following corporations shall be exempt from the tax imposed by this act:

(a) Corporations subject to a tax assessed upon the basis of gross receipts, other than the alternative minimum assessment determined pursuant to section 7 of P.L.2002, c.40 (C.54:10A-5a), and corporations subject to a tax assessed upon the basis of insurance premiums collected;

(b) Corporations which operate regular route autobus service within this State under operating authority conferred pursuant to R.S.48:4-3, provided, however, that such corporations shall not be exempt from the tax on net income imposed by section 5(c) of P.L.1945, c.162 (C.54:10A-5);

(c) Railroad, canal corporations, production credit associations organized under the Farm Credit Act of 1933, or agricultural cooperative associations incorporated or domesticated under or subject to chapter 13 of Title 4 of the Revised Statutes and exempt under Subtitle A, Chapter 1F, Part IV, Section 521 of the federal Internal Revenue Code (26 U.S.C. s.521);

(d) Cemetery corporations not conducted for pecuniary profit or any private shareholder or individual;

(e) Nonprofit corporations, associations or organizations established, organized or chartered, without capital stock, under the provisions of Title 15, 16 or 17 of the Revised Statutes, Title 15A of the New Jersey Statutes or under a special charter or under any similar general or special law of this or any other state, and not conducted for pecuniary profit of any private shareholders or individual;

(f) Sewerage and water corporations subject to a tax under the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) or any statute or law imposing a similar tax or taxes;

(g) Nonstock corporations organized under the laws of this State or of any other state of the United States to provide mutual ownership housing under federal law by tenants, provided, however, that the exemption hereunder shall continue only so long as the corporations remain subject to rules and regulations of the Federal Housing Authority and the Commissioner of the Federal Housing Authority holds membership certificates in the corporations and the corporate property is encumbered by a mortgage deed or deed of trust insured under the National Housing Act (48 Stat.1246) as amended by subsequent Acts of Congress. In order to be exempted under this subsection, corporations shall annually file a report on or before August 15 with the commissioner, in the form required by the commissioner, to claim such exemption, and shall pay a filing fee of $25.00;

(h) Corporations not for profit organized under any law of this State where the primary purpose thereof is to provide for its shareholders or members housing in a retirement community as the same is defined under the provisions of the "Retirement Community Full Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et seq.);

(i) Corporations which are licensed as insurance companies under the laws of another state, including corporations which are surplus lines insurers declared eligible by the Commissioner of Banking and Insurance pursuant to section 11 of P.L.1960, c.32 (C.17:22-6.45) to insure risks within this State; and

(j) (1) Municipal electric corporations that were in existence as of January 1, 1995 provided that all of their income is from sales, exchanges or deliveries of electricity derived from customers using electricity within their municipal boundaries; and (2) Municipal electric utilities that were in existence as of January 1, 1995 provided that all of their income is from sales, exchanges or deliveries of electricity derived from customers using electricity within their franchise area existing as of January 1, 1995. If a municipal electric corporation derives income from sales, exchanges or deliveries of electricity from customers using the electricity outside its municipal boundaries, such municipal electric corporation shall be subject to the tax imposed by this act on all income. If a municipal electric utility derives income from sales, exchanges or deliveries of electricity from customers using electricity outside its franchise area existing as of January 1, 1995, such municipal electric utility shall be subject to the tax imposed by the act on all income.

3. Section 4 of P.L. 1945, c.162 (C.54:10A-4) is amended to read as follows:

C.54:10A-4 Definitions.

For the purposes of this act, unless the context requires a different meaning:

(a) "Commissioner" or "director" shall mean the Director of the Division of Taxation of the State Department of the Treasury.

(b) "Allocation factor" shall mean the proportionate part of a taxpayer's net worth or entire net income used to determine a measure of its tax under this act.

(c) "Corporation" shall mean any corporation, joint-stock company or association and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by a certificate of interest or ownership or similar written instrument, any other entity classified as a corporation for federal income tax purposes, and any state or federally chartered building and loan association or savings and loan association.

(d) "Net worth" shall mean the aggregate of the values disclosed by the books of the corporation for (1) issued and outstanding capital stock, (2) paid-in or capital surplus, (3) earned surplus and undivided profits, and (4) surplus reserves which can reasonably be expected to accrue to holders or owners of equitable shares, not including reasonable valuation reserves, such as reserves for depreciation or obsolescence or depletion. Notwithstanding the foregoing, net worth shall not include any deduction for the amount of the excess depreciation described in paragraph (2)(F) of subsection (k) of this section. The foregoing aggregate of values shall be reduced by 50% of the amount disclosed by the books of the corporation for investment in the capital stock of one or more subsidiaries, which investment is defined as ownership (1) of at least 80% of the total combined voting power of all classes of stock of the subsidiary entitled to vote and (2) of at least 80% of the total number of shares of all other classes of stock except nonvoting stock which is limited and preferred as to dividends. In the case of investment in an entity organized under the laws of a foreign country, the foregoing requisite degree of ownership shall effect a like reduction of such investment from the net worth of the taxpayer, if the foreign entity is considered a corporation for any purpose under the United States federal income tax laws, such as (but not by way of sole examples) for the purpose of supplying deemed paid foreign tax credits or for the purpose of status as a controlled foreign corporation. In calculating the net worth of a taxpayer entitled to reduction for investment in subsidiaries, the amount of liabilities of the taxpayer shall be reduced by such proportion of the liabilities as corresponds to the ratio which the excluded portion of the subsidiary values bears to the total assets of the taxpayer.

In the case of banking corporations which have international banking facilities as defined in subsection (n), the foregoing aggregate of values shall also be reduced by retained earnings of the international banking facility.

Retained earnings means the earnings accumulated over the life of such facility and shall not include the distributive share of dividends paid and federal income taxes paid or payable during the tax year.

If in the opinion of the commissioner, the corporation's books do not disclose fair valuations the commissioner may make a reasonable determination of the net worth which, in his opinion, would reflect the fair value of the assets, exclusive of subsidiary investments as defined aforesaid, carried on the books of the corporation, in accordance with sound accounting principles, and such determination shall be used as net worth for the purpose of this act.

(e) (Deleted by amendment, P.L.1998, c.114.)

(f) "Investment company" shall mean any corporation whose business during the period covered by its report consisted, to the extent of at least 90% thereof of holding, investing and reinvesting in stocks, bonds, notes, mortgages, debentures, patents, patent rights and other securities for its own account, but this shall not include any corporation which: (1) is a merchant or a dealer of stocks, bonds and other securities, regularly engaged in buying the same and selling the same to customers; or (2) had less than 90% of its average gross assets in New Jersey, at cost, invested in stocks, bonds, debentures, mortgages, notes, patents, patent rights or other securities or consisting of cash on deposit during the period covered by its report; or (3) is a banking corporation, a savings institution, or a financial business corporation as defined in the Corporation Business Tax Act.

(g) "Regulated investment company" shall mean any corporation which for a period covered by its report, is registered and regulated under the Investment Company Act of 1940 (54 Stat. 789), as amended.

(h) "Taxpayer" shall mean any corporation, and any partnership required, or consenting, to report or to pay taxes, interest or penalties under this act. "Taxpayer" shall not include a partnership that is listed on a United States national stock exchange.

(i) "Fiscal year" shall mean an accounting period ending on any day other than the last day of December on the basis of which the taxpayer is required to report for federal income tax purposes.

(j) Except as herein provided, "privilege period" shall mean the calendar or fiscal accounting period for which a tax is payable under this act.

(k) "Entire net income" shall mean total net income from all sources, whether within or without the United States, and shall include the gain derived from the employment of capital or labor, or from both combined, as well as profit gained through a sale or conversion of capital assets.

For the purpose of this act, the amount of a taxpayer's entire net income shall be deemed prima facie to be equal in amount to the taxable income, before net operating loss deduction and special deductions, which the taxpayer is required to report, or, if the taxpayer is classified as a partnership for federal

tax purposes, would otherwise be required to report, to the United States Treasury Department for the purpose of computing its federal income tax, provided however, that in the determination of such entire net income,

(1) Entire net income shall exclude for the periods set forth in paragraph (2)(F)(i) of this subsection, any amount, except with respect to qualified mass commuting vehicles as described in section 168(f)(8)(D)(v) of the Internal Revenue Code as in effect immediately prior to January 1, 1984, which is included in a taxpayer's federal taxable income solely as a result of an election made pursuant to the provisions of paragraph (8) of that section.

(2) Entire net income shall be determined without the exclusion, deduction or credit of:

(A) The amount of any specific exemption or credit allowed in any law of the United States imposing any tax on or measured by the income of corporations;

(B) Any part of any income from dividends or interest on any kind of stock, securities or indebtedness, except as provided in paragraph (5) of subsection (k) of this section;

(C) Taxes paid or accrued to the United States, a possession or territory of the United States, a state, a political subdivision thereof, or the District of Columbia, or to any foreign country, state, province, territory or subdivision thereof, on or measured by profits or income, or business presence or business activity, or the tax imposed by this act, or any tax paid or accrued with respect to subsidiary dividends excluded from entire net income as provided in paragraph (5) of subsection (k) of this section;

(D) (Deleted by amendment, P.L.1985, c.143.)

(E) (Deleted by amendment, P.L.1995, c.418.)

(F) (i) The amount by which depreciation reported to the United States Treasury Department for property placed in service on and after January 1, 1981, but prior to taxpayer fiscal or calendar accounting years beginning on and after the effective date of P.L.1993, c.172, for purposes of computing federal taxable income in accordance with section 168 of the Internal Revenue Code in effect after December 31, 1980, exceeds the amount of depreciation determined in accordance with the Internal Revenue Code provisions in effect prior to January 1, 1981, but only with respect to a taxpayer's accounting period ending after December 31, 1981; provided, however, that where a taxpayer's accounting period begins in 1981 and ends in 1982, no modification shall be required with respect to this paragraph (F) for the report filed for such period with respect to property placed in service during that part of the accounting period which occurs in 1981. The provisions of this subparagraph shall not apply to assets placed in service prior to January 1, 1998 of a gas, gas and electric, and electric public utility that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998.

(ii) For the periods set forth in subparagraph (F)(i) of this subsection, any amount, except with respect to qualified mass commuting vehicles as described in section 168(f)(8)(D)(v) of the Internal Revenue Code as in effect immediately prior to January 1, 1984, which the taxpayer claimed as a deduction in computing federal income tax pursuant to a qualified lease agreement under paragraph (8) of that section.

The director shall promulgate rules and regulations necessary to carry out the provisions of this section, which rules shall provide, among others, the manner in which the remaining life of property shall be reported.

(G) (i) The amount of any civil, civil administrative, or criminal penalty or fine, including a penalty or fine under an administrative consent order, assessed and collected for a violation of a State or federal environmental law, an administrative consent order, or an environmental ordinance or resolution of a local governmental entity, and any interest earned on the penalty or fine, and any economic benefits having accrued to the violator as a result of a violation, which benefits are assessed and recovered in a civil, civil administrative, or criminal action, or pursuant to an administrative consent order. The provisions of this paragraph shall not apply to a penalty or fine assessed or collected for a violation of a State or federal environmental law, or local environmental ordinance or resolution, if the penalty or fine was for a violation that resulted from fire, riot, sabotage, flood, storm event, natural cause, or other act of God beyond the reasonable control of the violator, or caused by an act or omission of a person who was outside the reasonable control of the violator.

(ii) The amount of treble damages paid to the Department of Environmental Protection pursuant to subsection a. of section 7 of P.L.1976, c.141 (C.58:10-23.11f), for costs incurred by the department in removing, or arranging for the removal of, an unauthorized discharge upon failure of the discharger to comply with a directive from the department to remove, or arrange for the removal of, the discharge.

(H) The amount of any sales and use tax paid by a utility vendor pursuant to section 71 of P.L.1997, c.162.

(I) Interest paid, accrued or incurred for the privilege period to a related member, as defined in section 5 of P.L.2002, c.40 (C.54:10A-4.4), except that a deduction shall be permitted to the extent that the taxpayer establishes by clear and convincing evidence, as determined by the director, that: (i) a principal purpose of the transaction giving rise to the payment of the interest was not to avoid taxes otherwise due under Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, (ii) the interest is paid pursuant to arm's length contracts at an arm's length rate of interest, and (iii)(aa) the related member was subject to a tax on its net income or receipts in this State or another state or possession of the United States or in a foreign nation, (bb) a measure

of the tax includes the interest received from the related member, and (cc) the rate of tax applied to the interest received by the related member is equal to or greater than a rate three percentage points less than the rate of tax applied to taxable interest by this State.

A deduction shall also be permitted if the taxpayer establishes by clear and convincing evidence, as determined by the director, that the disallowance of a deduction is unreasonable, or the taxpayer and the director agree in writing to the application or use of an alternative method of apportionment under section 8 of P.L.1945, c.162 (C.54:10A-8); nothing in this subsection shall be construed to limit or negate the director's authority to otherwise enter into agreements and compromises otherwise allowed by law.

A deduction shall also be permitted to the extent that the taxpayer establishes by a preponderance of the evidence, as determined by the director, that the interest is directly or indirectly paid, accrued or incurred to (i) a related member in a foreign nation which has in force a comprehensive income tax treaty with the United States, provided however that the taxpayer shall disclose on its return for the privilege period the name of the related member, the amount of the interest, the relevant foreign nation, and such other information as the director may prescribe or (ii) to an independent lender and the taxpayer guarantees the debt on which the interest is required.

(3) The commissioner may, whenever necessary to properly reflect the entire net income of any taxpayer, determine the year or period in which any item of income or deduction shall be included, without being limited to the method of accounting employed by the taxpayer.

(4) There shall be allowed as a deduction from entire net income of a banking corporation, to the extent not deductible in determining federal taxable income, the eligible net income of an international banking facility determined as follows:

(A) The eligible net income of an international banking facility shall be the amount remaining after subtracting from the eligible gross income the applicable expenses;

(B) Eligible gross income shall be the gross income derived by an international banking facility, which shall include, but not be limited to, gross income derived from:

(i) Making, arranging for, placing or carrying loans to foreign persons, provided, however, that in the case of a foreign person which is an individual, or which is a foreign branch of a domestic corporation (other than a bank), or which is a foreign corporation or foreign partnership which is controlled by one or more domestic corporations (other than banks), domestic partnerships or resident individuals, all the proceeds of the loan are for use outside of the United States;

(ii) Making or placing deposits with foreign persons which are banks or foreign branches of banks (including foreign subsidiaries) or foreign branches of the taxpayers or with other international banking facilities;

(iii) Entering into foreign exchange trading or hedging transactions related to any of the transactions described in this paragraph; or

(iv) Such other activities as an international banking facility may, from time to time, be authorized to engage in;

(C) Applicable expenses shall be any expense or other deductions attributable, directly or indirectly, to the eligible gross income described in subparagraph (B) of this paragraph.

(5) Entire net income shall exclude 100% of dividends which were included in computing such taxable income for federal income tax purposes, paid to the taxpayer by one or more subsidiaries owned by the taxpayer to the extent of the 80% or more ownership of investment described in subsection (d) of this section and shall exclude 50% of dividends which were included in computing such taxable income for federal income tax purposes, paid to the taxpayer by one or more subsidiaries owned by the taxpayer to the extent of 50% or more ownership of investment, such ownership of investment calculated in the same manner as the 80% or more of ownership of investment is calculated as described in subsection (d) of this section.

(6) (A) Net operating loss deduction. There shall be allowed as a deduction for the privilege period the net operating loss carryover to that period.

(B) Net operating loss carryover. A net operating loss for any privilege period ending after June 30, 1984 shall be a net operating loss carryover to each of the seven privilege periods following the period of the loss. The entire amount of the net operating loss for any privilege period (the "loss period") shall be carried to the earliest of the privilege periods to which the loss may be carried. The portion of the loss which shall be carried to each of the other privilege periods shall be the excess, if any, of the amount of the loss over the sum of the entire net income, computed without the exclusions permitted in paragraphs (4) and (5) of this subsection or the net operating loss deduction provided by subparagraph (A) of this paragraph, for each of the prior privilege periods to which the loss may be carried.

(C) Net operating loss. For purposes of this paragraph the term "net operating loss" means the excess of the deductions over the gross income used in computing entire net income without the net operating loss deduction provided for in subparagraph (A) of this paragraph and the exclusions in paragraphs (4) and (5) of this subsection.

(D) Change in ownership. Where there is a change in 50% or more of the ownership of a corporation because of redemption or sale of stock and the corporation changes the trade or business giving rise to the loss, no net operating loss sustained before the changes may be carried over to be deducted

from income earned after such changes. In addition where the facts support the premise that the corporation was acquired under any circumstances for the primary purpose of the use of its net operating loss carryover, the director may disallow the carryover.

(E) Notwithstanding the provisions of this paragraph (6) of subsection (k) of this section to the contrary, for privilege periods beginning during calendar year 2002 and calendar year 2003, no deduction for any net operating loss carryover shall be allowed. If and only to the extent that any net operating loss carryover deduction is disallowed by reason of this subparagraph (E), the date on which the amount of the disallowed net operating loss carryover deduction would otherwise expire shall be extended by two years.

Provided, that this subparagraph (E) shall not restrict the surrender or acquisition of corporation business tax benefit certificates pursuant to section 1 of P.L.1997, c.334 (C.34:1B-7.42a) and shall not restrict the application of corporation business tax benefit certificates pursuant to section 2 of P.L.1997, c.334 (C.54:10A-4.2).

(7) The entire net income of gas, electric and gas and electric public utilities that were subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by substituting the New Jersey depreciation allowance for federal tax depreciation with respect to assets placed in service prior to January 1, 1998. For gas, electric, and gas and electric public utilities that were subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998, the New Jersey depreciation allowance shall be computed as follows: All depreciable assets placed in service prior to January 1, 1998 shall be considered a single asset account. The New Jersey tax basis of this depreciable asset account shall be an amount equal to the carryover adjusted basis for federal income tax purposes on December 31, 1997 of all depreciable assets in service on December 31, 1997, increased by the excess, of the "net carrying value," defined to be adjusted book basis of all assets and liabilities, excluding deferred income taxes, recorded on the public utility's books of account on December 31, 1997, over the carryover adjusted basis for federal income tax purposes on December 31, 1997 of all assets and liabilities owned by the gas, electric, or gas and electric public utility as of December 31, 1997. "Books of account" for gas, gas and electric, and electric public utilities means the uniform system of accounts as promulgated by the Federal Energy Regulatory Commission and adopted by the Board of Public Utilities. The following adjustments to entire net income shall be made pursuant to this section:

(A) Depreciation for property placed in service prior to January 1, 1998 shall be adjusted as follows:

(i) Depreciation for federal income tax purposes shall be disallowed in full.

(ii) A deduction shall be allowed for the New Jersey depreciation allowance. The New Jersey depreciation allowance shall be computed for the single asset account described above based on the New Jersey tax basis as adjusted above as if all assets in the single asset account were first placed in service on January 1, 1998. Depreciation shall be computed using the straight line method over a thirty-year life. A full year's depreciation shall be allowed in the initial tax year. No half-year convention shall apply. The depreciable basis of the single account shall be reduced by the adjusted federal tax basis of assets sold, retired, or otherwise disposed of during any year on which gain or loss is recognized for federal income tax purposes as described in subparagraph (B) of this paragraph.

(B) Gains and losses on sales, retirements and other dispositions of assets placed in service prior to January 1, 1998 shall be recognized and reported on the same basis as for federal income tax purposes.

(C) The Director of the Division of Taxation shall promulgate regulations describing the methodology for allocating the single asset account in the event that a portion of the utility's operations are separated, spun-off, transferred to a separate company or otherwise desegregated.

(8) In the case of taxpayers that are gas, electric, gas and electric, or telecommunication public utilities as defined pursuant to subsection (q) of this section, the director shall have authority to promulgate rules and issue guidance correcting distortions and adjusting timing differences resulting from the adoption of P.L.1997, c.162 (C.54:10A-5.25 et al.).

(9) Notwithstanding paragraph (1) of this subsection, entire net income shall not include the income derived by a corporation organized in a foreign country from the international operation of a ship or ships, or from the international operation of aircraft, if such income is exempt from federal taxation pursuant to section 883 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.883.

(10) Entire net income shall exclude all income of an alien corporation the activities of which are limited in this State to investing or trading in stocks and securities for its own account, investing or trading in commodities for its own account, or any combination of those activities, within the meaning of section 864 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.864, as in effect on December 31, 1998. Notwithstanding the previous sentence, if an alien corporation undertakes one or more infrequent, extraordinary or non-recurring activities, including but not limited to the sale of tangible property, only the income from such infrequent, extraordinary or non-recurring activity shall be subject to the tax imposed pursuant to P.L.1945, c.162 (C.54:10A-1 et seq.), and that amount of income subject to tax shall be determined without regard to the allocation to that specific transaction of any general business expense of the taxpayer and shall be specifically assigned to this State for

taxation by this State without regard to section 6 of P.L.1945, c.162 (C.54:10A-6). For the purposes of this paragraph, "alien corporation" means a corporation organized under the laws of a jurisdiction other than the United States or its political subdivisions.

(11) No deduction shall be allowed for research and experimental expenditures, to the extent that those research and experimental expenditures are qualified research expenses or basic research payments for which an amount of credit is claimed pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24) unless those research and experimental expenditures are also used to compute a federal credit claimed pursuant to section 41 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.41.

(12) (A) Notwithstanding the provisions of subsection (k) of section 168 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.168, and subsection (b) of section 1400L of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1400L, for property acquired after September 10, 2001 and before September 11, 2004, the depreciation deduction otherwise allowed pursuant to section 167 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.167, shall be determined pursuant to the requirements and limitations of section 168 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.168, and section 280F of the federal Internal Revenue Code of 1986, 26 U.S.C. s.280F, as if that subsection (k) and that section 1400L were not in effect.

(B) The director shall prescribe the rules and regulations necessary to carry out the provisions of this paragraph, including, among others, those for determining the adjusted basis of the acquired property for the purposes of the "Corporation Business Tax Act (1945)", P.L.1945, c.162.

(l) "Real estate investment trust" shall mean any corporation, trust or association qualifying and electing to be taxed as a real estate investment trust under federal law.

(m) "Financial business corporation" shall mean any corporate enterprise which is (1) in substantial competition with the business of national banks and which (2) employs moneyed capital with the object of making profit by its use as money, through discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of debt; buying and selling exchange; making of or dealing in secured or unsecured loans and discounts; dealing in securities and shares of corporate stock by purchasing and selling such securities and stock without recourse, solely upon the order and for the account of customers; or investing and reinvesting in marketable obligations evidencing indebtedness of any person, copartnership, association or corporation in the form of bonds, notes or debentures commonly known as investment securities; or dealing in or underwriting obligations of the United States, any state or any political subdivision thereof, or of a corporate instrumentality of any of them. This shall include, without limitation of the foregoing, business

commonly known as industrial banks, dealers in commercial paper and acceptances, sales finance, personal finance, small loan and mortgage financing businesses, as well as any other enterprise employing moneyed capital coming into competition with the business of national banks; provided that the holding of bonds, notes, or other evidences of indebtedness by individual persons not employed or engaged in the banking or investment business and representing merely personal investments not made in competition with the business of national banks, shall not be deemed financial business. Nor shall "financial business" include national banks, production credit associations organized under the Farm Credit Act of 1933 or the Farm Credit Act of 1971, Pub.L. 92-181 (12 U.S.C. s.2091 et seq.), stock and mutual insurance companies duly authorized to transact business in this State, security brokers or dealers or investment companies or bankers not employing moneyed capital coming into competition with the business of national banks, real estate investment trusts, or any of the following entities organized under the laws of this State: credit unions, savings banks, savings and loan and building and loan associations, pawnbrokers, and State banks and trust companies.

(n) "International banking facility" shall mean a set of asset and liability accounts segregated on the books and records of a depository institution, United States branch or agency of a foreign bank, or an Edge or Agreement Corporation that includes only international banking facility time deposits and international banking facility extensions of credit as such terms are defined in section 204.8(a)(2) and section 204.8(a)(3) of Regulation D of the board of governors of the Federal Reserve System, 12 CFR Part 204, effective December 3, 1981. In the event that the United States enacts a law, or the board of governors of the Federal Reserve System adopts a regulation which amends the present definition of international banking facility or of such facilities' time deposits or extensions of credit, the Commissioner of Banking and Insurance shall forthwith adopt regulations defining such terms in the same manner as such terms are set forth in the laws of the United States or the regulations of the board of governors of the Federal Reserve System. The regulations of the Commissioner of Banking and Insurance shall thereafter provide the applicable definitions.

(o) "S corporation" means a corporation included in the definition of an "S corporation" pursuant to section 1361 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1361.

(p) "New Jersey S corporation" means a corporation that is an S corporation; which has made a valid election pursuant to section 3 of P.L.1993, c.173 (C.54:10A-5.22); and which has been an S corporation continuously since the effective date of the valid election made pursuant to section 3 of P.L.1993, c.173 (C.54:10A-5.22).

(q) "Public Utility" means "public utility" as defined in R.S.48:2-13.

(r) "Qualified investment partnership" means a partnership under this act that has more than 10 members or partners with no member or partner owning more than a 50% interest in the entity and that derives at least 90% of its gross income from dividends, interest, payments with respect to securities loans, and gains from the sale or other disposition of stocks or securities or foreign currencies or commodities or other similar income (including but not limited to gains from swaps, options, futures or forward contracts) derived with respect to its business of investing or trading in those stocks, securities, currencies or commodities, but "investment partnership" shall not include a "dealer in securities" within the meaning of section 1236 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1236.

(s) "Savings institution" means a state or federally chartered building and loan association, savings and loan association, or savings bank.

(t) "Partnership" means an entity classified as a partnership for federal income tax purposes.

4. Section 1 of P.L.1997, c.350 (C.54:10A-4.3) is amended to read as follows:

C.54:10A-4.3 Carryover of net operating loss for certain taxpayers.

1. a. Notwithstanding the provisions of paragraph (6) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4) to the contrary, a taxpayer that has for the fiscal or calendar accounting period (referred to hereinafter as the "tax year"), qualified research expenses as defined in section 41 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.41, as in effect on June 30, 1992, paid or incurred for research conducted in this State, in the fields of advanced computing, advanced materials, biotechnology, electronic device technology, environmental technology, or medical device technology, shall be allowed to carry over a net operating loss for that tax year to each of the 15 tax years following the year of the loss.

b. As used in this section:

"Advanced computing" means a technology used in the designing and developing of computing hardware and software, including innovations in designing the full spectrum of hardware from hand-held calculators to super computers, and peripheral equipment;

"Advanced materials" means materials with engineered properties created through the development of specialized processing and synthesis technology, including ceramics, high value-added metals, electronic materials, composites, polymers, and biomaterials;

"Biotechnology" means the continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and sub-atomic levels, as well as novel products, services,

technologies and sub-technologies developed as a result of insights gained from research advances which add to that body of fundamental knowledge;

"Electronic device technology" means a technology involving microelectronics, semiconductors, electronic equipment, and instrumentation, radio frequency, microwave, and millimeter electronics, and optical and optic-electrical devices, or data and digital communications and imaging devices;

"Environmental technology" means assessment and prevention of threats or damage to human health or the environment, environmental cleanup, or the development of alternative energy sources; and

"Medical device technology" means a technology involving any medical equipment or product (other than a pharmaceutical product) that has therapeutic value, diagnostic value, or both, and is regulated by the federal Food and Drug Administration.

c. Notwithstanding the provisions of subsection a. of this section, for tax years beginning during calendar year 2002 and calendar year 2003, no deduction for any net operating loss carryover shall be allowed. If and only to the extent that any net operating loss carryover deduction is disallowed by reason of this subsection, the date on which the amount of the disallowed net operating loss carryover deduction would otherwise expire shall be extended by two years.

C.54:10A-4.4 Definitions relative to computing entire net income and related member transactions.

5. a. For the purposes of this section:

"Intangible expenses and costs" includes (1) expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income before operating loss deduction and special deductions for the taxable year under the federal Internal Revenue Code of 1986, 26 U.S.C. s.1 et seq.; (2) losses related to, or incurred in connection directly or indirectly with, factoring transactions or discounting transactions; (3) royalty, patent, technical and copyright fees; (4) licensing fees; and (5) other similar expenses and costs.

"Intangible property" means patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets and similar types of intangible assets.

"Interest expenses and costs" means amounts directly or indirectly allowed as deductions under section 163 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.163, for purposes of determining taxable income under the code to the extent such expenses and costs are directly or indirectly for, related to, or in connection with the direct or indirect acquisition, maintenance, management, ownership, sale, exchange or disposition of intangible property.

"Related member" means a person that, with respect to the taxpayer during all or any portion of the privilege period, is: (1) a related entity, (2) a component member as defined in subsection (b) of section 1563 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1563, (3) is a person to or from whom there is attribution of stock ownership in accordance with subsection (e) of section 1563 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1563, or (4) is a person that, notwithstanding its form of organization, bears the same relationship to the taxpayer as a person described in (1) through (3) of this definition.

"Related entity" means (1) a stockholder who is an individual, or a member of the stockholder's family enumerated in section 318 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.318, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially or constructively, in the aggregate, at least 50% of the value of the taxpayer's outstanding stock; (2) a stockholder, or a stockholder's partnership, limited liability company, estate, trust or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts and corporations own directly, indirectly, beneficially or constructively, in the aggregate, at least 50% per cent of the value of the taxpayer's outstanding stock; or (3) a corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of the federal Internal Revenue Code of 1986, 26 U.S.C. s.318, if the taxpayer owns, directly, indirectly, beneficially or constructively, at least 50% percent of the value of the corporation's outstanding stock. The attribution rules of the federal Internal Revenue Code of 1986, 26 U.S.C. s.318, shall apply for purposes of determining whether the ownership requirements of this definition have been met.

b. For purposes of computing its entire net income under section 4 of P.L.1945, c.162 (C.54:10A-4), a taxpayer shall add back otherwise deductible interest expenses and costs and intangible expenses and costs directly or indirectly paid, accrued or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, one or more related members.

c. (1) The adjustments required in subsection b. of this section shall not apply if: (a) the interest expenses and costs and intangible expenses and costs are directly or indirectly paid, accrued or incurred to a related member in a foreign nation which has in force a comprehensive income tax treaty with the United States; or (b) the taxpayer establishes by clear and convincing evidence, as determined by the director, that the adjustments are unreasonable; or (c) the taxpayer and the director agree in writing to the application or use of an alternative method of apportionment under section 8 of P.L.1945, c.162

(C.54:10A-8). Nothing in this subsection shall be construed to limit or negate the director's authority to otherwise enter into agreements and compromises otherwise allowed by law.

(2) For the purposes of qualifying for the exception provided by subparagraph (a) of paragraph (1) of this subsection, the taxpayer shall disclose on its return for the privilege period the name of the related member, the amount of the interest expenses and costs and intangible expenses and costs deducted, the relevant foreign nation, and such other information as the director may prescribe.

(3) The adjustments required in subsection b. of this section shall not apply to the portion of interest expenses and costs and intangible expenses and costs that the taxpayer establishes by a preponderance of the evidence meets both of the following: (a) the related member during the same income year directly or indirectly paid, received, accrued or incurred the portion to or from a person that is not a related member, and (b) the transaction giving rise to the interest expenses and costs or the intangible expenses and costs between the taxpayer and the related member did not have as a principal purpose the avoidance of any portion of the tax due under Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes.

d. Nothing in this section shall require a taxpayer to add to its net income more than once any amount of interest expenses and costs and intangible expenses and costs that the taxpayer pays, accrues or incurs to a related member described in subsection b. of this section.

e. Nothing in this section shall be construed to limit or negate the director's authority to make adjustments under paragraph (3) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4), section 8 of P.L.1945, c.162 (C.54:10A-8), or section 10 of P.L.1945, c.162 (C.54:10A-10).

6. Section 5 of P.L.1945, c.162 (C.54:10A-5) is amended to read as follows:

C.54:10A-5 Franchise tax.

5. The franchise tax to be annually assessed to and paid by each taxpayer shall be the greater of the amount computed pursuant to this section or the alternative minimum assessment computed pursuant to section 7 of P.L.2002, c.40 (C.54:10A-5a); provided however, that in the case of a taxpayer that is a New Jersey S corporation, an investment company, a professional corporation organized pursuant to P.L.1969, c. 232 (C.14A:17-1 et seq.) or a similar corporation for profit organized for the purpose of rendering professional services under the laws of another state, or a person operating on a cooperative basis under Part I of Subchapter T of the federal Internal Revenue Code of

1986, 26 U.S.C.s.1381 et seq., there shall be no alternative minimum assessment computed pursuant to section 7 of P.L.2002, c.40 (C.54:10A-5a).

The amount computed pursuant to this section shall be the sum of the amount computed under subsection (a) hereof, or in the alternative to the amount computed under subsection (a) hereof, the amount computed under subsection (f) hereof, and the amount computed under subsection (c) hereof:

(a) That portion of its entire net worth as may be allocable to this State as provided in section 6, multiplied by the following rates: 2 mills per dollar on the first $100,000,000.00 of allocated net worth; 4/10 of a mill per dollar on the second $100,000,000.00; 3/10 of a mill per dollar on the third $100,000,000.00; and 2/10 of a mill per dollar on all amounts of allocated net worth in excess of $300,000,000.00; provided, however, that with respect to reports covering accounting or privilege periods set forth below, the rate shall be that percentage of the rate set forth in this subsection for the appropriate year:

Accounting or Privilege Periods Beginning on or after:	The Percentage of the Rate to be Imposed Shall be:
April 1, 1983	75%
July 1, 1984	50%
July 1, 1985	25%
July 1, 1986	0

(b) (Deleted by amendment, P.L.1968, c.250, s.2.)

(c) (1) For a taxpayer that is not a New Jersey S corporation, 3 1/4% of its entire net income or such portion thereof as may be allocable to this State as provided in section 6 of P.L.1945, c.162 (C.54:10A-6) plus such portion thereof as is specifically assigned to this State as provided in section 5 of P.L.1993, c.173 (C.54:10A-6.1); provided, however, that with respect to reports covering accounting or privilege periods or parts thereof ending after December 31, 1967, the rate shall be 4 1/4%; and that with respect to reports covering accounting or privilege periods or parts thereof ending after December 31, 1971, the rate shall be 5 1/2%; and that with respect to reports covering accounting or privilege periods or parts thereof ending after December 31, 1974, the rate shall be 7 1/2%; and that with respect to reports covering privilege periods or parts thereof ending after December 31, 1979, the rate shall be 9%; provided however, that for a taxpayer that has entire net income of $100,000 or less for a privilege period and is not a partnership the rate for that privilege period shall be 7 1/2% and provided further that for a taxpayer that has entire

net income of $50,000 or less for a privilege period and is not a partnership the rate for that privilege period shall be 6 1/2%.

(2) For a taxpayer that is a New Jersey S corporation:

(i) for privilege periods ending on or before June 30, 1998 the rate determined by subtracting the maximum tax bracket rate provided under N.J.S.54A:2-1 for the privilege period from the tax rate that would otherwise be applicable to the taxpayer's entire net income for the privilege period if the taxpayer were not an S corporation provided under paragraph (1) of this subsection for the privilege period; and

(ii) For a taxpayer that has entire net income in excess of $100,000 for the privilege period, for privilege periods ending on or after July 1, 1998, but on or before June 30, 2001, the rate shall be 2%,

for privilege periods ending on or after July 1, 2001, but on or before June 30, 2006, the rate shall be 1.33%,

for privilege periods ending on or after July 1, 2006, but on or before June 30, 2007, the rate shall be 0.67%, and

for privilege periods ending on or after July 1, 2007 there shall be no rate of tax imposed under this paragraph, and

(iii) For a taxpayer that has entire net income of $100,000 or less for privilege periods ending on or after July 1, 1998, but on or before June 30, 2001 the rate for that privilege period shall be 0.5%, and for privilege periods ending on or after July 1, 2001 there shall be no rate of tax imposed under this paragraph.

(iv) The taxpayer's rate determined under subparagraph (i), (ii) or (iii) of this paragraph shall be multiplied by its entire net income that is not subject to federal income taxation or such portion thereof as may be allocable to this State pursuant to sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6 through 54:10A-10) plus such portion thereof as is specifically assigned to this State as provided in section 5 of P.L.1993, c.173 (C.54:10A-6.1).

(3) For a taxpayer that is a New Jersey S corporation, in addition to the amount, if any, determined under paragraph (2) of this subsection, the tax rate that would otherwise be applicable to the taxpayer's entire net income for the privilege period if the taxpayer were not an S corporation provided under paragraph (1) of this subsection for the privilege period multiplied by its entire net income that is subject to federal income taxation or such portion thereof as may be allocable to this State pursuant to sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6 through 54:10A-10).

(d) Provided, however, that the franchise tax to be annually assessed to and paid by any investment company or real estate investment trust, which has elected to report as such and has filed its return in the form and within the time provided in this act and the rules and regulations promulgated in connection therewith, shall, in the case of an investment company, be measured

by 40% of its entire net income and 40% of its entire net worth, and in the case of a real estate investment trust, by 4% of its entire net income and 15% of its entire net worth, at the rates hereinbefore set forth for the computation of tax on net income and net worth, respectively, but in no case less than $250, and further provided, however, that the franchise tax to be annually assessed to and paid by a regulated investment company which for a period covered by its report satisfies the requirements of Chapter 1, Subchapter M, Part I, Section 852(a) of the federal Internal Revenue Code shall be $250.

(e) The tax assessed to any taxpayer pursuant to this section shall not be less than $25 in the case of a domestic corporation, $50 in the case of a foreign corporation, or $250 in the case of an investment company or regulated investment company. Provided however, that for privilege periods beginning in calendar year 1994 and thereafter the minimum taxes for taxpayers other than an investment company or a regulated investment company shall be as provided in the following schedule:

Period Beginning In Calendar Year	Domestic Corporation Minimum Tax	Foreign Corporation Minimum Tax
1994	$ 50	$100
1995	$100	$200
1996	$150	$200
1997	$200	$200
1998	$200	$200
1999	$200	$200
2000	$200	$200
2001	$210	$210

and for calendar year 2002 and thereafter the minimum tax for all taxpayers shall be $500; provided however, that for a taxpayer that is a member of an affiliated group or a controlled group pursuant to section 1504 or 1563 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1504 or 1563, and whose group has total payroll of $5,000,000 or more for the privilege period, the minimum tax shall be $2,000 for the privilege period; and provided further that the director shall adjust the minimum tax amounts for privilege periods beginning in each fifth year following calendar year 2002 and each fifth year thereafter by multiplying the minimum tax for periods beginning in 2002 by an amount equal to one plus 75% of the increase, if any, in the annual average total producer price index for finished goods published by the federal Department of Labor, Bureau of Labor Statistics, for the year preceding the determination year over such index for calendar year 2001, which adjusted minimum tax amount shall be rounded to the next highest multiple of $10.

(f) In lieu of the portion of the tax based on net worth and to be computed under subsection (a) of this section, any taxpayer, the value of whose total assets everywhere, less reasonable reserves for depreciation, as of the close of the period covered by its report, amounts to less than $150,000, may elect to pay the tax shown in a table which shall be promulgated by the director.

(g) Provided however, that for privilege periods beginning on or after January 1, 2001 but before January 1, 2002 the franchise tax annually assessed to and paid by a taxpayer:

(1) that is a limited liability company or foreign limited liability company classified as a partnership for federal income tax purposes shall be the amount determined pursuant to the provisions of section 3 of P.L.2001, c.136 (C.54:10A-15.6); or

(2) that is a limited partnership or foreign limited partnership classified as a partnership for federal income tax purposes shall be the amount determined pursuant to the provisions of section 4 of P.L.2001, c.136 (C.54:10A-15.7).

(h) Provided however, that for privilege periods beginning on or after January 1, 2002 the franchise tax annually assessed to and paid by a taxpayer that is a partnership shall be the amount determined pursuant to the provisions of section 12 of P.L.2002, c.40 (C.54:10A-15.11).

(i) Notwithstanding the provisions of subsection c. of this section to the contrary, and notwithstanding the provisions of subsection (B) of section 6 of P.L.1945, c.162 (C.54:10A-6) to the contrary, the amount by which the exclusion of receipts from the denominator of the sales fraction pursuant to subsection (B) of section 6 of P.L.1945, c.162 (C.54:10A-6) increases the liability of all of the members of an affiliated group or a controlled group pursuant to section 1504 or 1563 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1504 or 1563, over that liability calculated without application of the exclusion for a privilege period shall not exceed $5,000,000. If the exclusion of receipts from the denominator of the sales fraction pursuant to subsection (B) would otherwise increase the liability of all of the members of an affiliated group or a controlled group by more than $5,000,000 for a privilege period, then the amount of liability in excess of $5,000,000 due to the exclusion of receipts from the denominator shall be abated, and the abated liability shall be allocated among the members of the affiliated group or the controlled group in proportion to each member's increase in liability due to the exclusion of such receipts; provided however, that the director may allow a single corporation within the affiliated group or controlled group to act as the key corporation for the abatement, in such manner as the director may prescribe.

C.54:10A-5a Definitions relative to alternative minimum assessment.

7. a. For the purposes of this section:

"Affiliated group" means a group of corporations defined as an affiliated group by section 1504 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1504, or any successor federal law, that files a consolidated federal income tax return for the privilege period pursuant to sections 1501 through 1504 of the federal Internal Revenue Code of 1986, 26 U.S.C. ss.1501-1504 or any successor federal law.

"Cost of goods sold" means the cost of goods sold calculated pursuant to the same method used by the taxpayer for the purpose of computing its federal income tax, or other input or expenditure, as determined by the director, as may be necessary to equitably measure the business activity of the taxpayer, multiplied by the allocation factor computed as set forth in section 6 of P.L.1945, c.162 (C.54:10A-6).

"Member of an affiliated group" means a taxpayer that is part of an affiliated group.

"New Jersey gross profits" means New Jersey gross receipts reduced by returns and allowances attributable to New Jersey gross receipts, less the cost of goods sold.

"New Jersey gross receipts" means the receipts of the taxpayer for the privilege period, computed on the cash or accrual basis according to the method of accounting used in the computation of its net income for federal tax purposes arising during the privilege period from:

(1) sales of its tangible personal property located within this State at the time of the receipt of or appropriation to the orders where shipments are made to points within this State,

(2) sales of tangible personal property located without the State at the time of the receipt of or appropriation to the orders where shipment is made to points within the State,

(3) services performed within the State,

(4) rentals from property situated, and royalties from the use of patents or copyrights, within the State,

(5) all other business receipts earned within the State.

b. For privilege periods beginning on or after January 1, 2002, the alternative minimum assessment shall be equal to the amount computed under paragraph (1) or (2) of this subsection pursuant to the election made pursuant to subsection c. of this section:

(1) If New Jersey gross profits are:	the assessment is:
Not more than $1,000,000	No amount is assessed
More than $1,000,000 but not over $10,000,000	.0025 times the gross profits in excess of $1,000,000 multiplied by 1.11111

More than $10,000,000 but not over $15,000,000	.0035 times the gross profits
More than $15,000,000 but not over $25,000,000	.006 times the gross profits
More than $25,000,000 but not over $37,500,000	.007 times the gross profits
More than $37,500,000	.008 times the gross profits;

or

(2) If New Jersey gross receipts are:	the assessment is:
Not more than $2,000,000	No amount is assessed
More than $2,000,000 but not over $20,000,000	.00125 times the gross receipts in excess of $2,000,000 multiplied by 1.11111
More than $20,000,000 but not over $30,000,000	.00175 times the gross receipts
More than $30,000,000 but not over $50,000,000	.003 times the gross receipts
More than $50,000,000 but not over $75,000,000	.0035 times the gross receipts
More than $75,000,000	.004 times the gross receipts

(3) The sum of the amounts untaxed for all of the members of an affiliated group or a controlled group pursuant to section 1504 or 1563 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1504 or 1563, shall not exceed $5,000,000 of gross profits, or shall not exceed $10,000,000 of gross receipts, or, for a group whose members have not all elected the same computation method under this subsection, shall not exceed five times the applicable amounts not subject to assessment of the individual members.

c. A taxpayer shall, for the first privilege period for which it is required to compute the alternative minimum assessment pursuant to this section, elect to employ the computation method set forth in paragraph (1) or the computation method set forth in paragraph (2) of subsection b. of this section, which computation method shall be employed by the taxpayer for the computation

of the alternative minimum assessment for that privilege period and for the next succeeding four privilege periods, pursuant to regulations and forms as the director may prescribe. The taxpayer may change its election at any time after the initial five privilege periods; provided however, that any change in the method of computation of the alternative minimum assessment which the taxpayer elects shall be employed by the taxpayer for the privilege period for which the change is effective and for the next four succeeding privilege periods.

d. (1) Notwithstanding the provisions of subsection b. of this section, the alternative minimum assessment for a taxpayer for a privilege period, shall not exceed $5,000,000.

(2) If five or more taxpayers are members of an affiliated group, the sum of the alternative minimum assessments of each of the members of the affiliated group for a privilege period shall not exceed $20,000,000. If the sum of the alternative minimum assessment for all members of the affiliated group computed as set forth in subsection b. after application of the maximum set by paragraph (1) of this subsection would otherwise exceed $20,000,000, the alternative minimum assessment for a member of the affiliated group shall equal the alternative minimum assessment for that member of the affiliated group computed as set forth in subsection b. after application of the maximum set by paragraph (1) of this subsection multiplied by a fraction, the numerator of which is $20,000,000 and the denominator of which is the sum of the alternative minimum assessments for all members of the affiliated group computed as set forth in subsection b. after application of the maximum set by paragraph (1) of this subsection.

(3) For the purpose of calculating the alternative minimum assessment, the amount of the sum of the alternative minimum assessments of the members of an affiliated group shall not, when added to the amounts of the members' tax computed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), exceed $20,000,000.

e. The alternative minimum assessment computed pursuant to this section for privilege periods commencing after June 30, 2006 shall be $0.00, except that for taxpayers exempt from corporation net income taxation pursuant to 15 U.S.C. s.381 et seq. (Pub.L.86-272), 73 Stat. 555, such assessment shall continue to be computed as otherwise provided herein; provided however, that for privilege periods commencing after December 31, 2006, a taxpayer exempt from corporation net income taxation pursuant to 15 U.S.C. s.381 et seq. that has filed a consent, in the form as shall be prescribed by the director, to the jurisdiction of this State to impose and the duty of the taxpayer to pay the tax imposed pursuant to section 5 of P.L.1945, c.165 (C.54:10A-5) for the privilege period shall have an alternative minimum assessment for that period of $0.00.

f. (1) If the alternative minimum assessment for a taxpayer computed pursuant to this section exceeds the tax computed pursuant to section 5 of P.L.1945, c.165 (C.54:10A-5) for a privilege period, the taxpayer shall be allowed an amount of credit equal to the amount by which the alternative minimum assessment computed pursuant to this section for the privilege period exceeds the tax computed pursuant to section 5 of P.L.1945, c.165 (C.54:10A-5) for that privilege period; provided however, that a taxpayer shall not be allowed a credit for any amount of alternative minimum assessment for a privilege period for which a credit is allowed pursuant to section 29 of P.L.2002, c.40 (C.54:10A-5b). The amount of credit may be carried forward for application in subsequent privilege periods subject to the limitations of paragraph (2) of this subsection.

(2) A taxpayer may apply all or a portion of the credits allowed by paragraph (1) of this subsection against the tax computed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), for a privilege period for which the tax pursuant to that section exceeds the alternative minimum assessment computed for the privilege period pursuant to this section; provided however, that the amount of credit applied shall not reduce the amount of tax otherwise due to less than the alternative minimum assessment as computed pursuant to this section for the privilege period, shall not reduce the amount of tax otherwise due by more than 50%, and shall not reduce the amount of tax otherwise due below the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

8. Section 6 of P.L.1945, c.162 (C.54:10A-6) is amended to read as follows:

C.54:10A-6 Allocation factor.

6. In the case of a taxpayer which maintains a regular place of business outside this State other than a statutory office, the portion of its entire net worth to be used as a measure of the tax imposed by subsection (a) of section 5 of P.L.1945, c.162 (C.54:10A-5), and the portion of its entire net income to be used as a measure of the tax imposed by subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5), shall be determined by multiplying such entire net worth and entire net income, respectively, by an allocation factor which is the property fraction, plus twice the sales fraction plus the payroll fraction and the denominator of which is four, except as the director may determine pursuant to section 8 of P.L.1945, c.162 (C.54:10A-8), that is:

(A) The property fraction is the average value of the taxpayer's real and tangible personal property within the State during the period covered by its report divided by the average value of all the taxpayer's real and tangible personal property wherever situated during such period; provided, however, that for the purpose of determining average value, the provisions with respect

to depreciation as set forth in subparagraph (F) of paragraph (2) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4) shall be taken into account for arriving at such value.

(B) The sales fraction is the receipts of the taxpayer, computed on the cash or accrual basis according to the method of accounting used in the computation of its net income for federal tax purposes, arising during such period from

(1) sales of its tangible personal property located within this State at the time of the receipt of or appropriation to the orders where shipments are made to points within this State,

(2) sales of tangible personal property located without the State at the time of the receipt of or appropriation to the orders where shipment is made to points within the State,

(3) (Deleted by amendment.)

(4) services performed within the State,

(5) rentals from property situated, and royalties from the use of patents or copyrights, within the State,

(6) all other business receipts (excluding dividends excluded from entire net income by paragraph (1) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4)) earned within the State,

divided by the total amount of the taxpayer's receipts, similarly computed, arising during such period from all sales of its tangible personal property, services, rentals, royalties and all other business receipts, whether within or without the State; provided however, that if receipts would be assigned to a state, a possession or territory of the United States or the District of Columbia or to any foreign country in which the taxpayer is not subject to a tax on or measured by profits or income, or business presence or business activity, then the receipts shall be excluded from the denominator of the sales fraction.

(C) The payroll fraction is the total wages, salaries and other personal service compensation, similarly computed, during such period of officers and employees within the State divided by the total wages, salaries and other personal service compensation, similarly computed, during such period of all the taxpayer's officers and employees within and without the State.

In the case of a taxpayer which does not maintain a regular place of business outside this State other than a statutory office, the allocation factor shall be 100%.

In the case of a banking corporation which maintains a regular place of business outside this State other than a statutory office, and which elects to take the exclusion from net worth provided in subsection (d) of section 4 of P.L.1945, c.162 (C.54:10A-4) or the deduction from entire net income provided in paragraph (4) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4), the allocation factor shall be computed and applied in accordance with section

6 of P.L.1945, c.162 (C.54:10A-6); provided, however, that the numerators and the denominators of the fractions described in (A), (B) or (C) above shall include all amounts attributable, directly or indirectly, to the production of the eligible net income of an international banking facility as defined in paragraph (4) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4), whether or not such amounts are otherwise attributable to this State.

9. Section 5 of P.L.1993, c.173 (C.54:10A-6.1) is amended to read as follows:

C.54:10A-6.1 "Operational income" defined; related corporate expenses not deductible; conditions; forms; rules.

5. a. "Operational income" subject to allocation to New Jersey means income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations and includes investment income serving an operational function. Income that a taxpayer demonstrates with clear and convincing evidence is not operational income is classified as nonoperational income, and the nonoperational income of taxpayers is not subject to allocation but shall be specifically assigned; provided, that 100% of the nonoperational income of a taxpayer that has its principal place from which the trade or business of the taxpayer is directed or managed in this State shall be specifically assigned to this State to the extent permitted under the Constitution and statutes of the United States.

b. Corporate expenses related to nonoperational income are not deductible in determining entire net income. Notwithstanding the provisions of R.S.54:49-6 or any other law to the contrary:

(1) if in prior privilege periods property had been classified as operational property, and later is demonstrated to have been nonoperational property and is subsequently disposed of, all expenses, without limitation, deducted for prior privilege periods related to such nonoperational property shall be added back and recaptured as income in the period of disposition of such property;

(2) if in prior privilege periods income had been classified as serving an operational function, and later is demonstrated not to have been serving an operational function, all expenses, without limitation, deducted in prior privilege periods related to such income not serving an operational function shall be added back and recaptured as income; and

(3) the denominators of the fractions used to determine the allocation factor pursuant to section 6 of P.L.1945, c.162 (C.54:10A-6), for privilege periods for which redeterminations are required pursuant to paragraphs (1) and (2) of this subsection shall be redetermined to exclude the amounts, if any, relating to the nonoperational property or the nonoperational income.

c. The Director of the Division of Taxation shall prescribe such forms for administration and adopt such administrative rules as the director deems necessary for the implementation of this section.

10. Section 10 of P.L.1945, c.162 (C.54:10A-10) is amended to read as follows:

C.54:10A-10 Evasion of tax; adjustments and redeterminations; obtaining information.

10. a. Whenever it shall appear to the director that any taxpayer fails to maintain its records in accordance with sound accounting principles or conducts its business or maintains its records in such manner as either directly or indirectly to distort its true entire net income or its true entire net worth under this act or the proportion thereof properly allocable to this State, or whenever any taxpayer maintains a place of business outside this State, or whenever any agreement, understanding or arrangement exists between a taxpayer and any other corporation or any person or firm, for the purpose of evading tax under this act, or whereby the activity, business, receipts, expenses, assets, liabilities, income or net worth of the taxpayer are improperly or inaccurately reflected, the director is authorized and empowered, in the director's discretion and in such manner as the director may determine, to adjust and redetermine such items, and to adjust items of gross receipts, tangible or intangible property and payrolls within and without the State and the allocation of entire net income or entire net worth or to make any other adjustments in any tax report or tax returns as may be necessary to make a fair and reasonable determination of the amount of tax payable under this act.

b. Where (1) any taxpayer conducts its activity or business under any agreement, arrangement or understanding in such manner as either directly or indirectly to benefit its members or stockholders, or any of them, or any person or persons directly or indirectly interested in such activity or business, by entering into any transaction at more or less than a fair price which, but for such agreement, arrangement or understanding, might have been paid or received therefor, or (2) any taxpayer, a substantial portion of whose capital stock is owned either directly or indirectly by or through another corporation, enters into any transaction with such other corporation on such terms as to create an improper loss or net income, the director may include in the entire net income of the taxpayer the fair profits which, but for such agreement, arrangement or understanding, the taxpayer might have derived from such transaction. The director may require any person or corporation to submit such information under oath or affirmation, or to permit such examination of its books, papers and documents, as may be necessary to enable the director to determine the existence, nature or extent of an agreement, understanding

or arrangement to which this section relates, whether or not such person or corporation is subject to the tax imposed by this act.

c. The entire net income of a taxpayer exercising its franchise in this State that is a member of an affiliated group or a controlled group pursuant to section 1504 or 1563 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1504 or 1563, shall be determined by eliminating all payments to, or charges by, other members of the affiliated or controlled group in excess of fair compensation in all inter-group transactions of any kind. Notwithstanding the elimination of all inter-group transactions in excess of fair compensation, if the taxpayer cannot demonstrate by clear and convincing evidence that a report by a taxpayer discloses the true earnings of the taxpayer on its business carried on in this State, the director may, at the director's discretion, require the taxpayer to file a consolidated return of the entire operations of the affiliated group or controlled group, including its own operations and income to the extent permitted under the Constitution and statutes of the United States. The director shall determine the true amount of entire net income earned by the taxpayer in this State. The consolidated entire net income of the taxpayer and of the other members of its affiliated group or controlled group shall be allocated to this State by use of the applicable allocation formula that the director requires pursuant to P.L.1945, c.162 (C.54A:10A-1 et seq.) be used by the taxpayer. The return shall include in the allocation formula the property, payrolls, and sales of all corporations for which the return is made. The director may require a consolidated return under this section without regard to whether the other members of the affiliated or controlled group, other than the taxpayer, are or are not exercising their franchises in this State.

A consolidated return required by this section shall be filed within 60 days after it is demanded, subject to the penalties of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

The member of an affiliated group or a controlled group shall incorporate in its return required under this section information needed to determine under this section its taxable entire net income, and shall furnish any additional information the director requires, subject to the penalties of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq. A taxpayer shall furnish any additional information requested within 30 days after it is demanded, subject to the penalties of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

11. Section 14 of P.L.1945, c.162 (C.54:10A-14) is amended to read as follows:

C.54:10A-14 Copies of information may be demanded by director; records to be kept; securing information.

14. (a) The director may by general rule or by special notice require any taxpayer to submit copies or pertinent extracts of its federal income tax returns,

or of any other tax return made to any agency of the federal government, or of this or any other state, or of any statement or registration made pursuant to any state or federal law pertaining to securities or securities exchange regulation.

(b) The director may require all taxpayers to keep such records as the director may prescribe, and the director may require the production of books, papers, documents and other data, to provide or secure information pertinent to the determination of the tax hereunder and the enforcement and collection thereof. The director may, also, by general rule or by special notice require any taxpayer to make and file information returns, under oath, of facts pertinent to the determination of the tax or liability for tax hereunder, pursuant to such regulations, at such times and in such form and manner and to such extent as the director may prescribe pursuant to law.

(c) Each taxpayer filing a return that is a member of an affiliated group or a controlled group pursuant to section 1504 or 1563 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1504 or 1563 shall, upon the request of the director and 90 days' notice thereof, disclose in its return for the privilege period the amount of all inter-member costs or expenses, including but not limited to management fees, rents, and other services, for the privilege period. If the taxpayer acquires products or services from another member of its affiliated group or controlled group, which it re-sells or otherwise uses to generate revenue, the taxpayer shall, upon the request of the director and 90 days' notice thereof, disclose the amount of revenue generated from those products or services. The director shall promulgate rules and procedures for the manner of disclosure. A failure to file such a disclosure shall be deemed the filing of an incomplete tax return, subject to the penalties of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

C.54:10A-15.11 Tax payment by certain partnerships; definitions.

12. a. A partnership that is not a qualified investment partnership and that is not listed on a United States national stock exchange shall, on or before the 15th day of the fourth month succeeding the close of each privilege period, remit a payment of tax. The amount of tax shall be equal to the sum of: all of the share of the entire net income of the partnership for that privilege period of all nonresident noncorporate partners, multiplied by an allocation factor determined, pursuant to section 6 of P.L.1945, c.162 (C.54:10A-6), based on the allocation fractions of the partnership for that privilege period, and multiplied by.0637 plus all of the share of the entire net income of the partnership for that privilege period of all nonresident corporate partners, multiplied by an allocation factor determined, pursuant to section 6 of P.L.1945, c.162 (C.54:10A-6), based on the allocation fractions of the partnership for that privilege period, and multiplied by .09.

b. An amount of tax paid by a partnership pursuant to subsection a. of this section shall be credited to accounts of its nonresident partners in proportion to each nonresident partner's share of allocated entire net income and the multiplier rate for that partner class under subsection a. of this section as of the date of its receipt by the director, and each amount of tax so credited shall be deemed to have been paid by the respective partner in respect of the privilege period or taxable year of the partner.

c. For the purposes of this section:

"Nonresident noncorporate partner" means, an individual, an estate or a trust subject to taxation pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., that is not a resident taxpayer or a resident estate or trust under that act;

"Nonresident corporate partner" means a partner that is not an individual, an estate or a trust subject to taxation pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., that is not a corporation exempt from tax pursuant to section 3 of P.L.1945, c.162 (C.54:10A-3), and that does not maintain a regular place of business in this State other than a statutory office; and

"Partner" means an owner of an interest in the partnership, in whatever manner that owner and ownership interest are designated.

13. Section 15 of P.L.1945, c.162 (C.54:10A-15) is amended to read as follows:

C.54:10A-15 Annual tax payable; manner of payment.

15. The tax imposed by this act shall be due and payable annually hereafter, commencing with the calendar year 1959, in the manner provided under subsection (a), (b) or (c) of this section, whichever shall be applicable.

(a) Every taxpayer shall annually pay a franchise tax, with respect to all or any part of each of its fiscal or calendar accounting years beginning after January 1, 1959, to be computed as herein provided, for such fiscal or calendar accounting year or part thereof, on a report which shall be filed on or before April 15 next succeeding the close of each such accounting year, or, if any such fiscal year ends after the last day of December and prior to July 1, on or before the fifteenth day of the fourth month after the close of such fiscal year, and the full amount of the tax hereunder shall be due and payable on or before the date prescribed herein for the filing of the return.

(b) Every taxpayer shall pay a like franchise tax with respect to all or any part of the period beginning January 1, 1959 and extending through any subsequent part of its first fiscal or calendar accounting year ending after said date. Such tax shall be computed as herein provided, for each and every fiscal or calendar accounting year or part thereof begun not earlier than July 2, 1957

and ending not later than December 31, 1959 on the basis of which a franchise tax has not accrued under this act prior to January 1, 1959. The tax imposed pursuant to this subsection shall be deemed a single tax for such period but shall be computed separately with respect to each such fiscal or calendar accounting year or part thereof on the basis of which a franchise tax has not previously accrued as aforesaid, on a report which shall be filed on or before April 15, next succeeding the close of each such accounting year, or, if any such fiscal year ends after the last day of December and prior to July 1, on or before the fifteenth day of the fourth month after the close of such fiscal year, and the full amount of the tax hereunder shall be due and payable on or before the date prescribed herein for the filing of the report.

(c) With respect to all or any part of each of its privilege periods ending after June 30, 1967, every taxpayer shall annually pay a franchise tax on a report which shall be filed on or before the fifteenth day of the fourth month after the close of such privilege period, or part thereof, and the full amount of the tax hereunder shall be due and payable on or before the date prescribed herein for the filing of the return.

(d) With respect to its fiscal or calendar accounting years ending after February 29, 1968 and prior to March 1, 1969, every taxpayer shall pay as a partial payment of franchise tax in addition to the tax payable under subsection (c) of this section, an amount equal to one-quarter of the tax payable under said subsection (c). With respect to each of its fiscal or calendar accounting years ending after February 28, 1969, every taxpayer shall annually pay as a partial payment of franchise tax in addition to the tax payable under subsection (c) of this section, an amount equal to one-half of the tax payable under said subsection (c). In the calculation of the tax pertaining to each succeeding accounting period, due in accordance with subsection (c) hereof, every taxpayer shall be entitled to a credit in the amount of the tax paid under this subsection (d) as a partial payment and shall be entitled to the return of any amount so paid which shall be found in excess of the total amount payable in accordance with said subsection (c) and this subsection (d).

(e) With respect to its fiscal or calendar accounting years ending on or after June 30, 1974, every taxpayer shall annually pay as a partial payment of franchise tax in addition to the tax payable under subsection (c) of this section, an amount equal to 60% of the tax payable under said subsection (c). In the calculation of the tax pertaining to each succeeding accounting period, due in accordance with subsection (c) hereof, every taxpayer shall be entitled to a credit in the amount of the tax paid under this subsection (e) as a partial payment and shall be entitled to the return of any amount so paid which shall be found to be in excess of the total amount payable in accordance with said subsection (c) and this subsection (e).

(f) With respect to its privilege periods ending on or after December 31, 1984, in addition to the tax payable under subsection (c) of this section, every taxpayer, except a taxpayer with gross receipts of $50,000,000 or more for the prior privilege period, which shall make installment payments pursuant to subsection (g) of this section, shall make installment payments of its franchise tax at the following times and in the following amounts of its estimated tax for its current fiscal or calendar accounting year:

(1) 25% thereof paid on or before the fifteenth day of the fourth month thereof;

(2) 25% thereof paid on or before the fifteenth day of the sixth month thereof;

(3) 25% thereof paid on or before the fifteenth day of the ninth month thereof; and

(4) the balance thereof paid on or before the fifteenth day of the twelfth month thereof.

(g) With respect to its privilege periods beginning on or after January 1, 2003, in addition to the tax payable under subsection (c) of this section, every taxpayer with gross receipts of $50,000,000 or more for the prior privilege period shall make installment payments of its franchise tax at the following times and in the following amounts of its estimated tax for its current privilege period:

(1) 25% thereof paid on or before the fifteenth day of the fourth month thereof;

(2) 50% thereof paid on or before the fifteenth day of the sixth month thereof; and

(3) the balance thereof paid on or before the fifteenth day of the twelfth month thereof.

(h) In the calculation of the tax due in accordance with subsection (c) hereof, a taxpayer shall be entitled to a credit in the amount of the tax paid under subsection (f) or subsection (g) of this section as a partial payment and shall be entitled to the return of any amount so paid which is in excess of the total amount payable in accordance with subsection (c) and this subsection.

(i) For the purpose of this act, every taxpayer shall use the same calendar or fiscal year upon which it reports to the United States Treasury Department for Federal Income Tax purposes.

14. Section 18 of P.L.1945, c.162 (C.54:10A-18) is amended to read as follows:

C.54:10A-18 Forms; certification; S corporation, professional service corporation returns.

18. a. The director shall design a form of return and forms for such additional statements or schedules as the director may require to be filed therewith. Such forms shall provide for the setting forth of such facts as the director may deem

necessary for the proper enforcement of this act. The director shall cause a supply thereof to be printed and shall furnish appropriate blank forms to each taxpayer upon application or otherwise as he may deem necessary. Failure to receive a form shall not relieve any taxpayer from the obligation to file a return under the provisions of this act. Each such return shall have annexed thereto a certification by the president, vice-president, comptroller, secretary, treasurer, assistant treasurer, accounting officer of the taxpayer or any other officer of the taxpayer duly authorized so to act to the effect that the statements contained therein are true. The fact that an individual's name is signed on a certification of the report shall be prima facie evidence that such individual is authorized to sign and certify the report on behalf of the corporation. In the case of a corporation in liquidation or in the hands of a receiver or trustee, certification shall be made by the person responsible for the conduct of the affairs of such corporation.

b. The return of an S corporation shall, in addition to any information set forth pursuant to subsection a. of this section, set forth with respect to each shareholder: the shareholder's name, address and federal taxpayer identification number (social security number or employer identification number); whether the shareholder is a resident of this State; whether the shareholder has filed a consent to jurisdictional requirements pursuant to section 3 or section 4 of P.L.1993, c.173 (C.54:10A-5.22 or C.54:10A-5.23); the allocation factor determined pursuant to sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6 through 54:10A-10); the amount of any distribution made to the shareholder, including any amount paid on behalf of the shareholder pursuant to subsection c. or d. of section 4 of P.L.1993, c.173 (C.54:10A-5.23); the balance of the accumulated earnings and profits account; the balance of the accumulated adjustments account described in section 16 of P.L.1993, c.173 (C.54A:5-14), which account the corporation shall maintain; and such other information as the director may prescribe by regulation. The S corporation shall, on or before the day on which such return is required to be filed, furnish to each person who was a shareholder during the privilege period a copy of such information shown on the return as the director may by regulation prescribe.

c. (1) The return of a taxpayer that is a professional corporation organized pursuant to P.L.1969, c. 232 (C.14A:17-1 et seq.) or a similar corporation for profit organized for the purpose of rendering professional services under the laws of another state, shall in addition to any information set forth pursuant to subsection a. of this section, set forth the name, address and federal taxpayer identification number (social security number or employer identification number) of each licensed professional of the corporation.

(2) Each professional corporation organized pursuant to P.L.1969, c.232 (C.14A:17-1 et seq.) or similar corporation for profit organized for the purpose of rendering professional services under the laws of another state that has more

than two licensed professionals shall at the time such return is required to be filed make a payment of a filing fee of $150 for each licensed professional of the corporation, up to a maximum of $250,000.

(3) Each professional corporation or similar corporation for profit organized under the laws of another state required to make a payment pursuant to paragraph (2) of this subsection shall also make, at the same time as making its payment pursuant to paragraph (2) of this subsection, an installment payment of its filing fee, for the succeeding return period in an amount equal to 50% of the amount required to be paid pursuant to paragraph (2). The amount of the installment payment shall be credited against the amount of the filing fee due for the succeeding return period, or, if the amount of the installment payment exceeds the amount of the filing fee due for the succeeding return period, successive return periods.

(4) Notwithstanding the provisions of R.S.54:48-2 and R.S.54:48-4 to the contrary, the fee required pursuant to paragraph (2) of this subsection and the installment payment required pursuant to paragraph (3) of this subsection shall, for purposes of administration, be payments to which the provisions of the State Uniform Tax Procedure Law, R.S.54:28-1 et seq., shall be applicable and the collection thereof may be enforced by the director in the manner therein provided.

15. Section 10 of P.L.1947, c.50 (C.54:10A-19.1) is amended to read as follows:

C.54:10A-19.1 Examination of returns, assessment.

10. (a) (Deleted by amendment, P.L.1992, c.175).

(b) (Deleted by amendment, P.L.1992, c.175).

(c) (Deleted by amendment, P.L.1992, c.175).

(d) The examination of returns and the assessment of additional taxes, penalties and interest shall be as provided by the State Uniform Tax Procedure Law, R.S.54:48-1 et seq., except as otherwise provided.

(e) The filing of a complaint by a taxpayer in the tax court shall suspend the running of the statute of limitations for the contested issue or issues for all subsequent privilege periods.

16. Notwithstanding any other provision of law, no interest or penalty shall be assessed against any taxpayer for underpayment of installment payments of its estimated tax due and payable after December 31, 2001 and before June 16, 2002, if, and only to the extent, the underpayment of estimated tax is the result of the temporary suspension of the deduction for net operating loss carryovers provided in section 4 of P.L.1945, c.162

(C.54:10A-4) as amended in section 3 of P.L.2002, c.40 or subsection c. of section 1 of P.L.1997, c.350 (C.54:10A-4.3).

17. a. Notwithstanding the limitation of the application of subsection (g) of section 5 of P.L.1945, c.162 (C.54:10A-5) made pursuant to section 6 of P.L.2002, c.40, that limitation shall not affect any obligation, lien or duty to make installment payments and pay interest or penalties which have accrued or may accrue by virtue of any duty to make installment payments pursuant to the provisions of section 5 of P.L.2001, c.136 (C.54:10A-15.8) prior to the limitation of the application of subsection (g) of section 5 of P.L.1945, c.162 (C.54:10A-5) made pursuant to section 6 of P.L.2002, c.40; and provided that all estimated payments which would have been due and payable prior to the enactment of P.L.2002, c.40 shall be due and payable as if the limitation were not in effect; and provided that this limitation shall not affect the legal authority of the State to audit records and assess and collect installment payments which may be due, together with such interest and penalties as have accrued or would have accrued thereon and shall not affect any determination of, or affect any proceeding for, the enforcement thereof.

b. Notwithstanding the provisions of section 5 of P.L.2001, c.136 (C.54:10A-15.8) to the contrary, any amount of tax paid pursuant to subsection a. of that section for privilege periods beginning on or after January 1, 2002 shall be credited against the tax paid pursuant to section 12 of P.L.2002, c.40 (C.54:10A-15.11).

18. Section 2 of P.L.1993, c.170 (C.54:10A-5.5) is amended to read as follows:

C.54:10A-5.5 Definitions relative to new jobs investment tax credit.

2. As used in this act:

"Business relocation or expansion or investment" means capital investment in a new or expanded business facility in this State.

"Business facility" means any factory, mill, plant, refinery, warehouse, building, complex of buildings or structural components of buildings, and all machinery, equipment and personal property located within this State, used in connection with the operation of the business of a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), and all facility preparation and start-up costs of the taxpayer for the business facility which it capitalizes for federal income tax purposes.

"Compensation" means wages, salaries, commissions or any other form of remuneration paid to employees for personal services.

"Controlled group" means one or more chains of corporations connected through stock ownership with a common parent corporation if stock possessing

at least 50% of the voting power of all classes of stock of each of the corporations is owned directly or indirectly by one or more of the corporations; and the common parent owns directly stock possessing at least 50% of the voting power of all classes of stock of at least one of the other corporations.

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Expanded business facility" means any business facility, other than a new business facility, resulting from acquisition, construction, reconstruction, installation or erection of improvements or additions to existing property if such improvements or additions are purchased on or after the operative date of this act, but only to the extent of a taxpayer's qualified investment in such improvements or additions.

"New business facility" means a business facility which:

a. is employed by a taxpayer in the conduct of a business which is or will be taxable under P.L.1945, c.162 (C.54:10A-1 et seq.). Such facility shall not be considered a new business facility in the hands of a taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person;

b. is purchased by a taxpayer and is placed in service or use on or after the operative date of this act;

c. was not purchased by a taxpayer from a related person. The director may waive this requirement if the facility was acquired from a related person for its fair market value and the acquisition was not tax motivated;

d. was not in service or use during the 90-day period immediately prior to transfer of the title to the facility, provided that this restriction for the 90-day period may be waived by the director if the director determines that individuals employed at the facility may be considered as "new employees" as defined in this section.

"New employee" means an individual residing and domiciled in this State, hired by a taxpayer to fill a position or a job in this State which previously did not exist in the taxpayer's business enterprise in this State prior to the date on which the taxpayer's qualified investment is placed in service or use in this State provided that:

a. the individual's duties in connection with the operation of the business facility are on a regular, full-time and permanent basis or regular part-time and permanent basis;

b. the individual is not a related individual as defined in subsection (i) of section 51 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.51, or does not own 10% or more of the business with such ownership interest to be determined under the rules set forth in section 267 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.267;

c. the individual is not an individual who worked for the taxpayer during the six-month period ending on the date the taxpayer's qualified investment is placed in service or use and is rehired by the taxpayer during the six-month period beginning on the date the taxpayer's qualified investment is placed in service or use in this State; and

d. the individual is not an employee for whom the taxpayer is allowed a credit pursuant to section 19 of P.L.1983, c.303 (C.52:27H-78) or section 12 of P.L.1985, c.227 (C.55:19-13).

As used in this definition: "full-time" means employment for at least 140 hours per month at a wage not less than the State or federal minimum wage, if either minimum wage provision is applicable to the business and "permanent basis" does not include employment that is temporary or seasonal and therefore the compensation paid to temporary or seasonal employees will not be considered for purposes of sections 4 and 6 of this act; and "part-time" means customarily performing such duties at least 20 hours per week for at least six months during the tax year. In no event shall the number of new employees directly attributable to the qualified investment for the purpose of the credit allowed pursuant to this act exceed the total increase in the taxpayer's average employment in this State for the tax year over the average employment in this State for the previous tax year and in no event shall the number of new employees directly attributable to the qualified investment for the purpose of the credit allowed pursuant to this act exceed one-half of the average employment in this State for the tax year; and provided, that the director may require that the net increase in the taxpayer's employment in this State be determined and certified for the taxpayer's controlled group.

Provided further, however, that individuals filling jobs saved as a direct result of the taxpayer's qualified investment in property purchased for business relocation or expansion on or after the operative date of this act may be treated as new employees filling new jobs if the taxpayer certifies the material facts to the director and the director expressly finds that: but for the new employer purchasing the assets of a business in bankruptcy under chapter 7 or 11 of the United States Bankruptcy Code and such new employer making qualified investment in property purchased for business relocation or expansion, the assets would have been sold by the United States bankruptcy court in a liquidation sale and the jobs so saved would have been lost; or but for the taxpayer's qualified investment in property purchased for business relocation or expansion in this State, the business facility in this State would have closed and the employees located at the facility would have lost their jobs; provided that the director shall not make this certification unless the director finds that the business is insolvent as defined in paragraph (32) of 11 U.S.C. s.101 or that the business facility was destroyed in whole or in significant part by fire, flood or act of God.

"New job" means a job which did not exist in the business of the taxpayer in this State prior to the taxpayer's qualified investment being made, and which is filled by a new employee.

"Partnership" means a syndicate, group, pool, joint venture or other unincorporated organization through or by means of which any business, financial operation or venture is carried on, and which is not a trust or estate, a corporation or a sole proprietorship. The term "partner" includes a member in such a syndicate, group, pool, joint venture or organization.

"Property purchased for business relocation or expansion" means improvements to real property and tangible personal property, but only if that improvement or personal property was constructed or purchased and placed in service or use by the taxpayer, for use as a component part of a new or expanded business facility located in this State.

a. Property purchased for business relocation or expansion shall include only:

(1) improvements to real property placed in service or use on or after the operative date of this act by the taxpayer;

(2) tangible personal property placed in service or use by the taxpayer on or after the operative date of this act, with respect to which depreciation, or amortization in lieu of depreciation, is allowable in determining the corporation business tax liability of the taxpayer under P.L.1945, c.162, and which has a remaining recovery period of three or more years at the time the property is placed in service or use in this State; or

(3) tangible personal property owned and used by the taxpayer at a business location outside this State which is moved into this State on or after the operative date of this act, for use as a component part of a new or expanded business facility located in this State; provided that the property is depreciable or amortizable personal property for income tax purposes, and has a remaining recovery period of three or more years at the time the property is placed in service or use in this State.

b. Property purchased for business relocation or expansion shall not include:

(1) Repair costs, including materials used in the repair, unless for federal income tax purposes, the cost of the repair must be capitalized and not expensed;

(2) Airplanes;

(3) Property which is primarily used outside this State with that use being determined based upon the amount of time the property is actually used both within and without this State;

(4) Property which is acquired incident to the purchase of the stock or assets of the seller unless for good cause shown, the director consents to waiving this disqualification; or

(5) Property purchased on or after the operative date of this act, unless pursuant to a written contract to purchase executed prior to the operative date of this act, the cost or consideration for which cannot be quantified with any reasonable degree of accuracy at the time such property is placed in service or use; provided that if the contract of purchase specifies a minimum purchase price the amount thereof shall be used to determine the qualified investment in such property under section 5 of this act if the property otherwise qualifies as property purchased for business relocation or expansion.

c. Property shall be deemed to have been purchased prior to a specified date only if:

(1) the physical construction, reconstruction or erection of the property was begun prior to the specified date, or such property was constructed, reconstructed, erected or acquired pursuant to a written contract as existing and binding on the purchase prior to the specified date; or

(2) the machinery or equipment was owned by the taxpayer prior to the specified date, or was acquired by the taxpayer pursuant to a binding purchase contract which was in effect prior to the specified date.

"Purchase" means any acquisition of property, including an acquisition pursuant to a lease, but only if:

a. the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of deductions under section 267 or subsection (b) of section 707 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.267 or s.707;

b. the property is not acquired by one member of a controlled group from another member of the same controlled group. The director may waive this requirement if the property was acquired from a related party for its then fair market value; and

c. the basis of the property for federal income tax purposes, in the hands of the person acquiring it, is not determined:

(1) in whole or in part by reference to the federal adjusted basis of such property in the hands of the person from whom it was acquired; or

(2) under subsection (e) of section 1014 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1014.

"Related person" means:

a. a corporation, partnership, association or trust controlled by the taxpayer;

b. an individual, corporation, partnership, association or trust that is in control of the taxpayer;

c. a corporation, partnership, association or trust controlled by an individual, corporation, partnership, association or trust that is in control of the taxpayer; or

d. a member of the same controlled group as the taxpayer.

As used in the definition of related person and as is applicable to the definitions of purchase and small or mid-size business taxpayer, "control," with respect to a corporation, means ownership, directly or indirectly, of stock possessing 50% or more of the total combined voting power of all classes of the stock of the corporation entitled to vote; "control," with respect to a trust, means ownership, directly or indirectly, of 50% or more of the beneficial interest in the principal or income of the trust. The ownership of stock in a corporation, of a capital or profits interest in a partnership or association or of a beneficial interest in a trust shall be determined in accordance with the rules for constructive ownership of stock provided in subsection (c) of section 267 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.267, other than paragraph (3) of subsection (c) of that section.

"Small or mid-size business taxpayer" means a taxpayer that has an annual payroll, as calculated pursuant to section 6 of P.L.1945, c.162 (C.54:10A-6), of $5,000,000 or less and annual gross receipts, as calculated pursuant to section 6 of P.L.1945, c.162 (C.54:10A-6), of not more than $10,000,000 for the tax year in which property purchased for business relocation or expansion is placed in service or use by the taxpayer; provided that beginning with tax years commencing on and after January 1 next following the operative date of P.L.2002, c.40 the director shall prescribe the amount of annual payroll and annual gross receipts which shall apply by increasing each such amount hereinabove by an annual inflation adjustment factor, which prescribed amount shall be rounded to the next lowest multiple of $50. "Annual inflation adjustment factor" means the factor calculated by dividing the consumer price index for urban wage earners and clerical workers for the nation, as prepared by the United States Department of Labor for September of the calendar year prior to the calendar year in which the tax year begins, by that index for September of the calendar year two years prior to the calendar year in which the tax year begins. The annual payroll of a taxpayer shall include the employees of its domestic and foreign affiliates, whether employed on a full-time, part-time, temporary, or other basis, during the preceding 12 months. If a taxpayer has not been in existence for 12 months, the payroll of the taxpayer shall be divided by the number of weeks, including fractions of a week, that it has been in business, and the result multiplied by 52. That amount shall then be added to the 12-month payrolls of its domestic and foreign affiliates to determine the annual payroll of the taxpayer for purposes of this definition. The annual gross receipts of a taxpayer shall include the annual gross receipts of its foreign and domestic affiliates. The annual gross receipts of a taxpayer which has been in business for three or more complete tax years means the average of the annual gross receipts of the business for the last three tax years. For purposes of this definition, the gross receipts of the taxpayer includes receipts from sales of tangible personal property and services, interests, rents, royalties,

fees, commissions and receipts from any other source, but less returns and allowances, sales of fixed assets, interaffiliated transactions between a business and its domestic and foreign affiliates, and taxes collected for remittance to a third party, as shown on its books for federal income tax purposes. The annual receipts of a taxpayer that has been in business for less than three complete tax years means its total receipts for the period it has been in business, divided by the number of weeks including fractions of a week that it has been in business, and multiplied by 52. "Affiliates" includes all concerns that are affiliates of each other when either directly or indirectly one concern controls the other or a third party or parties controls both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, the director shall consider all appropriate factors, including common ownership, common management and contractual relationships. "Concern" means any business entity organized for profit (even if its ownership is in the hands of a nonprofit entity), having a place of business located in this State, and which makes a contribution to the economy of this State through payment of taxes, or the sale or use in this State of tangible personal property, or the procurement or providing of services in this State, or the hiring of employees who work in this State. "Concern" includes but is not limited to any person as defined in R.S.1:1-2.

"Tax year" means the fiscal or calendar accounting year of a taxpayer.

19. Section 3 of P.L.1993, c.170 (C.54:10A-5.6) is amended to read as follows:

C.54:10A-5.6 Determination of taxpayer credit allowed.

3. a. A taxpayer shall be allowed a credit against the portion of the tax imposed in section 5 of P.L.1945, c.162 (C.54:10A-5), that is attributable to and the direct consequence of the taxpayer's qualified investment in a new or expanded business facility in this State which results in the creation of at least five new jobs in the case of a small or mid-size business taxpayer, or at least 50 new jobs in the case of any other taxpayer, provided that the median compensation of all new jobs included in the taxpayer's determination of the new jobs factor shall not be less than $27,000 per year, provided that beginning with tax years commencing on and after January 1 next following the operative date of this act the director shall adjust the median annual compensation which shall apply as provided in subsection e. of this section. The amount of this credit shall be determined and applied as hereinafter provided.

b. The amount of the credit allowed shall be determined by multiplying the amount of the taxpayer's "qualified investment," determined under section 5 of this act, in "property purchased for business relocation or expansion" by the taxpayer's new jobs factor determined under section 6 of this act. The

product of this calculation shall establish the maximum amount of credit allowed under this act due to the qualified investment.

c. The amount of credit allowed shall be taken over a five-year period, at the rate of one-fifth of the amount thereof per tax year, beginning with the tax year in which the taxpayer places the qualified investment in service or use in this State.

d. For purposes of the credit allowed by this section, property shall be considered placed in service or use in the earlier of the following tax years:

(1) The tax year in which, under the taxpayer's depreciation practice, the period for depreciation with respect to such property begins; or

(2) The taxable year in which the property is placed in a condition or state of readiness and availability for a specifically assigned function.

e. Beginning with tax years commencing on and after January 1 next following the operative date of this act the director shall prescribe the annual median compensation of all new jobs included in the taxpayer's determination of new jobs factor by increasing the amount of median compensation set forth in subsection a. of this section by an annual inflation adjustment factor, which prescribed amount shall be rounded to the next lowest multiple of $50. "Annual inflation adjustment factor" means the factor calculated by dividing the consumer price index for urban wage earners and clerical workers for the nation, as prepared by the United States Department of Labor for September of the calendar year prior to the calendar year in which the tax year begins, by that index for September of the calendar year two years prior to the calendar year in which the tax year begins.

20. Section 6 of P.L.1993, c.170 (C.54:10A-5.9) is amended to read as follows:

C.54:10A-5.9 New jobs factor to determine amount of credit allowed.

6. a. The new jobs factor used to determine the amount of credit allowed under this act shall be based on the number of new jobs created in this State that are directly attributable to the qualified investment of the taxpayer.

b. (1) (a) For a taxpayer that is not a small or mid-size business taxpayer, if 50 new jobs are created and filled during the tax year in which the qualified investment is placed in service or use in this State, the applicable new jobs factor shall be 0.005. For each 50 additional new jobs over the initial 50, up to 1000 total new jobs, the applicable new jobs factor of 0.005 shall be increased by adding thereto 0.005, up to a maximum new jobs factor of 0.10.

(b) During each of the remaining four years of the five-year credit period, the taxpayer shall redetermine the new jobs factor for the tax year on the annual return based on the average number of new employees employed in new jobs

during that tax year (determined on a monthly basis) created as the direct result of the taxpayer's qualified investment.

(2) (a) For a taxpayer that is a small or mid-size business taxpayer, if five new jobs are created and filled during the tax year in which the qualified investment is placed in service or use in this State, the applicable new jobs factor shall be 0.01. For each five additional new jobs over the initial five, up to 100 total new jobs, the applicable new jobs factor of 0.01 shall be increased by adding thereto 0.01, up to a maximum new jobs factor of 0.20.

(b) During each of the remaining four years of the five-year credit period, the taxpayer shall redetermine the new jobs factor for the tax year on the annual return based on the average number of new employees employed in new jobs during that tax year (determined on a monthly basis) created as the direct result of the taxpayer's qualified investment.

c. An employee's position shall be directly attributable to the qualified investment if:

(1) the employee's service is performed or the employee's base of operations is at the new or expanded business facility;

(2) the position did not exist prior to the construction, renovation, expansion or acquisition of the business facility and the making of the qualified investment; and

(3) but for the qualified investment, the position would not have existed.

d. With the annual corporation business tax return filed under P.L.1945, c.162, for each tax year during the five-year credit period for a qualified investment, the taxpayer shall certify:

(1) the new jobs factor for that tax year for the qualified investment;

(2) the amount of the credit allowed for that year for the qualified investment;

(3) that the qualified investment property continued to be used in the business, or if any of it was disposed of during the year, the date of disposition, and that such property was not disposed of prior to expiration of its recovery period, as determined under section 5 of this act; and

(4) that the new jobs are directly attributable to the qualified investment, are filled by individuals who meet the definition of new employee, and the median annual compensation of all new employees is equal to or greater than the minimum median annual compensation required by section 3 of this act.

e. With the annual return for the corporation business tax imposed under P.L.1945, c.162, filed for the tax year in which the qualified investment is first placed in service or use in this State, the taxpayer shall estimate and certify the number of new jobs reasonably projected to be created by it in this State within the period prescribed in subsection g. of this section, that are, or will be directly attributable to the qualified investment of the taxpayer.

f. The hours of part-time employees shall be aggregated to determine the number of equivalent full-time employees for the purpose of determining the new jobs factor pursuant to subsection b. of this section but shall not be so aggregated for the purposes of subsection c. of this section.

g. With the annual return for the tax imposed under P.L.1945, c.162, filed for the third tax year in which the qualified investment is in service or use in this State, the taxpayer shall certify the actual number of new jobs created by it in this State, that are directly attributable to the qualified investment of the taxpayer.

(1) If the actual number of jobs created would result in a higher new jobs factor, the credit allowed under this act shall be redetermined and amended returns filed for the first and second tax years that the qualified investment was in service or use in this State.

(2) If the actual number of jobs created would result in a lower new jobs factor, the credit previously allowed under this act shall be redetermined and amended returns filed for the first and second tax years. Any additional taxes due under P.L.1945, c.162, shall be remitted with the amended returns filed with the director, together with any penalty and interest, for failure to pay any such tax when due as provided in the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

21. Section 8 of P.L.1993, c.170 (C.54:10A-5.11) is amended to read as follows:

C.54:10A-5.11 Disposal of property; treatment under act.

8. a. (1) Property of a small or mid-size business taxpayer shall not be treated as disposed of under section 7 of this act by reason of a mere change in the form of conducting the business as long as the property is retained in a business of a small or mid-size business taxpayer in this State, and the taxpayer retains a controlling interest in the successor business. In this event, the successor business shall be allowed to claim the amount of credit still available with respect to the new or expanded business facility or facilities transferred, and the small or mid-size business taxpayer-transferor shall not be required to redetermine the amount of credit allowed in earlier tax years.

(2) Property of a taxpayer that is not a small or mid-size business taxpayer shall not be treated as disposed of under section 7 of this act by reason of a mere change in the form of conducting the business as long as the property is retained in a business of a taxpayer in this State, and the taxpayer retains a controlling interest in the successor business. In this event, the successor business shall be allowed to claim the amount of credit still available with respect to the new or expanded business facility or facilities transferred, and

the taxpayer-transferor shall not be required to redetermine the amount of credit allowed in earlier tax years.

b. (1) Property of a small or mid-size business taxpayer shall be treated as disposed of under section 7 of this act by reason of a change in the form of conducting the business if the property is not retained in a business of a small or mid-size business taxpayer in this State in which the small or mid-size business taxpayer retains a controlling interest.

(2) Property of a small or mid-size business taxpayer shall not be treated as disposed of under section 7 of this act by reason of any transfer or sale to a successor small or mid-size business taxpayer which continues to operate the new or expanded business facility in this State. Upon transfer or sale, the successor shall acquire the amount of credit that remains available under this act for each subsequent tax year and the taxpayer-transferor shall not be required to redetermine the amount of credit allowed in earlier years.

(3) Property of a business that is not a small or mid-size business taxpayer shall not be treated as disposed of under section 7 of this act by reason of any transfer or sale to a successor taxpayer which continues to operate the new or expanded business facility in this State. Upon transfer or sale, the successor shall acquire the amount of credit that remains available under this act for each subsequent tax year and the taxpayer-transferor shall not be required to redetermine the amount of credit allowed in earlier years.

(4) Property of a small or mid-size business taxpayer shall be treated as disposed of under section 7 by reason of any transfer or sale to a successor that is not a small or mid-size business taxpayer, whether or not the successor continues to operate the business in this State. Upon such transfer or sale, the successor shall not acquire any amount of credit under this act and the taxpayer-transferor shall redetermine, as required by this act, the amount of credit allowed in earlier years.

22. N.J.S.54A:8-6 is amended to read as follows:

Requirements concerning returns, notices, records and statements.

54A:8-6. Requirements concerning returns, notices, records and statements. (a) General. The director may prescribe regulations as to the keeping of records, the content and form of returns and statements, and the filing of copies of federal income tax returns and determinations. The director may require any person, by regulation or notice served upon such person, to make such returns, render such statements, or keep such records, as the director may deem sufficient to show whether or not such person is liable under this act for tax or for collection of tax.

(b) Partnerships. (1) Each entity classified as a partnership for federal income tax purposes, including but not limited to a partnership, a limited liability

partnership, or a limited liability company, having a resident owner of an interest in the entity or having any income derived from New Jersey sources, shall make a return for the taxable year setting forth all items of income, gain, loss and deduction and such other pertinent information as the director may by regulations and instructions prescribe. The director shall prescribe a State return form that, at a minimum, includes the name and address of each partner, member, or other owner of an interest in the entity however designated, of the entity for taxable years ending on or after December 31, 1994. Such return shall be filed on or before the fifteenth day of the fourth month following the close of each taxable year.

(2) (A) Each entity classified as a partnership for federal income tax purposes having any income derived from New Jersey sources, including but not limited to a partnership, a limited liability partnership, or a limited liability company, that has more than two owners shall at the prescribed time for making the return required under this subsection make a payment of a filing fee of $150 for each owner of an interest in the entity, up to a maximum of $250,000.

(B) Each entity required to make a payment pursuant to subparagraph (A) of this paragraph shall also make, at the same time as making its payment pursuant to subparagraph (A) of this paragraph, an installment payment of its filing fee for the succeeding return period in an amount equal to 50% of the amount required to be paid pursuant to subparagraph (A). The amount of the installment payment shall be credited against the amount of the filing fee due for the succeeding return period, or, if the amount of the installment payment exceeds the amount of the filing fee due for the succeeding return period, successive return periods.

(C) Notwithstanding the provisions of R.S.54:48-2 and R.S.54:48-4 to the contrary, the fee required pursuant to subparagraph (A) of this paragraph and the installment payment required pursuant to subparagraph (B) of this paragraph shall, for purposes of administration, be payments to which the provisions of the State Uniform Tax Procedure Law, R.S.54:28-1 et seq., shall be applicable and the collection thereof may be enforced by the director in the manner therein provided.

(3) Each entity required to file a return under this subsection for any taxable year shall, on or before the day on which the return for the taxable year is required to be filed, furnish to each person who is a partner or other owner of an interest in the entity however designated, or who holds an interest in such entity as a nominee for another person at any time during that taxable year a copy of such information required to be shown on such return as the director may prescribe.

(4) For the purposes of this subsection, "taxable year" means a year or period which would be a taxable year of the partnership if it were subject to tax under this act.

(c) Information at source. The director may prescribe regulations and instructions requiring returns of information to be made and filed on or before February 15 of each year as to the payment or crediting in any calendar year of amounts of $100.00 or more to any taxpayer under this act. Such returns may be required of any person, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of this State, or of any municipal corporation or political subdivision of this State, having the control, receipt, custody, disposal or payment of interest, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable gains, profits or income, except interest coupons payable to bearer. A duplicate of the statement as to tax withheld on wages, required to be furnished by an employer to an employee, shall constitute the return of information required to be made under this section with respect to such wages.

(d) Notice of qualification as receiver, et cetera. Every receiver, trustee in bankruptcy, assignee for benefit of creditors, or other like fiduciary shall give notice of his qualification as such to the director, as may be required by regulation.

Repealer.

23. The following are repealed:

Sections 1 through 16, 18 and 19 of P.L.1973, c.31 (C.54:10D-1 et seq.); and

Sections 1 through 19 and 21 through 24 of P.L.1973, c.170 (C.54:10E-1 through 54:10E-19 and C.54:10E-21 through 54:10E-24).

24. a. Notwithstanding the repeal of the "Savings Institutions Tax Act," P.L.1973, c.31 (C.54:10D-1 et seq.), and the Corporation Income Tax Act (1972), P.L.1973, c.170 (C.54:10E-1 et seq.), pursuant to section 23 of P.L.2002, c.40, their repeal shall not affect any obligation, lien or duty to pay taxes, interest or penalties which have accrued or may accrue by virtue of any taxes imposed pursuant to the provisions of the laws repealed by section 23 of P.L.2002, c.40, or which may be imposed with respect to any redetermination, correction, recomputation or deficiency assessment; and provided that all taxes and returns which would have been due and payable for the tax period ending prior to the enactment of P.L.2002, c.40 shall be due and payable as if the laws were in effect; and provided that these repeals shall not affect the legal authority of the State to audit records and assess and collect taxes due or which may be due, together with such interest and penalties as have accrued or would have accrued thereon under the provisions of the law repealed; and provided that the repeal by section 23 of P.L.2002, c.40, shall not affect any determination of, or affect any proceeding for, the enforcement thereof.

b. In the case of a taxpayer that was a taxpayer as defined pursuant to P.L.1973, c.170 (C.54:10E-1 et seq.), for the fiscal or calendar accounting period next ending after the effective date of this section, "basis of the facts shown on the return of the taxpayer for, and the law applicable to, the preceding fiscal or calendar accounting year" shall, for the purposes of paragraph (1) of subsection d. of section 5 of P.L.1981, c.184 (C.54:10A-15.4), for the fiscal or calendar year next beginning after the effective date of this act, be deemed to be the basis of the facts shown on the return of the taxpayer for, and the law applicable to, the preceding fiscal or calendar accounting year pursuant to P.L.1973, c.170 (C.54:10E-1 et seq.).

c. In the case of a taxpayer that was a taxpayer as defined pursuant to P.L.1973, c.31 (C.54:10D-1 et seq.), for the fiscal or calendar accounting period next ending after the effective date of this section, "basis of the facts shown on the return of the taxpayer for, and the law applicable to, the preceding fiscal or calendar accounting year" shall, for the purposes of paragraph (1) of subsection d. of section 5 of P.L.1981, c.184 (C.54:10A-15.4), for the fiscal or calendar year next beginning after the effective date of this act, be deemed to be the basis of the facts shown on the return of the taxpayer for, and the law applicable to, the preceding fiscal or calendar accounting year pursuant to P.L.1973, c.31 (C.54:10D-1 et seq.).

25. a. The director shall adopt regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and prescribe forms to administer the provisions of this act.

b. Notwithstanding the provisions of P.L.1968, c.410 to the contrary, the director may adopt immediately upon filing with the Office of Administrative Law, such regulations as the director deems necessary to implement the provisions of this act, which regulations shall be effective for a period not to exceed 180 days from the date of the filing. The regulations may thereafter be amended, adopted or readopted by the director as the director deems necessary in accordance with the requirements of P.L.1968, c.410.

C.54:10A-6.2 Determination of receipts from services, alternative minimum assessment; definitions.

26. a. (1) For the purposes of determining the receipts from services performed within the State under paragraph (4) of subsection (B) of section 6 of P.L.1945, c.162 (C.54:10A-6), and for the purposes of paragraph (3) of the definition of New Jersey gross receipts pursuant to section 7 of P.L.2002, c.40 (C.54:10A-5a), the receipts from the services of a registered securities or commodities broker or dealer and the receipts from asset management services shall be from services performed within the State if the customer is located within this State.

b. For purposes of this subsection:

"Asset management services" means the rendering of investment advice, making determinations as to when sales and purchases are to be made, or the selling or purchasing of assets, and related activities;

"Securities" has the meaning provided by paragraph (2) of subsection (c) of section 475 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.475;

"Commodities" has the meaning provided by paragraph (2) of subsection (e) of section 475 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.475; and

"Registered securities or commodities broker or dealer" means a broker or dealer registered as such by the federal Securities and Exchange Commission or the federal Commodities Futures Trading Commission.

C.54:10A-4.5 Carryover of net operating loss for privilege period as deduction.

27. Notwithstanding any provision of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4) or of the federal Internal Revenue Code, including but not limited to 26 U.S.C. s.381 or any successor or equivalent provision, that permits a corporation to use the net operating losses of another for federal income tax purposes following certain transactions, including but not limited to those qualifying as reorganizations under the provisions of subparagraph (A), (C), (D), (F) or (G) of paragraph (1) of subsection (a) of section 368 of the federal Internal Revenue Code, 26 U.S.C. s.368, a net operating loss for a privilege period ending after June 30, 1984, may be carried over and allowed as a deduction only by the corporation that sustained the loss; provided however, that in the case of a merger of two or more corporations pursuant to statute of this State or any other jurisdiction, the net operating loss may be carried over only by the corporation that sustained the loss and that is also the surviving corporation following the merger. The net operating loss may not be carried over by a taxpayer that changes its state of incorporation. No net operating loss shall be allowed as a deduction by a corporation resulting from a consolidation pursuant to statute of this State or of any other jurisdiction.

28. Notwithstanding the provisions of section 3 of P.L.1981, c.184 (C.54:10A-15.2) and subsections b. and d. of section 5 of P.L.1981, c.184 (C.54:10A-15.4) to the contrary, the amount of underpayment of the installment payment by the taxpayer for the payment required pursuant to paragraph (4) of subsection (f) of section 15 of P.L.1945, c.162 (C.54:10A-15) for the privilege period of the taxpayer beginning in calendar year 2002 shall be equal to the excess of the amount of the installment payment which would be required to be paid if the installment payment were to equal 25% of the tax computed at the rates applicable to the current privilege period on the basis of the facts to be shown on the return of the taxpayer for, and the law applicable to, the

current privilege period over the amount, if any, of the installment paid on or before the last date prescribed for that payment.

C.54:10A-5b Credit for air carrier, certain circumstances.

29. An air carrier, within the meaning given that term pursuant to 49 U.S.C. s.40102, that contributes more than 25% of the total amortization for capital improvement projects at Newark International Airport paid by air carriers to the Port Authority of New York and New Jersey through rates and charges for a privilege period shall be allowed a credit against the alternative minimum assessment imposed pursuant to section 7 of P.L.2002, c.40 (C.54:10A-5a) for the privilege period in an amount equal to 50% of the portion of the total amortization for capital improvement projects at Newark International Airport paid by the air carrier to the Port Authority of New York and New Jersey through rates and charges for the privilege period; provided however, that the amount of the credit applied under this section against the alternative minimum assessment for a privilege period shall not exceed 50% of the alternative minimum assessment otherwise due and shall not reduce the alternative minimum assessment to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162.

C.54:10A-18.1 Consolidated return filed by air carrier.

30. An air carrier, within the meaning given that term pursuant to 49 U.S.C. s.40102, may elect to file a consolidated return with respect to the corporate income tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) of the entire operation of the affiliated group, including its own operations and income. If such election is made, the group will be considered a single taxpayer and, for the purposes of section 5 of P.L.1945, c.162 (C.54:10A-5), the amount of the taxpayer's entire net income shall be deemed prima facie to be equal in amount to the taxable income, before net operating loss deduction and special deductions, that the taxpayer is required to report or, if the taxpayer is classified as a partnership for federal tax purposes, would otherwise be required to report, to the United States Treasury Department for the purpose of computing its consolidated federal taxable income.

C.54:10A-41 Corporation Business Tax Study Commission.

31. a. There is established the Corporation Business Tax Study Commission, in but not of the Department of the Treasury, which shall conduct a continuous study and evaluation of the corporate tax law reforms adopted pursuant to P.L.2002, c.40, with specific reference to:

(1) whether the corporation business tax burden is fairly and equitably borne and distributed among corporations that are subject to the tax;

(2) whether profitable corporations doing business in New Jersey can avoid paying their fair share of taxes by using tax minimization or avoidance

strategies that may include cross-border tax avoidance such as isolation of nexus-creating activities or the transfer of certain income to holding companies in low tax or tax haven jurisdictions, intragroup corporate transfer pricing techniques, use of special deductions or exclusions that manipulate income and costs between parent-subsidiary or affiliated companies that benefit large or multinational or multistate corporations over smaller businesses operating wholly within New Jersey;

(3) whether, without reducing anticipated revenues from that tax, the tax burden could be more fairly and equitably borne and distributed;

(4) whether the revenue and distributional impacts of the changes to the Corporation Business Tax Act (1945) enacted pursuant to P.L.2002, c.40 yield the recurring revenue goals that New Jersey must achieve to bring long-term structural balance to State finances; and

(5) whether New Jersey and its corporation business taxpayers would be better served by the use of a combined taxation under the unitary business concept.

b. The commission shall be composed of nine members as follows:

(1) two members, one appointed by each of the Senate Presidents;

(2) two members appointed by the Speaker of the General Assembly; and

(3) five members appointed by the Governor.

Each member shall be a resident of the State who has knowledge and expertise in the area of corporation income tax. Of the members appointed by the Governor, one shall be a member of the academic community, one shall be a certified public accountant, one shall be a member of the State tax bar, one shall represent large businesses, and one shall represent small businesses. The members appointed by the Speaker of the General Assembly shall not be members of the same political party, the members appointed by the Presidents of the Senate shall not be members of the same political party, and no more than three of the members appointed by the Governor shall be of the same political party.

c. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

d. The members of the commission shall be appointed and shall hold their initial organizational meeting within 60 days after the enactment of this act. The members shall elect one of the members to serve as chair and the chair may appoint a secretary, who need not be a member of the commission. The members of the commission shall serve without compensation, but shall be eligible for reimbursement for necessary and reasonable expenses incurred in the performance of their official duties within the limits of funds made available to the commission for its purposes.

e. The commission shall meet at the call of the chair. The commission shall hold at least three public hearings and elicit testimony from the public at such times and places as the chair shall designate. A meeting of the commission shall be called upon the request of five of the commission's members and five members of the commission shall constitute a quorum at any meeting thereof.

f. The commission may employ and fix the compensation of an executive director, whose employment shall be in the unclassified service of the State. The executive director shall serve as secretary to the commission and carry out its policies under the direction of the chair.

g. The commission shall be entitled to call to its assistance and avail itself of the services of any State, county, or municipal department, board, bureau, commission or agency, as it may require and as may be available for its purposes, including the Director of the Division of Taxation, in the Department of the Treasury, who shall publish to the commission to the fullest extent possible under the confidentiality restrictions of R.S.54:50-9 such statistics, so classified as to prevent the identification of a particular report and the items thereof, as the commission may request, and the commission may employ stenographic and clerical assistance and incur traveling and other miscellaneous expenses as may be necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to it for its purposes.

h. The commission may meet and hold hearings at the places it designates during the sessions or recesses of the Legislature. The commission may issue interim reports and shall produce and provide a final report with findings and recommendations to the Governor and the Legislature, along with any legislative bills it desires to recommend for adoption by the Legislature, no later than December 30, 2003.

i. If the Director of the Division of Taxation determines that the final report of the commission has not been produced and provided by June 30, 2004, the director shall suspend the alternative minimum assessment determined pursuant to section 7 of P.L.2002, c.40 (C.54:10A-5a) for all privilege periods commencing after December 31, 2004. If, as a recommendation of its final report, the commission recommends the termination of the alternative minimum assessment imposed pursuant to section 7 of P.L.2002, c.40 (C.54:10A-5a), the assessment shall not be imposed for privilege periods beginning on or after January 1, 2005.

C.52:9H-38 "Corporation Business Tax Excess Revenue Fund."

32. a. There is hereby created within the General Fund a restricted reserve fund to be known as the "Corporation Business Tax Excess Revenue Fund."

The State Treasurer shall credit to the "Corporation Business Tax Excess Revenue Fund," on or before December 31 annually in 2003, 2004 and 2005, the amounts, if any, by which the State revenues derived from the corporation business tax in the prior fiscal year exceeded the target amount for that fiscal year; provided however, that if the total General Fund revenue for State Fiscal Year 2003 is less than the amount certified for that year, then the amount credited to the fund shall be reduced by that difference. Moneys credited to the "Corporation Business Tax Excess Revenue Fund" may be invested in the same manner as assets of the General Fund and any investment earnings on the "Corporation Business Tax Excess Revenue Fund" shall accrue to the "Corporation Business Tax Excess Revenue Fund." For the purposes of section 3 of P.L.1990, c.44 (C.52:9H-16), amounts credited to the "Corporation Business Tax Excess Revenue Fund" shall not be included in the determination of funds deposited in the General Fund.

b. Balances in the "Corporation Business Tax Excess Revenue Fund" may be appropriated by the Legislature during State fiscal year 2004 or 2005 in the event that the revenue collections from the corporation business tax are less than the target amount for that fiscal year.

c. If balances remain in the Corporation Business Tax Excess Revenue Fund on December 30, 2005, the Director of the Division of Taxation shall adjust proportionately the tax rates in section 5 of P.L.1945, c.162 (C.54:10A-5) as it applies to privilege periods commencing during calendar year 2006 so as to reduce the expected revenue thereunder by an amount equal to the balance in the fund.

d. As used in this section, "target amount" means $1,823,000,000 for State fiscal year 2003, and for each State fiscal year thereafter means the target amount for the prior fiscal year multiplied by the weighted average rate of growth of the rate of growth of the State revenue collections pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. and the State revenue collections pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), which weighted average rate of growth shall be measured by the amount of anticipated revenue from those two sources certified by the Governor upon approval of the annual appropriation act for the current fiscal year over both the amount of revenue from the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) actually deposited in the General Fund in the immediately-preceding fiscal year and the amount of revenue from the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., actually deposited in the Property Tax Relief Fund in the immediately-preceding fiscal year, as determined from the annual financial report of the State for the fiscal year immediately preceding.

33. This act shall take effect immediately and apply to privilege periods and taxable years beginning on or after January 1, 2002, provided however that section 27 shall apply to privilege periods ending after June 30, 1984.

Approved July 2, 2002.

CHAPTER 41

AN ACT concerning paid leave for certain police and firefighters who attend conventions and amending N.J.S.11A:6-10 and P.L.1977, c.347.

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

1. N.J.S.11A:6-10 is amended to read as follows:

Leaves of absence for convention attendance.

11A:6-10. A leave of absence with pay shall be given to employees who are duly authorized representatives of an employee organization defined as a "representative" in subsection e. of section 3 of P.L.1941, c.100 (C.34:13A-3) and affiliated with the New Jersey Policemen's Benevolent Association, Inc., Fraternal Order of Police, Firemen's Mutual Benevolent Association, Inc. or the Professional Fire Fighters Association of New Jersey to attend any State or national convention of the organization, provided, however, that no more than 10 percent of the employee organization's membership shall be permitted such a leave of absence with pay, except that no less than two and no more than 10 authorized representatives shall be entitled to such leave, unless more than 10 authorized representatives are permitted such a leave of absence pursuant to a collective bargaining agreement negotiated by the employer and the representatives of the employee organization, and for employee organizations with more than 5,000 members, a maximum of 25 authorized representatives shall be entitled to such leave. The leave of absence shall be for a period inclusive of the duration of the convention with a reasonable time allowed for travel to and from the convention, provided that such leave shall be for no more than seven days. A certificate of attendance at the convention shall, upon request, be submitted by the representative so attending.

2. Section 1 of P.L.1977, c.347 (C.40A:14-177) is amended to read as follows:

C.40A:14-177 Attendance at State, national convention of certain organizations.

1. The heads of the county offices of the several counties and the head of every department, bureau and office in the government of the various

municipalities shall give a leave of absence with pay to persons in the service of the county or municipality who are duly authorized representatives of an employee organization as defined in subsection e. of section 3 of P.L.1941, c.100 (C.34:13A-3) and affiliated with the New Jersey State Policemen's Benevolent Association, Inc., Fraternal Order of Police, Firemen's Mutual Benevolent Association, Inc. or Professional Fire Fighters Association of New Jersey to attend any State or national convention of such organization, provided, however, that no more than 10 percent of the employee organization's membership shall be permitted such a leave of absence with pay, except that no less than two and no more than 10 authorized representatives shall be entitled to such leave, unless more than 10 authorized representatives are permitted such a leave of absence pursuant to a collective bargaining agreement negotiated by the employer and the representatives of the employee organization, and for employee organizations with more than 5,000 members, a maximum of 25 authorized representatives shall be entitled to such leave.

A certificate of attendance to the State convention shall, upon request, be submitted by the representative so attending.

Leave of absence shall be for a period inclusive of the duration of the convention with a reasonable time allowed for time to travel to and from the convention, provided that such leave shall be for no more than seven days.

3. This act shall take effect immediately.

Approved July 12, 2002.

CHAPTER 42

AN ACT authorizing the issuance of refunding bonds to refund certain actuarial liabilities of local governments and boards of education, supplementing chapter 2 of Title 40A of the New Jersey 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.40A:2-51.3 Issuance of refunding bonds by local government entity for certain ERI liabilities.

1. Notwithstanding the provisions of N.J.S.40A:2-51 to the contrary, a county or municipality may incur indebtedness, borrow money, authorize and issue negotiable refunding bonds, in any amount determined to be necessary by the county or the municipality and approved by the Local Finance Board to effect the refunding for the purpose of retiring the present value of the unfunded accrued liability for early retirement incentive benefits granted pursuant to P.L.1991, c.229, P.L.1991, c.230, P.L.1993, c.138, P.L.1993, c.181,

P.L.1993, c.99, and P.L.1999, c.59,in addition to the other purposes for which it may do the same under N.J.S.40A:2-51. The system actuary shall calculate the present value of the unfunded liability due and owing by the municipality or county on a date certain upon the request of the county or municipality. For purposes of this section, "county" means any county of any class and all boards or commissions organized under such county, including but not limited to welfare boards, boards of social services, park commissions and mosquito control authorities.

2. Section 2 of P.L.1969, c.130 (C.18A:24-61.2) is amended to read as follows:

C.18A:24-61.2 Purposes for which refunding bonds may be authorized; exclusions from net school debt.

2. Notwithstanding the provisions of any other law or any debt limitation or requirement for down payment or for referendum or other action by legal voters, refunding bonds may be authorized and issued for the purpose of paying, funding or refunding: any refunded bonds; the cost of retiring the present value of the unfunded accrued liability due and owing by a board of education, as calculated by the system actuary for a date certain upon the request of a board of education, for early retirement incentive benefits granted by the board of education pursuant to P.L.1991, c.231 and P.L.1993, c.163; and the cost or expense of issuing refunding bonds including printing, advertising, accounting, financial, legal or other expense in connection therewith. Obligations to be paid, funded or refunded with respect to which an ordinance authorizing the issuance of refunding bonds has been adopted pursuant to this act and not otherwise deductible shall be excluded in calculating the net school debt of a municipality or a district. Refunding bonds shall be authorized (a) in the case of any county or municipality by a refunding bond ordinance enacted in the manner or mode of procedure provided for adoption of a refunding bond ordinance pursuant to the Local Bond Law, constituting chapter 2 of Title 40A, Municipalities and Counties, of the New Jersey Statutes, and (b) in the case of a Type II school district by an ordinance (herein called the "refunding bond ordinance") adopted by the board of education of such school district as provided in this chapter.

3. Section 8 of P.L.1948, c.198 (C.40:11A-8) is amended to read as follows:

C.40:11A-8 Bonds; power to issue.

8. Every authority shall have power to issue its bonds from time to time in its discretion for any of its corporate purposes, including: the paying or retiring of any bonds previously issued by it; paying the cost of retiring the

present value of the unfunded accrued liability due and owing by an authority, as calculated by the system actuary for a date certain upon the request of an authority, for early retirement incentive benefits granted by the authority pursuant to P.L.1991, c.230 and P.L.1993, c.181; and the payment of any expense incurred or expected to be incurred and payable by it. Said authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable (a) exclusively from the income and revenues of the parking project financed with the proceeds of such bonds; (b) exclusively from the income and revenues of certain designated parking projects whether or not they are financed in whole or in part with the proceeds of such bonds; or (c) from its revenues generally. Any such bonds may be additionally secured by a pledge of any grant or contributions from the Federal Government, State or county, or municipality, or a pledge of any income or revenues of the authority, or a mortgage of any parking project, projects or other property of the authority. This act shall be complete authority for the issuance of bonds by an authority, and the provisions of any other law shall not apply to the issuance of such bonds. Whenever and for so long as any authority has issued and has outstanding bonds pursuant to this act, it shall be the mandatory duty of the authority to fix, charge and collect rents, rates and other charges in accordance with clause (f) of paragraph (4) of section 6 of this act.

4. Section 3 of P.L.1946, c.138 (C.40:14A-3) is amended to read as follows:

C.40:14A-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, and except when used in section 4 or 21 of this act, any agency thereof or any two or more thereof acting jointly or any joint meeting or other agency of any two or more thereof;

(2) "County" shall mean any county of any class;

(3) "Governing body" shall mean, in the case of a county, the board of chosen freeholders, or in the case of those counties organized pursuant to the provisions of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), the board of chosen freeholders and the county executive, the county supervisor or the county manager, as appropriate, and, in the case of a municipality, the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality;

(4) "Person" shall mean any person, association, corporation, nation, State or any agency or subdivision thereof, other than a county or municipality of the State or a sewerage authority;

(5) "Sewerage or water reclamation authority" shall mean a public body created pursuant to section 4 of this act;

(6) Subject to the exceptions provided in section 4 of this act, "district" shall mean the area within the territorial boundaries of the county, or of the municipality or municipalities, which created or joined in the creation of a sewerage authority;

(7) "Local unit" shall mean the county, or any municipality, which created or joined in the creation of a sewerage authority;

(8) "Sewerage system" shall mean the plants, structures, on-site waste-water systems, and other real and personal property acquired, constructed, maintained or operated or to be acquired, constructed, maintained or operated by a sewerage authority for the purposes of the sewerage authority, including sewers, conduits, pipe lines, mains, pumping and ventilating stations, sewage treatment or disposal systems, plants and works, connections, and outfalls, compensating reservoirs, and other plants, structures, boats, conveyances, and other real and personal property, and rights therein, and appurtenances necessary or useful and convenient for the collection, treatment, purification or disposal in a sanitary manner of any sewage, liquid or solid wastes, night soil or industrial wastes;

(9) "Cost" shall mean, in addition to the usual connotations thereof, the cost of acquisition or construction of all or any part of a sewerage system and of all or any property, rights, easements, privileges, agreements and franchises deemed by the sewerage authority to be necessary or useful and convenient therefor or in connection therewith and the cost of retiring the present value of the unfunded accrued liability due and owing by a sewerage authority, as calculated by the system actuary for a date certain upon the request of a sewerage authority, for early retirement incentive benefits granted by the sewerage authority pursuant to P.L.1991, c.230 and P.L.1993, c.181, including interest or discount on bonds, cost of issuance of bonds, engineering and inspection costs and legal expenses, costs of financial, professional and other estimates and advice, organization, administrative, operating and other expenses of the sewerage authority prior to and during such acquisition or construction, and all such other expenses as may be necessary or incident to the financing, acquisition, construction and completion of said sewerage system or part thereof and the placing of the same in operation, and also such provision or reserves for working capital, operating, maintenance or replacement expenses or for payment or security of principal of or interest on bonds during or after such acquisition or construction as the sewerage authority may determine, and also reimbursements to the sewerage authority or any county, municipality or other person of any moneys theretofore expended for the purposes of the sewerage

authority or to any county or municipality of any moneys theretofore expended for in connection with sanitation facilities;

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

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

(12) "Industrial wastes" shall mean liquid or other wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resource;

(13) "Sewage" shall mean the water-carried wastes created in and carried, or to be carried, away from, or to be processed by on-site wastewater systems, residences, hotels, apartments, schools, hospitals, industrial establishments, or any other public or private building, together with such surface or ground water and industrial wastes as may be present;

(14) "On-site wastewater system" means any of several works, facilities, septic tanks or other devices, used to collect, treat, reclaim, or dispose of wastewater or sewage on or adjacent to the property on which the wastewater or sewage is produced, or to convey such wastewater or sewage from said property to such facilities as the authority may establish for its disposal;

(15) "Pollution" means the condition of water resulting from the introduction therein of substances of a kind and in quantities rendering it detrimental or immediately or potentially dangerous to the public health, or unfit for public or commercial use;

(16) "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;

(17) "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;

(18) "Bonds" shall mean bonds or other obligations issued pursuant to this act; and

(19) "Compensating reservoir" shall mean the structures, facilities and appurtenances for the impounding, transportation and release of water for the replenishment in periods of drought or at other necessary times of all or a part of waters in or bordering the State diverted into a sewer, sewage treatment or sewage disposal system operated by the sewerage authority.

5. Section 3 of P.L.1957, c.183 (C.40:14B-3) is amended to read as follows:

C.40:14B-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, and except when used in section 4, 5, 6, 11, 12, 13, 42 or 45 of this act, any agency thereof or any two or more thereof acting jointly or any joint meeting or other agency of any two or more thereof;

(2) "County" shall mean any county of any class;

(3) "Governing body" shall mean, in the case of a county, the board of chosen freeholders, or in the case of those counties organized pursuant to the provisions of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), the board of chosen freeholders and the county executive, the county supervisor or the county manager, as appropriate, and, in the case of a municipality, the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality;

(4) "Person" shall mean any person, association, corporation, nation, state or any agency or subdivision thereof, other than a county or municipality of the State or a municipal authority;

(5) "Municipal or water reclamation authority" shall mean a public body created or organized pursuant to section 4, 5 or 6 of this act and shall include a municipal utilities authority created by one or more municipalities and a county utilities authority created by a county;

(6) Subject to the exceptions provided in section 10, 11 or 12 of this act, "district" shall mean the area within the territorial boundaries of the county, or of the municipality or municipalities, which created or joined in or caused the creation or organization of a municipal authority;

(7) "Local unit" shall mean the county, or any municipality, which created or joined in or caused the creation or organization of a municipal authority;

(8) "Water system" shall mean the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by a municipal authority or by any person to whom a municipal authority has extended credit for this purpose for the purposes of the municipal authority, including reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, water distribution systems, compensating reservoirs, waterworks or sources of water supply, wells, purification or filtration plants or other plants and works, connections, rights of flowage or division, and other plants, structures, boats, conveyances, and other real and personal property, and rights therein, and appurtenances necessary or useful and convenient for the accumulation, supply and redistribution of water;

(9) "Sewerage system" shall mean the plants, structures, on-site wastewater systems and other real and personal property acquired, constructed or operated or to be acquired, constructed, maintained or operated by a municipal authority or by any person to whom a municipal authority has extended credit for this purpose for the purposes of the municipal authority, including sewers, conduits, pipelines, mains, pumping and ventilating stations, sewage treatment or disposal systems, plants and works, connections, outfalls, compensating reservoirs, and other plants, structures, boats, conveyances, and other real and personal property, and rights therein, and appurtenances necessary or useful and convenient for the collection, treatment, purification or disposal in a sanitary manner of any sewage, liquid or solid wastes, night soil or industrial wastes;

(10) "Utility system" shall mean a water system, solid waste system, sewerage system, or a hydroelectric system or any combination of such systems, acquired, constructed or operated or to be acquired, constructed or operated by a municipal authority or by any person to whom a municipal authority has extended credit for this purpose;

(11) "Cost" shall mean, in addition to the usual connotations thereof, the cost of acquisition or construction of all or any part of a utility system and of all or any property, rights, easements, privileges, agreements and franchises deemed by the municipal authority to be necessary or useful and convenient therefor or in connection therewith and the cost of retiring the present value of the unfunded accrued liability due and owing by a municipal authority, as calculated by the system actuary for a date certain upon the request of a municipal authority, for early retirement incentive benefits granted by the municipal authority pursuant to P.L.1991, c.230 and P.L.1993, c.181, including interest or discount on bonds, cost of issuance of bonds, engineering and inspection costs and legal expenses, cost of financial, professional and other estimates and advice, organization, administrative, operating and other expenses of the municipal authority prior to and during such acquisition or construction, and all such other expenses as may be necessary or incident to the financing, acquisition, construction and completion of said utility system or part thereof and the placing of the same in operation, and also such provision or reserves for working capital, operating, maintenance or replacement expenses or for payment or security of principal of or interest on bonds during or after such acquisition or construction as the municipal authority may determine, and also reimbursements to the municipal authority or any county, municipality or other person of any moneys theretofore expended for the purposes of the municipal authority or to any county or municipality of any moneys theretofore expended for or in connection with water supply, solid waste, water distribution, sanitation or hydroelectric facilities;

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

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

(14) "Industrial wastes" shall mean liquid or other wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resource, and shall include any chemical wastes or hazardous wastes;

(15) "Sewage" shall mean the water-carried wastes created in and carried, or to be carried, away from, or to be processed by on-site wastewater systems, residences, hotels, apartments, schools, hospitals, industrial establishments, or any other public or private building, together with such surface or ground water and industrial wastes and leacheate as may be present;

(16) "On-site wastewater system" means any of several facilities, septic tanks or other devices, used to collect, treat, reclaim, or dispose of wastewater or sewage on or adjacent to the property on which the wastewater or sewage is produced, or to convey such wastewater or sewage from said property to such facilities as the authority may establish for its disposal;

(17) "Pollution" means the condition of water resulting from the introduction therein of substances of a kind and in quantities rendering it detrimental or immediately or potentially dangerous to the public health, or unfit for public or commercial use;

(18) "Bonds" shall mean bonds or other obligations issued pursuant to this act;

(19) "Service charges" shall mean water service charges, solid waste service charges, sewer service charges, hydroelectric service charges or any combination of such charges, as said terms are defined in section 21 or 22 of this act or in section 7 of this amendatory and supplementary act;

(20) "Compensating reservoir" shall mean the structures, facilities and appurtenances for the impounding, transportation and release of water for the replenishment in periods of drought or at other necessary times of all or a part of waters in or bordering the State diverted into a utility system operated by a municipal authority;

(21) "Sewage or water reclamation authority" shall mean a public body created pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.) or the acts amendatory thereof or supplemental thereto;

(22) "County sewer authority" shall mean a sanitary sewer district authority created pursuant to the act entitled "An act relating to the establishment of sewerage districts in first- and second-class counties, the creation of Sanitary Sewer District Authorities by the establishing of such districts, prescribing the powers and duties of any such authority and of other public bodies in connection with the construction of sewers and sewage disposal facilities in any such district, and providing the ways and means for paying the costs of

construction and operation thereof," approved April 23, 1946 (P.L.1946, c.123), or the acts amendatory thereof or supplemental thereto;

(23) "Chemical waste" shall mean a material normally generated by or used in chemical, petrochemical, plastic, pharmaceutical, biochemical or microbiological manufacturing processes or petroleum refining processes, which has been selected for waste disposal and which is known to hydrolize, ionize or decompose, which is soluble, burns or oxidizes, or which may react with any of the waste materials which are introduced into the landfill, or which is buoyant on water, or which has a viscosity less than that of water or which produces a foul odor. Chemical waste may be either hazardous or nonhazardous;

(24) "Effluent" shall mean liquids which are treated in and discharged by sewage treatment plants;

(25) "Hazardous wastes" shall mean any waste or combination of waste which poses a present or potential threat to human health, living organisms or the environment. "Hazardous waste" shall include, but not be limited to, waste material that is toxic, corrosive, irritating, sensitizing, radioactive, biologically infectious, explosive or flammable;

(26) "Leachate" shall mean a liquid that has been in contact with solid waste and contains dissolved or suspended materials from that solid waste;

(27) "Recycling" shall mean the separation, collection, processing or recovery of metals, glass, paper, solid waste and other materials for reuse or for energy production and shall include resource recovery;

(28) "Sludge" shall mean any solid, semisolid, or liquid waste generated from a municipal, industrial or other sewage treatment plant, water supply treatment plant, or air pollution control facility, or any other such waste having similar characteristics and effects; "sludge" shall not include effluent;

(29) "Solid waste" shall mean garbage, refuse, and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including sludge, chemical waste, hazardous wastes and liquids, except for liquids which are treated in public sewage treatment plants and except for solid animal and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms;

(30) "Solid waste system" shall mean and include the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by an authority or by any person to whom a municipal authority has extended credit for this purpose pursuant to the provisions of this act, including transfer stations, incinerators, recycling facilities, including facilities for the generation, transmission and distribution of energy derived from the processing of solid waste, sanitary landfill facilities or other property or plants for the collection, recycling or disposal of solid waste and

all vehicles, equipment and other real and personal property and rights thereon and appurtenances necessary or useful and convenient for the collection, recycling, or disposal of solid waste in a sanitary manner;

(31) "Hydroelectric 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 authority pursuant to the provisions of this act, including all that which is necessary or useful and convenient for the generation, transmission and sale of hydroelectric power at wholesale;

(32) "Hydroelectric power" shall mean the production of electric current by the energy of moving water;

(33) "Sale of hydroelectric power at wholesale" shall mean any sale of hydroelectric power to any person for purposes of resale of such power.

6. Section 2 of P.L.1960, c.183 (C.40:37A-45) is amended to read as follows:

C.40:37A-45 Definitions.

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

(a) "Authority" shall mean a public body created pursuant to this act;

(b) "Bond resolution" shall have the meaning ascribed thereto in section 17 of P.L.1960, c.183 (C.40:37A-60);

(c) "Bonds" shall mean bonds, notes or other obligations issued pursuant to this act;

(d) "Construct" and "construction" shall connote and include acts of clearance, demolition, construction, development or redevelopment, reconstruction, replacement, extension, improvement and betterment;

(e) "Cost" shall mean, in addition to the usual connotations thereof, the cost of planning, acquisition or construction of all or any part of any public facility or facilities of an authority and of all or any property, rights, easements, privileges, agreements and franchises deemed by the authority to be necessary or useful and convenient therefor or in connection therewith and the cost of retiring the present value of the unfunded accrued liability due and owing by the authority, as calculated by the system actuary for a date certain upon the request of the authority, for early retirement incentive benefits granted by the authority pursuant to P.L.1991, c.230 and P.L.1993, c.181, including interest or discount on bonds, cost of issuance of bonds, architectural, engineering and inspection costs and legal expenses, cost of financial, professional and other estimates and advice, organization, administrative, operating and other expenses of the authority prior to and during such acquisition or construction, and all such other expenses as may be necessary or incident to the financing, acquisition, construction and completion of such public facility

or facilities or part thereof and the placing of the same fully in operation or the disposition of the same, and also such provision or reserves for working capital, operating, maintenance or replacement expenses or for payment or security of principal of or interest on bonds during or after such acquisition or construction as the authority may determine, and also reimbursements to the authority or any governmental unit or person of any moneys theretofore expended for the purposes of the authority;

(f) The term "county" shall mean any county of any class of the State and shall include, without limitation, the terms "the county" and "beneficiary county" defined in this act, and the term "the county" shall mean the county which created an authority pursuant to this act;

(g) "Development project" shall mean any lands, structures, or property or facilities acquired or constructed or to be acquired or constructed by an authority for the purposes of the authority described in subsection (e) of section 11 of P.L.1960, c.183 (C.40:37A-54);

(h) "Facility charges" shall have the meaning ascribed to said term in section 14 of P.L.1960, c.183 (C.40:37A-57);

(i) "Facility revenues" shall have the meaning ascribed to said term in subsection (e) of section 20 of P.L.1960, c.183 (C.40:37A-63);

(j) "Governing body" shall mean, in the case of a county, the board of chosen freeholders, or in the case of a county operating under article 3 or 5 of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.) as defined thereunder, and, in the case of a municipality, the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality;

(k) "Governmental unit" shall mean the United States of America or the State or any county or municipality or any subdivision, department, agency, or instrumentality heretofore or hereafter created, designated or established by or for the United States of America or the State or any county or municipality;

(l) "Local bond law" shall mean chapter 2 of Title 40A, Municipalities and Counties, of the New Jersey Statutes (N.J.S.) as amended and supplemented;

(m) "Municipality" shall mean any city, borough, village, town, or township of the State but not a county or a school district;

(n) "Person" shall mean any person, partnership, association, corporation or entity other than a nation, state, county or municipality or any subdivision, department, agency or instrumentality thereof;

(o) "Project" shall have the meaning ascribed to said term in section 17 of P.L.1960, c.183 (C.40:37A-60);

(p) "Public facility" shall mean any lands, structures, franchises, equipment, or other property or facilities acquired, constructed, owned, financed, or leased by the authority or any other governmental unit or person to accomplish any

of the purposes of an authority authorized by section 11 of P.L.1960, c.183 (C.40:37A-54);

(q) "Real property" shall mean lands within or without the State, above or below water, and improvements thereof or thereon, or any riparian or other rights or interests therein;

(r) "Garbage and solid waste 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 a county improvement authority, including incinerators, sanitary landfill facilities or other plants for the treatment and disposal of garbage, solid waste and refuse matter and all other real and personal property and rights therein and appurtenances necessary or useful and convenient for the collection and treatment or disposal in a sanitary manner of garbage, solid waste and refuse matter (but not including sewage);

(s) "Garbage, solid waste or refuse matter" shall mean garbage, refuse and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including sludge, chemical waste, hazardous wastes and liquids, except for liquids which are treated in public sewage treatment plants and except for solid animal and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms;

(t) "Blighted, deteriorated or deteriorating area" may include an area determined heretofore by the municipality to be blighted in accordance with the provisions of P.L.1949, c.187, repealed by P.L.1992, c.79 (C.40:55-21.1 et seq.) and, in addition, areas which are determined by the municipality, pursuant to the same procedures as provided in said law, to be blighted, deteriorated or deteriorating because of structures or improvements which are dilapidated or characterized by disrepair, lack of ventilation or light or sanitary facilities, faulty arrangement, location, or design, or other unhealthful or unsafe conditions;

(u) "Redevelopment" may include planning, replanning, conservation, rehabilitation, clearance, development and redevelopment; and the construction and rehabilitation and provision for construction and rehabilitation of residential, commercial, industrial, public or other structures and the grant or dedication or rededication of spaces as may be appropriate or necessary in the interest of the general welfare for streets, parks, playgrounds, or other public purposes including recreational and other facilities incidental or appurtenant thereto, in accordance with a redevelopment plan approved by the governing body of a municipality;

(v) "Redevelopment plan" shall mean a plan as it exists from time to time for the redevelopment of all or any part of a redevelopment area, which plan shall be sufficiently complete to indicate such land acquisition, demolition

and removal of structures, redevelopment, improvements, conservation or rehabilitation as may be proposed to be carried out in the area of the project, zoning and planning changes, if any, land uses, maximum densities, building requirements, the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements and provision for relocation of any residents and occupants to be displaced in a manner which has been or is likely to be approved by the Department of Community Affairs pursuant to the "Relocation Assistance Law of 1967," P.L.1967, c.79 (C.52:31B-1 et seq.) and the "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.) and rules and regulations pursuant thereto;

(w) "Redevelopment project" shall mean any undertakings and activities for the elimination, and for the prevention of the development or spread, of blighted, deteriorated, or deteriorating areas and may involve any work or undertaking pursuant to a redevelopment plan; such undertaking may include: (1) acquisition of real property and demolition, removal or rehabilitation of buildings and improvements thereon; (2) carrying out plans for a program of voluntary repair and rehabilitation of buildings or other improvements; and (3) installation, construction or reconstruction of streets, utilities, parks, playgrounds or other improvements necessary for carrying out the objectives of the redevelopment project;

(x) "Redeveloper" shall mean any person or governmental unit that shall enter into or propose to enter into a contract with an authority for the redevelopment of an area or any part thereof under the provisions of this act;

(y) "Redevelopment area" shall mean an area of a municipality which the governing body thereof finds is a blighted area or an area in need of rehabilitation whose redevelopment is necessary to effectuate the public purposes declared in this act. A redevelopment area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but whose inclusion is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part;

(z) "Sludge" shall mean any solid, semisolid, or liquid waste generated from a municipal, industrial or other sewage treatment plant, water supply treatment plant, or air pollution control facility, or any other such waste having similar characteristics and effects, but shall not include effluent; and

(aa) "Beneficiary county" shall mean any county that has not created an authority pursuant to this act.

7. Section 30 of P.L.1992, c.79 (C.40A:12A-30) is amended to read as follows:

C.40A:12A-30 Power of redevelopment entity to issue bonds, notes.

30. a. A redevelopment entity shall have the power and is hereby authorized to issue, from time to time, its bonds, bond anticipation notes and other notes and obligations in such principal amounts as in its opinion shall be necessary to provide sufficient funds for achieving any of its corporate purposes, including, but not limited to: the making of mortgage loans, the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds, bond anticipation notes and other notes and obligations issued by it whether or not such have become due; the establishment or increase of reserves to secure or to pay such bonds, bond anticipation notes and other notes and obligations or interest thereon; and all costs or expenses incident to and necessary or convenient to carry out its corporate purposes and powers, including but not limited to the payment of the cost of retiring the present value of the unfunded accrued liability due and owing by a redevelopment agency or housing authority, as calculated by the system actuary for a date certain upon the request of a redevelopment agency or housing authority, for early retirement incentive benefits granted by the redevelopment agency or housing authority pursuant to P.L.1991, c.230 and P.L.1993, c.181.

b. A redevelopment entity may issue such bonds, bond anticipation notes or other notes or obligations as it may determine, including bonds, bond anticipation notes or other notes or obligations as to which the principal and interest are payable: (1) exclusively from the income and revenues of the redevelopment entity resulting from projects financed with the proceeds of such bonds, bond anticipation notes or other notes or obligations; (2) exclusively from the income and revenues of the redevelopment entity resulting from certain projects, whether or not such projects were financed in whole or in part from the proceeds of such bonds, bond anticipation notes or other notes or obligations; or, (3) from its revenues generally. Any bonds, bond anticipation notes or other notes or obligations may be additionally secured by a pledge of any grant, subsidy or contribution from the United States of America or an agency or instrumentality thereof or the State or any agency, instrumentality or political subdivision thereof, or any person, firm or corporation or a pledge of any income or revenues, funds or moneys of the redevelopment entity from any source whatsoever.

c. Whether or not the bonds, bond anticipation notes and other notes and obligations issued pursuant to this act are of such form and character as to be negotiable instruments under the terms of Title 12A, Commercial Transactions, New Jersey Statutes, such bonds, bond anticipation notes and other notes and obligations and any coupon thereof are hereby made negotiable instruments within the meaning of and for all the purposes of Title 12A, subject only to the provisions of the bonds and notes for registration.

d. Bonds, bond anticipation notes and other notes and obligations of a redevelopment entity issued under the provisions of this act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the redevelopment entity and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision, nor be or constitute a pledge of the faith and credit of the State or of any political subdivision; but all such bonds, bond anticipation notes and other notes and obligations, unless funded or refunded by bonds, bond anticipation notes or other notes or obligations of the redevelopment entity shall be payable from revenues or funds pledged or available for their payment as authorized in this act. Each bond, bond anticipation note or other note or obligation shall contain on its face a statement to the effect that the redevelopment entity is obligated to pay the principal thereof or the interest thereon only from the revenues or funds of the redevelopment entity and that neither the State nor any political subdivision thereof is obligated to pay such principal or interest, and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds, bond anticipation notes or other notes or obligations.

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

8. Section 11 of P.L.1960, c.183 (C.40:37A-54) is amended to read as follows:

C.40:37A-54 Purposes.

11. The purposes of every authority shall be (a) provision within the county or any beneficiary county of public facilities for use by the State, the county or any beneficiary county, or any municipality in any such county, or any two or more or any subdivisions, departments, agencies or instrumentalities of any of the foregoing for any of their respective governmental purposes, (b) provision within the county or any beneficiary county of public facilities for use as convention halls, or the rehabilitation, improvement or enlargement of any convention hall, including appropriate and desirable appurtenances located within the convention hall or near, adjacent to or over it within boundaries determined at the discretion of the authority, including but not limited to office facilities, commercial facilities, community service facilities, parking facilities, hotel facilities and other facilities for the accommodation and entertainment of tourists and visitors, (c) provision within the county or any beneficiary county of structures, franchises, equipment and facilities for

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operation of public transportation or for terminal purposes, including development and improvement of port terminal structures, facilities and equipment for public use in counties in, along or through which a navigable river flows, (d) provision within the county or any beneficiary county of structures or other facilities used or operated by the authority or any governmental unit in connection with, or relative to development and improvement of, aviation for military or civilian purposes, including research in connection therewith, and including structures or other facilities for the accommodation of passengers, (e) provision within the county or any beneficiary county of a public facility for a combination of governmental and nongovernmental uses; provided that not more than 50% of the usable space in any such facility shall be made available for nongovernmental use under a lease or other agreement by or with the authority, (f) acquisition of any real property within the county or any beneficiary county, with or without the improvements thereof or thereon or personal property appurtenant or incidental thereto, from the United States of America or any department, agency or instrumentality heretofore or hereafter created, designated or established by or for it, and the clearance, development or redevelopment, improvement, use or disposition of the acquired lands and premises in accordance with the provisions and for the purposes stated in this act, including the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of improvements on or to said lands and premises, and structures and facilities incidental to the foregoing as may be necessary, convenient or desirable, (g) acquisition, construction, maintenance and operation of garbage and solid waste disposal systems for the purpose of collecting and disposing of garbage, solid waste or refuse matter, whether owned or operated by any person, the authority or any other governmental unit, within or without the county or any beneficiary county, (h) the improvement, furtherance and promotion of the tourist industries and recreational attractiveness of the county or any beneficiary county through the planning, acquisition, construction, improvement, maintenance and operation of facilities for the recreation and entertainment of the public, which facilities may include, without being limited to, a center for the performing and visual arts, (i) provision of loans and other financial assistance and technical assistance for the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of buildings or facilities designed to provide decent, safe and sanitary dwelling units for persons of low and moderate income in need of housing, including the acquisition of land, equipment or other real or personal properties which the authority determines to be necessary, convenient or desirable appurtenances, all in accordance with the provisions of this act, as amended and supplemented, (j) planning, initiating and carrying out redevelopment projects for the elimination, and for the prevention of the development or spread of blighted, deteriorated or deteriorating areas and

the disposition, for uses in accordance with the objectives of the redevelopment project, of any property or part thereof acquired in the area of such project, (k) any combination or combinations of the foregoing or following, and (l) subject to the prior approval of the Local Finance Board, the planning, design, acquisition, construction, improvement, renovation, installation, maintenance and operation of facilities or any other type of real or personal property within the county for a corporation or other person organized for any one or more of the purposes described in subsection a. of N.J.S.15A:2-1 except those facilities or any other type of real or personal property which can be financed pursuant to the provisions of P.L.1972, c.29 (C.26:2I-1 et seq.) as amended. A county improvement authority shall also have as its purpose the pooling of loans for any local governmental units within the county or any beneficiary county that are refunding bonds in order to achieve more favorable interest rates and terms for those local governmental units.

9. Section 12 of P.L.1960, c.183 (C.40:37A-55) is amended to read as follows:

C.40:37A-55 Body politic and corporate; powers and duties.

12. Every 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 convenience, benefit and welfare and shall have perpetual succession and, for the effectuation of its purposes, have the following additional powers:

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

(b) To sue and be sued;

(c) To acquire, hold, use and dispose of its facility charges and other revenues and other moneys;

(d) To acquire, rent, hold, use and dispose of other personal property for the purposes of the authority;

(e) Subject to the provisions of section 26 of this act, to acquire by purchase, gift, condemnation or otherwise, or lease as lessee, real property and easements or interests therein necessary or useful and convenient for the purposes of the authority, whether subject to mortgages, deeds of trust or other liens or otherwise, and to hold and to use the same, and to dispose of property so acquired no longer necessary for the purposes of the authority; provided that the authority may dispose of such property at any time to any governmental unit or person if the authority shall receive a leasehold interest in the property for such term as the authority deems appropriate to fulfill its purposes;

(f) Subject to the provisions of section 13 of this act, to lease to any governmental unit or person, all or any part of any public facility for such

consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon;

(g) To enter into agreements to lease, as lessee, public facilities for such term and under such conditions as the authority may deem necessary and desirable to fulfill its purposes, and to agree, pursuant thereto, to be unconditionally obligated to make payments for the term of the lease, without set-off or counterclaim, whether or not the public facility is completed, operating or operable, and notwithstanding the destruction of, damage to, or suspension, interruption, interference, reduction or curtailment of the availability or output of the public facility to which the agreement applies;

(h) To extend credit or make loans to any governmental unit or person for the planning, design, acquisition, construction, equipping and furnishing of a public facility, upon the terms and conditions that the loans be secured by loan and security agreements, mortgages, leases and other instruments, the payments on which shall be sufficient to pay the principal of and interest on any bonds issued for the purpose by the authority, and upon such other terms and conditions as the authority shall deem reasonable;

(i) Subject to the provisions of section 13 of this act, to make agreements of any kind with any governmental unit or person for the use or operation of all or any part of any public facility for such consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon;

(j) To borrow money and issue negotiable bonds or notes or other obligations and 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;

(k) To apply for and to accept gifts or grants of real or personal property, money, material, labor or supplies for the purposes of the authority from any governmental unit or person, and to make and perform agreements and contracts and to do any and all things necessary or useful and convenient in connection with the procuring, acceptance or disposition of such gifts or grants;

(l) To determine the location, type and character of any public facility and all other matters in connection with all or any part of any public facility which it is authorized to own, construct, establish, effectuate or control;

(m) To make and enforce bylaws or rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of any public facility, and to amend the same;

(n) To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contract with any governmental unit or person;

(o) To acquire, purchase, construct, lease, operate, maintain and undertake any project and to fix and collect facility charges for the use thereof;

(p) To mortgage, pledge or assign or otherwise encumber all or any portion of its revenues and other income, real and personal property, projects and facilities for the purpose of securing its bonds, notes and other obligations or otherwise in furtherance of the purpose of this act;

(q) To extend credit or make loans to redevelopers for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing any redevelopment project or redevelopment work;

(r) To conduct examinations and investigations, hear testimony and take proof, under oath at public or private hearings of any material matter, require the attendance of witnesses and the production of books and papers and issue commissions for the examination of witnesses who are out of the State, unable to attend, or excused from attendance;

(s) To authorize a committee designated by it consisting of one or more members, or counsel, or any officer or employee to conduct any such investigation or examination, in which case such committee, counsel, officer or employee shall have power to administer oaths, take affidavits and issue subpenas or commissions;

(t) 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 act subject to the "Local Public Contracts Law," P.L.1971, c. 198 (C.40A:11-1 et seq.); and

(u) To pool loans for any local governmental units within the county or any beneficiary county that are refunding bonds and do and perform any and all acts or things necessary, convenient or desirable for the purpose of the authority to achieve more favorable interest rates and terms for those local governmental units.

10. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read as follows:

C.34:1B-5 Powers.

5. The authority shall have the following powers:

a. To adopt bylaws for the regulation of its affairs and the conduct of its business;

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

c. To sue and be sued;

d. To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and such manner as it may deem proper, or by the exercise of the power of eminent domain in the manner provided by the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or other property which it may determine is reasonably necessary for any project or school facilities project; provided, however, that

the authority in connection with any project shall not take by exercise of the power of eminent domain any real property except upon consent thereto given by resolution of the governing body of the municipality in which such real property is located; and provided further that the authority shall be limited in its exercise of the power of eminent domain in connection with any project to municipalities receiving State aid under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to municipalities which had a population, according to the latest federal decennial census, in excess of 10,000;

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

f. To establish and maintain reserve and insurance funds with respect to the financing of the project or the school facilities project;

g. To sell, convey or lease to any person all or any portion of a project or school facilities project, for such consideration and upon such terms as the authority may determine to be reasonable;

h. To mortgage, pledge or assign or otherwise encumber all or any portion of a project, school facilities project or revenues, whenever it shall find such action to be in furtherance of the purposes of this act and P.L.2000, c.72 (C.18A:7G-1 et al.);

i. To grant options to purchase or renew a lease for any of its projects or school facilities projects on such terms as the authority may determine to be reasonable;

j. To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality or political subdivision thereof, or from any other source and to comply, subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1) and P.L.2000, c.72 (C.18A:7G-1 et al.), with the terms and conditions thereof;

k. In connection with any application for assistance under P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1) or P.L.2000, c.72 (C.18A:7G-1 et al.) or commitments therefor, to require and collect such fees and charges as the authority shall determine to be reasonable;

l. To adopt, amend and repeal regulations to carry out the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1) and P.L.2000, c.72 (C.18A:7G-1 et al.);

m. To acquire, purchase, manage and operate, hold and dispose of real and personal property or interests therein, take assignments of rentals and

leases and make and enter into all contracts, leases, agreements and arrangements necessary or incidental to the performance of its duties;

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

o. To purchase, acquire, attach, seize, accept or take title to any project or school facilities project by conveyance or by foreclosure, and sell, lease, manage or operate any project or school facilities project for a use specified in this act and P.L.2000, c.72 (C.18A:7G-1 et al.);

p. To borrow money and to issue bonds of the authority and to provide for the rights of the holders thereof, as provided in P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1) and P.L.2000, c.72 (C.18A:7G-1 et al.);

q. To extend credit or make loans to any person for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing of a project or school facilities project, which credits or loans may be secured by loan and security agreements, mortgages, leases and any other instruments, upon such terms and conditions as the authority shall deem reasonable, including provision for the establishment and maintenance of reserve and insurance funds, and to require the inclusion in any mortgage, lease, contract, loan and security agreement or other instrument, such provisions for the construction, use, operation and maintenance and financing of a project or school facilities project as the authority may deem necessary or desirable;

r. To guarantee up to 90% of the amount of a loan to a person, if the proceeds of the loan are to be applied to the purchase and installation, in a building devoted to industrial or commercial purposes, or in an office building, of an energy improvement system;

s. To employ consulting engineers, architects, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the authority to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1) and P.L.2000, c.72 (C.18A:7G-1 et al.), and to fix and pay their compensation from funds available to the authority therefor, all without regard to the provisions of Title 11A of the New Jersey Statutes;

t. To do and perform any acts and things authorized by P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1) and P.L.2000, c.72 (C.18A:7G-1 et al.) under, through or by means of its own officers, agents and employees, or by contract with any person;

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

v. To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in P.L.1974, c.80 (C.34:1B-1 et

seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1) and P.L.2000, c.72 (C.18A:7G-1 et al.);

w. To construct, reconstruct, rehabilitate, improve, alter, equip, maintain or repair or provide for the construction, reconstruction, improvement, alteration, equipping or maintenance or repair of any development property and lot, award and enter into construction contracts, purchase orders and other contracts with respect thereto, upon such terms and conditions as the authority shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of any such development property and the settlement of any claims arising therefrom and the establishment and maintenance of reserve funds with respect to the financing of such development property;

x. When authorized by the governing body of a municipality exercising jurisdiction over an urban growth zone, to construct, cause to be constructed or to provide financial assistance to projects in an urban growth zone which shall be exempt from the terms and requirements of the land use ordinances and regulations, including, but not limited to, the master plan and zoning ordinances, of such municipality;

y. To enter into business employment incentive agreements as provided in the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.);

z. To undertake school facilities projects and to enter into agreements or contracts, execute instruments, and do and perform all acts or things necessary, convenient or desirable for the purposes of the authority to carry out any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.) and P.L.2000, c.72 (C.18A:7G-1 et al.), including, but not limited to, entering into contracts with the State Treasurer, the Commissioner of Education, districts and any other entity which may be required in order to carry out the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.);

aa. To enter into leases, rentals or other disposition of a real property interest in and of any school facilities project to or from any local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.);

bb. To make and contract to make loans or leases and to make grants to local units to finance the cost of school facilities projects and to acquire and contract to acquire bonds, notes or other obligations issued or to be issued by local units to evidence the loans or leases, all in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.);

cc. Subject to any agreement with holders of its bonds issued to finance a project or school facilities project, obtain as security or to provide liquidity for payment of all or any part of the principal of and interest and premium on the bonds of the authority or for the purchase upon tender or otherwise

of the bonds, lines of credit, letters of credit, reimbursement agreements, interest rate exchange agreements, currency exchange agreements, interest rate floors or caps, options, puts or calls to hedge payment, currency, rate, spread or similar exposure or similar agreements, float agreements, forward agreements, insurance contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements, and other security agreements or instruments in any amounts and upon any terms as the authority may determine and pay any fees and expenses required in connection therewith;

dd. To charge to and collect from local units, the State and any other person, any fees and charges in connection with the authority's actions undertaken with respect to school facilities projects, including, but not limited to, fees and charges for the authority's administrative, organization, insurance, operating and other expenses incident to the financing, construction and placing into service and maintenance of school facilities projects;

ee. To make loans to refinance solid waste facility bonds through the issuance of bonds or other obligations and the execution of any agreements with counties or public authorities to effect the refunding or rescheduling of solid waste facility bonds, or otherwise provide for the payment of all or a portion of any series of solid waste facility bonds. Any county or public authority refunding or rescheduling its solid waste facility bonds pursuant to this subsection shall provide for the payment of not less than fifty percent of the aggregate debt service for the refunded or rescheduled debt of the particular county or public authority for the duration of the loan; except that, whenever the solid waste facility bonds to be refinanced were issued by a public authority and the county solid waste facility was utilized as a regional county solid waste facility, as designated in the respective adopted district solid waste management plans of the participating counties as approved by the department prior to November 10, 1997, and the utilization of the facility was established pursuant to tonnage obligations set forth in their respective interdistrict agreements, the public authority refunding or rescheduling its solid waste facility bonds pursuant to this subsection shall provide for the payment of a percentage of the aggregate debt service for the refunded or rescheduled debt of the public authority not to exceed the percentage of the specified tonnage obligation of the host county for the duration of the loan. Whenever the solid waste facility bonds are the obligation of a public authority, the relevant county shall execute a deficiency agreement with the authority, which shall provide that the county pledges to cover any shortfall and to pay deficiencies in scheduled repayment obligations of the public authority. All costs associated with the issuance of bonds pursuant to this subsection may be paid by the authority from the proceeds of these bonds. Any county or public authority

is hereby authorized to enter into any agreement with the authority necessary, desirable or convenient to effectuate the provisions of this subsection.

The authority shall not issue bonds or other obligations to effect the refunding or rescheduling of solid waste facility bonds after December 31, 2002. The authority may refund its own bonds issued for the purposes herein at any time; and

ff. To pool loans for any local governmental units that are refunding bonds and do and perform any and all acts or things necessary, convenient or desirable for the purpose of the authority to achieve more favorable interest rates and terms for those local governmental units.

11. This act shall take effect immediately.

Approved July 12, 2002.

CHAPTER 43

AN ACT encouraging municipal rehabilitation and economic recovery in certain fiscally distressed municipalities, amending various parts of statutory law, creating chapter 27BBB of Title 52 of the Revised Statutes, and making appropriations.

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

ARTICLE 1. GENERAL PROVISIONS

C.52:27BBB-1 Short title.

1. This act shall be known and may be cited as the "Municipal Rehabilitation and Economic Recovery Act."

C.52:27BBB-2 Findings, declarations relative to municipal rehabilitation and economic recovery.

2. The Legislature finds and declares that:

a. There exists in certain municipalities a continuing state of fiscal distress which endures despite the imposition of a series of measures authorized pursuant to law;

b. Economically impoverished, those municipalities have a history of high crime rates, including arson, that has necessitated the maintenance of large police and fire departments, at enormous taxpayer cost in municipalities without a sound tax base;

c. The past fifty years have witnessed the depopulation of those municipalities characterized by such problems;

d. Spending power on the part of residents of these municipalities is severely limited and local businesses thereby suffer from the lack of an indigenous client base so that rebuilding the fortunes of city residents in order to recreate a viable urban economy will require a considerable period of time;

e. Notwithstanding the prosperity which has been experienced elsewhere throughout New Jersey in recent years, the unemployment rate in these municipalities is substantially higher than that of most other municipalities;

f. While the rest of New Jersey has enjoyed increased land values, the ratable base in these municipalities has declined steadily during the 1990's, marked by their low equalized value per capita which can be about one-half that of other cities;

g. Coupled with this economic deprivation, many of these municipalities are characterized by a lack of internal audit controls, accountability and oversight, evidenced by the fact that although real estate taxes comprise over two-thirds of locally generated revenues, many of these municipalities do not rigorously enforce collection and receive but a portion of their levy;

h. Although the State has experienced a period of tremendous prosperity and economic growth over the past few years, such municipalities continue to languish without any obvious signs of improvement;

i. These municipalities have experienced a substantial budget deficit for many years which has only been addressed through extraordinary payments of State aid;

j. While State aid dollars which have been directed toward such municipalities have served to address their structural deficits, they have not, and cannot, function as an economic impetus toward the rebuilding of those municipalities;

k. Because a significant proportion of the population of such municipalities lacks adequate health insurance coverage, causing many to seek basic care in municipal emergency rooms, municipal hospitals are heavily dependent upon state assistance commonly referred to as "charity care" for reimbursement. Such health services are crucial to the overall health of the infrastructure and social growth and stability of qualified municipalities. Moreover, the demand for such health services has necessitated planning for a major expansion of medical school programs within qualified municipalities;

l. Given the high crime rates in these municipalities, if economic recovery is to be successful, it is vital that municipal residents feel that their basic safety is assured; accordingly, the State will continue to commit to assist such municipalities in maintaining not less than that number of police officers employed by the municipality on the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.) and in creating working relationships between State agencies, local law enforcement and the community to identify and develop

strategies to improve the quality of life and the security of residents in qualified municipalities;

m. In order to ensure the long-term economic viability of such municipalities, it is critical that the Legislature encourage, to the extent possible, the production of market-rate housing within the municipality so as to expand the local tax base and provide a greater diversity of income levels among municipal inhabitants;

n. When faced with analogous situations, other states have employed extraordinary measures to provide leadership and oversight for struggling cities and the necessary tools to spur an economic revival within those cities; and

o. In light of the dire needs faced by such municipalities and the lack of progress in addressing those needs either governmentally or through private sector initiative, and given the successful interventions on the part of other states in analogous circumstances, it is incumbent upon the State to take exceptional measures, on an interim basis, to rectify certain governance issues faced by such municipalities and to strategically invest those sums of money necessary in order to assure the long-term financial viability of these municipalities.

C.52:27BBB-3 Definitions relative to municipal rehabilitation and economic recovery.

3. As used in this act:

"Authority" means the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.).

"Board" means the State Economic Recovery Board established pursuant to section 36 of P.L.2002, c.43 (C.52:27BBB-36).

"Chief operating officer" means that person appointed pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) responsible for reorganizing governmental operations of a qualified municipality in order to assure the delivery of essential municipal services and the professional administration of that municipal government.

"Commissioner" means the Commissioner of Community Affairs.

"Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

"Economic recovery term" means the period commencing with the expiration of the term of the chief operating officer and terminating five years thereafter.

"In consultation with" means with consideration of the input of, or the advice of, the mayor, governing body, chief operating officer or director, as the case may be, without regard to the form or manner of the consultation.

"Local Finance Board" means the Local Finance Board of the Division of Local Government Services in the Department of Community Affairs.

"Project" means: (1) (a) acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility, including water transmission facilities or other improvement, whether or not in existence or under construction, (b) purchase and installation of equipment and machinery, (c) acquisition and improvement of real estate and the extension or provision of utilities, access roads and other appurtenant facilities; and (2) (a) the acquisition, financing, or refinancing of inventory, raw materials, supplies, work in process, or stock in trade, or (b) the financing, refinancing or consolidation of secured or unsecured debt, borrowings, or obligations, or (c) the provision of financing for any other expense incurred in the ordinary course of business; all of which are to be used or occupied by any person in any enterprise promoting employment, either for the manufacturing, processing or assembly of materials or products, or for research or office purposes, including, but not limited to, medical and other professional facilities, or for industrial, recreational, hotel or motel facilities, public utility and warehousing, or for commercial and service purposes, including, but not limited to, retail outlets, retail shopping centers, restaurant and retail food outlets, and any and all other employment promoting enterprises, including, but not limited to, motion picture and television studios and facilities and commercial fishing facilities, commercial facilities for recreational fishermen, fishing vessels, aquaculture facilities and marketing facilities for fish and fish products and (d) acquisition of an equity interest in, including capital stock of, any corporation; or any combination of the above, which the authority determines will: (i) tend to maintain or provide gainful employment opportunities within and for the people of the State, or (ii) aid, assist and encourage the economic development or redevelopment of any political subdivision of the State, or (iii) maintain or increase the tax base of the State or of any political subdivision of the State, or (iv) maintain or diversify and expand employment promoting enterprises within the State; and (3) the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of an energy saving improvement or pollution control project which the authority determines will tend to reduce the consumption in a building devoted to industrial or commercial purposes, or in an office building, of nonrenewable sources of energy or to reduce, abate or prevent environmental pollution within the State; and (4) the acquisition, construction, reconstruction, repair, alteration, improvement, extension, development, financing or refinancing of infrastructure and transportation facilities or improvements related to economic development and of cultural, recreational and tourism facilities or improvements related to economic development and of capital facilities for primary and secondary schools and of mixed use projects consisting of housing and commercial development; and (5) the establishment, acquisition, construction, rehabilitation, improvement, and ownership of port facilities as defined in section 3 of

P.L.1997, c.150 (C.34:1B-146). Project may also include: reimbursement to any person for costs in connection with any project, or the refinancing of any project or portion thereof, if such actions are determined by the authority to be necessary and in the public interest to maintain employment and the tax base of any political subdivision and likely to facilitate improvements or the completion of the project; and developing property and any construction, reconstruction, improvement, alteration, equipment or maintenance or repair, or planning and designing in connection therewith. For the purpose of carrying out mixed use projects consisting of both housing and commercial development, the authority may enter into agreements with the New Jersey Housing and Mortgage Finance Agency for loan guarantees for any such project in accordance with the provisions of P.L.1995, c.359 (C.55:14K-64 et al.), and for that purpose shall allocate to the New Jersey Housing and Mortgage Finance Agency, under such agreements, funding available pursuant to subsection a. of section 4 of P.L.1992, c.16 (C.34:1B-7.13). "Project" shall not include a school facilities project.

"Qualified municipality" means a municipality: (1) that has been subject to the supervision of a financial review board pursuant to the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.); (2) that has been subject to the supervision of the Local Finance Board pursuant to the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.); and (3) which, according to its most recently adopted municipal budget on the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.), is dependent upon State aid and other State revenues for not less than 55 percent of its total budget.

"Regional Impact Council" or "council" means that body established pursuant to section 39 of P.L.2002, c.43 (C.52:27BBB-39).

"Rehabilitation term" means that period during which the qualified municipality is under the direction of the chief operating officer appointed pursuant to section 7 of P.L.2002, c.43 (C.52:27BBB-7).

"Special arbitrator" means that judge designated by the Chief Justice pursuant to section 5 of P.L.2002, c.43 (C.52:27BBB-5).

"State supervision" means supervision pursuant to Article 4 of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-54 et seq.).

"Treasurer" or "State treasurer" means the Treasurer of the State of New Jersey.

"Under rehabilitation and economic recovery" means that period which coincides with the rehabilitation term and the economic recovery term.

ARTICLE 2. GOVERNANCE

C.52:27BBB-4 Notification to qualified municipality.

4. Within 30 days of the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.), the commissioner shall notify the mayor and each member of the governing body of each qualified municipality that the municipality is subject to the provisions of the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.). In addition, the commissioner shall notify:

a. the freeholder director and each member of the board of chosen freeholders of each county in which is situated a qualified municipality;

b. the Chief Justice of the New Jersey Supreme Court; and

c. each member of the Senate and General Assembly.

C.52:27BBB-5 Appointment of special arbitrator; criteria for dispute resolution.

5. Upon receipt of notification by the commissioner pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4), the Chief Justice may designate a Superior Court judge who sits within the vicinage of the county in which the qualified municipality is situated or a retired judge who, during his or her tenure as a judge, served within the vicinage of the county in which the qualified municipality is situated as the special arbitrator as prescribed pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) to serve during the rehabilitation term. The special arbitrator shall, on an expedited basis, oversee the resolution of any impasse brought before the special arbitrator by the chief operating officer pursuant to sections 9, 11, 13, 16, 22, and 27 of P.L.2002, c.43 (C.52:27BBB-9, C.52:27BBB-11, C.52:27BBB-13, C.52:27BBB-16, C.52:27BBB-22, and C.52:27BBB-27) or any other impasse resulting from any action or failure to act on the part of the mayor, the governing body or any other officer or appointee of the municipality. The special arbitrator may adopt those procedures necessary to govern the resolution of an impasse and shall use the following criteria in dispute resolution, as appropriate to the particular circumstances:

a. The action or failure to act would be adverse to the rehabilitation or economic recovery of the municipality;

b. The action in question or failure to act would represent an unsound decision in violation of the fiduciary responsibility of the municipal officials;

c. The action or failure to act would be inconsistent with internal financial controls or would violate prudent standards or practices of municipal administration or would violate or compromise State laws, rules or regulations under which the municipality operates; and

d. the action or inaction would delay the implementation of P.L.2002, c.43 (C.52:27BBB-1 et al.) or the achievement of the goal of fostering the redevelopment and rehabilitation of qualified municipalities and ensuring the effective delivery of municipal services and professionalization of municipal administration.

C.52:27BBB-6 Municipality deemed under rehabilitation and economic recovery; term.

6. a. Upon the appointment of a chief operating officer pursuant to section 7 of P.L.2002, c.43 (C.52:27BBB-7), a qualified municipality shall be under rehabilitation and economic recovery. This period shall begin with the assumption of job responsibilities by the chief operating officer pursuant to this section and terminate five years following the end of the term of the chief operating officer. The period corresponding with the term of the chief operating officer shall be referred to hereinafter as the rehabilitation term. The period commencing with the expiration of the term of the chief operating officer and terminating five years thereafter shall be referred to hereinafter as the economic recovery term.

b. During the economic recovery term, the mayor shall exercise those powers delegated to the mayor pursuant to the form of government, the charter and the administrative code of the municipality, and those powers delegated to the mayor under general law. In addition, during the economic recovery term, the mayor shall retain the power to veto the minutes of any independent board or authority, including, but not limited to, the housing authority, parking authority, redevelopment authority, planning board and board of adjustment.

While the municipality is under rehabilitation and economic recovery, the mayor shall retain the power to make those appointments to municipal authorities, boards or commissions, as the case may be, which is otherwise allocated to the mayor pursuant to law.

The mayor may retain staff for the purpose of advising the mayor and aiding in the performance of constituent services.

c. Upon the assumption of job responsibilities by the chief operating officer, the financial review board created pursuant to section 5 of P.L.1999, c.156 (C.52:27D-118.30a) to oversee the finances of the municipality shall cease to function and the municipality shall cease to be under supervision pursuant to Article 4 of P.L.1947, c.151 (C.52:27BB-54 et seq.).

All outstanding debts or obligations incurred by the qualified municipality or the New Jersey Housing and Mortgage Finance Agency established pursuant to section 4 of the "New Jersey Housing and Mortgage Finance Agency Law of 1983," P.L.1983, c.530 (C.55:14K-4) as of 60 days following the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.), with any subsidiary of that agency with jurisdiction in a qualified municipality, other than those debts or obligations represented by bonds or other negotiable instruments, are forgiven.

Notwithstanding the termination of the financial review board and supervision, all memorandums of understanding entered into by the municipality as a condition of receiving assistance under P.L.1987, c.75 (C.52:27D-118.24 et seq.) that require the municipality to implement any

government, administrative, operational efficiency or oversight measures necessary for the fiscal recovery of the municipality as recommended by the director and approved by the Local Finance Board shall continue to have full force and effect.

C.52:27BBB-7 Appointment of chief operating officer; term.

7. a. Within 30 days following the enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.), the Governor shall appoint the chief operating officer in consultation with the mayor and the governing body. The chief operating officer shall serve at the pleasure of the Governor. The chief operating officer shall be qualified by training and experience for the position and shall have at least 10 years of experience in the management or supervision of government activities, three years of which may be substituted by an advanced degree in business, law, or public administration.

b. Pending the appointment of a chief operating officer or, in the event of the death, resignation, removal or inability of the chief operating officer to discharge the duties of that office, the functions, powers and duties of the chief operating officer shall devolve upon the director, for the time being, until a chief operating officer is appointed or is able to discharge the duties of that office. In the event that the chief operating officer does not serve out the chief operating officer's term of office for any reason, a successor shall be chosen by the Governor.

c. The term of the chief operating officer shall terminate five years following the assumption of duties on the part of the chief operating officer. The chief operating officer may be hired as a State employee in the unclassified service of Title 11A, Civil Service, of the New Jersey Statutes or may be hired under contract, as provided hereunder. Notwithstanding any other provision of law, no person so appointed shall acquire tenure.

If the chief operating officer is hired under contract, the person hired shall meet the qualifications set forth herein, and it shall be clear from the contract that the position is full-time and that the job site shall be at the principal offices of the municipality. If, for any reason, a person engaged under contract is unable to fulfill the job responsibilities of chief operating officer, the selection process shall be recommenced in accordance with the provisions of this section.

If the chief operating officer is hired under contract, the contract shall be available for public inspection in the office of the municipal clerk.

d. Subject to the approval of the commissioner, the salary, benefits and costs of the chief operating officer shall be fixed by the board and adjusted from time to time as the board deems appropriate. The salary level and benefits shall be comparable to that of the director of any public authority or agency with jurisdiction in the qualified municipality. The salary, benefits, and costs of the chief operating officer shall be an expense of the State.

C.52:27BBB-8 Submission of report by chief operating officer.

8. a. At the end of four years following the commencement of duties by the chief operating officer, the chief operating officer shall submit a report to the Governor, each member of the State Economic Recovery Board, each member of the Senate and General Assembly, each member of the county board of freeholders in the county in which the qualified municipality is situated, each member of the regional impact council, the mayor, and each member of the governing body of the qualified municipality. The report shall evaluate progress made in rehabilitating the qualified municipality and the status of economic recovery efforts. The report shall include an enumeration of any problems or hurdles encountered in rehabilitation and economic recovery and, where applicable, recommendations for any amendments to State law which would promote and encourage rehabilitation and economic recovery. If the chief operating officer anticipates that the rehabilitation term will be insufficient to achieve rehabilitation goals, the chief operating officer shall include in the report a detailed analysis of the causes for the municipality's inability to reestablish local control and an assessment of the amount of time necessary for the continuation of the period of the rehabilitation term.

In addition to the foregoing, the report shall include detailed information as to how those funds appropriated pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) are being spent and how those expenditures are serving to promote the economic revitalization of the qualified municipality.

b. Within 30 days of receipt of the report by members of the Legislature, a hearing shall be held by the Senate Community and Urban Affairs Committee and the Assembly Housing and Local Government Committee, or their successors, to provide an opportunity for public comment and discussion.

C.52:27BBB-9 Reallocation of functions, powers, duties to chief operating officer.

9. a. Upon the appointment of the chief operating officer pursuant to subsection a. of section 7 of P.L.2002, c.43 (C.52:27BBB-7), all the functions, powers and duties heretofore or hereafter assigned by any statute, regulation, ordinance, resolution, charter or contract for municipal operations, municipal organization and reorganization, development and implementation of workforce training programs, and the hiring and firing of department heads, managers and supervisory employees shall be reallocated to the chief operating officer. The chief operating officer shall exercise those functions, powers and duties in consultation with the mayor as are hereinafter provided.

b. Except as otherwise provided in P.L.2002, c.43 (C.52:27BBB-1 et al.), the chief operating officer shall have the power to perform all acts and do all things consistent with law necessary for the proper conduct, maintenance, rehabilitation and supervision of the qualified municipality. The chief operating officer may propose ordinances, resolutions, rules, policies and guidelines,

not inconsistent with law, for the proper conduct, maintenance and supervision of the municipality.

Ordinances and resolutions shall be adopted or amended as provided by law except that the chief operating officer shall exercise the functions, powers and duties of the mayor.

Failure of the mayor or governing body to act upon or approve any proposal introduced by the chief operating officer shall constitute an impasse and shall be subject to the dispute resolution procedures set forth in section 5 of P.L.2002, c.43 (C.52:27BBB-5).

c. Notwithstanding the provisions of the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et seq.), the chief operating officer may negotiate financial agreements and otherwise exercise the powers of the governing body pursuant thereto, including making available municipal land in order to facilitate a project pursuant to section 17 of P.L.1991, c.431 (C.40A:20-17). Any such agreements negotiated by the chief operating officer shall be presented to the governing body for the information of the members of the governing body.

d. Notwithstanding any provisions of P.L.2001, c.310 to the contrary, the chief operating officer may, in consultation with the mayor and governing body, negotiate bond financing pursuant to the "Redevelopment Area Bond Financing Law," sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 through 73) and revenue allocation financing pursuant to the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L.2001, c.310 (C.52:27D-459 through 489).

e. The functions, powers and duties reallocated to the chief operating officer pursuant to this section shall include, but not be limited to those powers allocated to the mayor which are found in the charter and administrative code of the municipality, Titles 40 and 40A generally and specifically in the "Local Bond Law," N.J.S.40A:2-1 et seq., the "Local Budget Law," N.J.S.40A:4-1 et seq., the "Local Fiscal Affairs Law," N.J.S.40A:5-1 et seq., the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), any specific form of government law according to which the municipality is governed, and such other sections or other laws necessary to the governance and administration of a municipality, the control of litigation, and the determination of service levels as provided in this section.

f. During the rehabilitation term, the chief operating officer shall exercise the veto power of the mayor with respect to municipal ordinances; provided, however, that the chief operating officer may delegate the veto power to the mayor. In addition, during the rehabilitation term, the chief operating officer shall have the power to veto the minutes of any independent board or authority, including, but not limited to, the housing authority, parking authority, redevelopment authority, planning board and board of adjustment.

During the rehabilitation term, the chief operating officer may refer any matter involving any action or failure to act to the special arbitrator.

g. Subject to the approval of the director, the chief operating officer may appoint a confidential secretary and executive assistant who shall be State employees and serve in the unclassified service of the Civil Service. The salary and benefits of these appointees shall be fixed by the director and adjusted from time to time as the director deems appropriate. The salary, benefits, and costs of these appointees shall be an expense of the State.

These appointees shall serve at the pleasure of the chief operating officer.

C.52:27BBB-10 Particular powers of chief operating officer.

10. The chief operating officer may:

a. Sue in the municipality's corporate name and submit disputes and controversies to arbitration and determination in the manner provided by law;

b. Retain municipal corporation counsel and such other special counsel as the chief operating officer may deem necessary to carry out the functions, powers and duties set forth in P.L.2002, c.43 (C.52:27BBB-1 et al.); and

c. Request the State Treasurer to provide no interest loans to the municipality for cash flow purposes.

C.52:27BBB-11 Appointment of department heads.

11. Within 30 days of the assumption of job responsibilities on the part of the chief operating officer, the chief operating officer shall, in consultation with the mayor, recommend the interim appointment of department heads and submit the list of nominees to the governing body for confirmation. The department heads shall include a business administrator, or functional equivalent thereof, who shall not be the chief operating officer. The governing body may only reject a candidate by a 2/3 vote of the fully authorized membership of the governing body. In the event of an impasse in the appointment process, the matter shall be decided by the special arbitrator, whose decision shall not be subject to appeal. In making a determination pursuant to this subsection, the special arbitrator shall uphold the appointment recommended by the chief operating officer if, by any objective measure, the person under consideration for that position is qualified by reason of experience, education or training.

These interim appointees shall fulfill those responsibilities delegated to them by the chief operating officer pending the completion of the municipal management study by the chief operating officer pursuant to section 12 of P.L.2002, c.43 (C.52:27BBB-12).

C.52:27BBB-12 Preparation of municipal management study.

12. a. Within 30 days following the submission of interim department head appointments to the governing body, the chief operating officer, in consultation with the mayor, shall undertake the preparation of a municipal

management study which analyzes the current state of all services provided by each municipal department and the service levels provided in similarly situated municipalities and shall call upon experts or State government officials, as necessary, in order to identify the options available to achieve appropriate levels of service. The study shall include police and fire services provided by the municipality, as well as planning, zoning, code enforcement, permitting and any other municipal permitting.

b. The study shall include reference to those studies previously completed by the State during the period of supervision or the operation of the financial review board and any other relevant studies.

c. The study shall be completed no later than nine months following the appointment of the interim department heads.

d. The study shall include a review of the municipal organizational plan, the management structure of each department, and the specific personnel needs within each department and unit therein necessary to achieve the levels of service identified in the study as appropriate for the qualified municipality.

With regard to public safety services, the study shall analyze the current state of services provided in light of such performance measures as calls per officer and call response time and make recommendations for current and future staffing levels in order to realize appropriate levels of service.

With respect to other municipal services, the study shall address turnaround time on the processing, review, and approval of applications, permits, grants, loans or other application-driven interactions on the part of private individuals with the municipality and make recommendations for improvement, including considerations of future staffing levels and the logistical support necessary in order to assure more timely processing of such requests.

In addition, the study shall include an assessment of the current state of computerization of municipal operations, the extent to which technology and mechanization are used to increase the efficiency of municipal operations, and, in particular, the extent to which geographic information systems are used to assist in municipal resource allocation, and recommendations for ways in which those operations may be made more efficient and accessible to the public through the use of computers and technological innovation, including the use of geographic information systems.

e. Following from this review, the study shall include any recommendations for the reorganization of municipal government structure considered necessary in order to achieve the more efficient, orderly, cost-effective and professional delivery of municipal services.

In addition, the study shall include an analysis and recommendations concerning appropriate pay scales for department heads in order to assist the chief operating officer in recruiting persons with the training and experience necessary to effectuate their job responsibilities.

f. Notwithstanding any other law, rule or regulation to the contrary, the municipal management study shall include an evaluation of the qualification levels of departmental employees in light of their assigned tasks and an identification of training opportunities to assist those employees in better performing their assigned duties, including a program of computer and technology training. The chief operating officer may call upon the Commissioner of Personnel or other appropriate State government appointees or officers in order to perform this evaluation and provide appropriate training.

g. Upon completion, the study shall be distributed to the mayor, each member of the governing body, every member of the Senate and General Assembly, and the Commissioner of Community Affairs. In addition, the study shall be available for public inspection.

h. Following from the municipal management study, the chief operating officer shall prepare the necessary amendments to the municipality's administrative code and ordinance, including salary ordinances, which follow from the recommendations in the study. These ordinances and amendments should be included as an appendix to the municipal management study.

The mayor and the governing body shall be kept apprised of the progress of the municipal management study and shall cooperate with the chief operating officer and provide that information and documentation necessary to assure the expeditious completion of the study.

C.52:27BBB-13 Copy of study available for public inspection.

13. a. Upon the completion of the municipal management study by the chief operating officer, the chief operating officer shall make available for public inspection a copy of the study in the office of the municipal clerk and each branch of the public library within the municipality.

b. The chief operating officer shall cause notice to be published in a newspaper circulating within the municipality that the study is available for public inspection, not less than 14 days before the meeting of the governing body at which the study is to be voted on.

c. The municipal management study shall become the official operating plan for the municipality unless the governing body rejects the study by a 2/3 vote of the fully authorized membership of the governing body within 30 days following the publication of notice pursuant to subsection b. of this section.

In the event that the governing body rejects the study, the rejection shall be accompanied by a statement specifically outlining the basis for the rejection of each element or component of the study along with an alternative proposal or proposals which accomplish the same objectives.

If the chief operating officer does not approve those alternatives proposed by the governing body, any disputed item shall be considered an impasse and

subject to the dispute resolution process set forth in section 5 of P.L.2002, c.43 (C.52:27BBB-5).

If the governing body has not acted within 30 days following the publication of notice pursuant to subsection b. of this section, the study shall be considered adopted.

d. Upon the adoption of the municipal management study, the chief operating officer, in consultation with the director, shall establish a salary scale for each department head. To the extent that the established salaries exceed those paid by the municipality at the commencement of the rehabilitation term, the State shall absorb the increased expense for salaries and benefits during the rehabilitation term, and for two years thereafter, subject to appropriation.

e. Once the chief operating officer has established the salary scale and the municipal management study has been adopted, the chief operating officer shall cause to be prepared proposed ordinances effectuating the salary scales and those amendments to the administrative code necessary to implement the municipal management study.

C.52:27BBB-14 Chief operating officer to act as appointing authority.

14. For the purposes of Title 11A, Civil Service, of the New Jersey Statutes, the chief operating officer shall act as the appointing authority.

The Commissioner of Personnel, in conjunction with the chief operating officer, shall design a remedial Human Resource Plan for the qualified municipality which best supports the efficient and effective delivery of services to the residents of the municipality. This plan may include, but need not be limited to, such measures as delegation of specified personnel functions, pilot programs, and streamlined appointment processes and shall remain in place during the rehabilitation term.

The Commissioner of Personnel may approve such additional changes in the staffing and organization structure as are needed to support the rehabilitation and economic recovery of the qualified municipality pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.).

C.52:27BBB-15 Abolishment of certain municipal positions.

15. a. Notwithstanding any other provision of law or contract, the chief operating officer may abolish positions in the municipality not under the direct supervision of the municipal governing body at any time. All of the functions, powers and duties of such abolished positions shall be exercised by the chief operating officer or those persons whom the chief operating officer designates to exercise them during the rehabilitation term. The affected individuals shall be given 60 days' notice of termination or pay for the same period. The notice or payment shall be in lieu of any other claim or recourse against the municipality based on law or contract or term of office.

b. Notwithstanding any law, rule or regulation to the contrary, no individual whose position is abolished by operation of this section shall be entitled to assert a claim to any position or to placement upon a preferred eligibility list for any position to which the individual may be entitled by virtue of tenure or seniority within the municipality. Nothing herein shall preclude an individual from asserting upon separation from service any legal contractual right to health care coverage, annuities, accrued vacation days, accrued sick leave, insurance and approved tuition costs. No individual whose position is abolished by operation of this subsection shall retain any right to tenure or seniority in the positions abolished herein.

c. Notwithstanding any provision of P.L.1992, c.43 (C.34:15D-1 et seq.) to the contrary, the Department of Labor shall, if requested by an employee, provide a training grant under the "Job Training Partnership Act," Pub. L. 97-300 (29 U.S.C. s.1501 et seq.), to each person who applies pursuant to this section for a training grant to pay for employment and training services as provided pursuant to section 6 of P.L.1992, c.43 (C.34:15D-6).

C.52:27BBB-16 Recommendation of department, division heads.

16. a. Following the completion of the municipal management study, the chief operating officer shall, in consultation with the mayor, recommend the appointment of department heads and division heads, as the case may be, and submit the list of nominees to the governing body for approval. Any recommendations provided by the chief operating officer pursuant to this subsection shall be made in consultation with the mayor. Any person who has served as an interim department head pursuant to section 11 of P.L.2002, c.43 (C.52:27BBB-11) shall be eligible for appointment pursuant to this section. The governing body may only reject a candidate by a 2/3 vote of the fully authorized membership of the governing body. In the event of an impasse in the appointment process, the matter shall be decided by the special arbitrator, whose decision shall not be subject to appeal. In making a determination pursuant to this subsection, the special arbitrator shall uphold the appointment recommended by the chief operating officer if, by any objective measure, the person under consideration for that position is the most qualified by reason of experience, education or training.

Appointment as a department head or division head, as the case may be, shall be for a period of time coinciding with the term of the chief operating officer and an additional two years thereafter; however, department heads and division heads may be removed for cause by the Local Finance Board following a hearing before the board.

b. Any person who has served as an employee in a position with tenure rights during the rehabilitation term who is reappointed by the mayor, with the advice and consent of the governing body, as appropriate, following the

termination of the rehabilitation term shall receive credit for the years served during the period of rehabilitation for the purposes of establishing eligibility for tenure, so long as the position otherwise qualifies for tenure under general law.

C.52:27BBB-17 Transfer, assignment, reclassification of positions.

17. Upon the adoption of the municipal management study, the chief operating officer, working in conjunction with the Commissioner of Personnel and in consultation with the mayor, shall, within 60 days, transfer, assign or reclassify, as the case may be, those positions recommended for such action in the study.

Any residency requirement established pursuant to municipal ordinance shall be waived for those positions which are at the supervisory, management level or above and which are in the unclassified service of Title 11A, Civil Service, of the New Jersey Statutes.

C.52:27BBB-18 Annual stipend for residence in qualified municipality.

18. Any person hired in a position for which the residency requirement has been waived or as a police officer or firefighter after the adoption of the municipal management study, and who purchases a home in the qualified municipality and occupies that home as a principal residence shall, subject to appropriation, receive an annual stipend of 10 percent of the person's base salary upon proper claim made therefor each year to the Department of Community Affairs, so long as the claim is made during the rehabilitation term, subject to appropriation. The department shall pay the stipend upon satisfactory proof by the applicant that the dwelling for which the stipend is being paid continues to be occupied as a principal residence by the applicant. An employee may receive this stipend for a period of five years; however, the requirement that the dwelling be occupied as a principal residence shall extend to the period of rehabilitation and economic recovery. Any person who does not continue to occupy the residence for which that person receives the stipend for the entirety of the period of rehabilitation and economic recovery shall be required to reimburse the State for the entire amount of the stipend received.

A municipal tax lien shall attach on the property for which the stipend is being paid, at the time the annual stipend is paid by the State in the amount of stipend received by the applicant. The lien shall have the same status and shall be given the same effect as municipal liens established under R.S.54:5-9. The lien shall remain on the property until the expiration of the period of rehabilitation and economic recovery, or until the entire amount of the stipend paid to the applicant has been reimbursed back to the State, should the applicant not continue to occupy the residence for the entire period of rehabilitation and economic recovery. The amount of the stipend to be reimbursed to the

State shall also be a personal debt of the applicant, and both the lien and the debt shall be recoverable in the name of the State by means of any remedy available at law.

The chief operating officer shall each year compile a list of those employees eligible to receive the stipend, which shall be used by the department to verify eligibility. An employee who receives the stipend shall be ineligible to receive the property tax credit authorized pursuant to section 56 of P.L.2002, c.43 (C.52:27BBB-55).

The commissioner shall annually submit a list to the State Treasurer of those persons who receive the stipend.

C.52:27BBB-19 Incentive for retirement for certain employees.

19. Notwithstanding the provisions of any other law, rule or regulation to the contrary, an employee of a qualified municipality who is a member of the Public Employees' Retirement System and is otherwise eligible for retirement may, upon the recommendation of the chief operating officer with the approval of the director, receive an incentive payment for the termination of the employee's employment with the municipality.

As used in this section, "incentive payment" shall mean a lump sum payment of 20 percent of the employee's annual base salary, exclusive of overtime.

An employee shall only be eligible for an incentive payment pursuant to this section if that person applies for this termination benefit within 60 days of the appointment of the chief operating officer. Payment shall be made not sooner than upon the receipt of the first pension check by the municipal employee.

This election to retire on the part of the municipal employee shall be communicated by the member to the retirement system pursuant to Title 43 of the Revised Statutes; however, once the employee has elected to retire, that decision shall be final.

C.52:27BBB-20 Additional NJ SAVER rebate for certain residents.

20. A resident of a qualified municipality who has paid property taxes for the tax year on a homestead that is owned as such and who is eligible to receive an NJ SAVER rebate pursuant to P.L.1999, c.63 (C.54:4-8.58a et al.) shall, subject to appropriation, receive an NJ SAVER rebate in an amount equal to 150% of the amount otherwise owed that resident pursuant to section 4 of P.L.1999, c.63 (C.54:4-8.58b) during the time that the municipality is under rehabilitation and economic recovery.

C.52:27BBB-21 Monthly meetings, minutes.

21. a. The chief operating officer shall conduct monthly meetings with the mayor, department heads and the executive directors of any independent

boards or authorities created by the municipality or which otherwise operate in the name of the municipality. Meetings may be held more frequently, as necessary, at the call of the chief operating officer.

b. During the rehabilitation term, the chief operating officer may veto the minutes of any independent board or authority, including, but not limited to, the housing authority, parking authority, redevelopment authority, planning board and board of adjustment. The mayor shall retain this power during the economic recovery term.

c. A true copy of the minutes of every meeting of any independent board or authority, including, but not limited to, the housing authority, parking authority, redevelopment authority, planning board and board of adjustment, shall be prepared and forthwith delivered to the chief operating officer or mayor, as the case may be. No action taken at any such meeting shall have force or effect until 10 days, exclusive of Saturdays, Sundays and public holidays, after the copy of the minutes shall have been so delivered. If, in that 10-day period, the chief operating officer or mayor returns the copy of the minutes with a veto of any action taken by the board or authority at the meeting, that action shall be null and void and of no force and effect. Following the completion of the 10-day period, those actions not vetoed shall be considered approved.

d. To ensure the expeditious consideration of any decision by the planning board and zoning board of adjustment or any other independent board or authority on the part of the chief operating officer or mayor, as appropriate, the secretary of each board or authority shall forward a copy of each resolution adopted by each board or authority within five business days following the adoption thereof. For the purposes of the exercise of the veto power by the chief operating officer or mayor pursuant to subsection c. of this section, the 10-day period shall commence upon the receipt, by the chief operating officer or mayor, as appropriate, of those resolutions.

C.52:27BBB-22 Extension of review, appeal period for planning, zoning matters.

22. a. Any applicable period for review or appeal in connection with any application acted upon by either the planning board or zoning board, as the case may be, as provided for under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), shall be extended to incorporate that amount of time taken by the chief operating officer in reviewing the minutes pursuant to subsection c. of section 21 of P.L.2002, c.43 (C.52:27BBB-21).

b. In the event that the veto of the chief operating officer reverses an approval that has been granted by the planning board or board of adjustment, as the case may be, or allows an application that has otherwise been denied by either board, the chief operating officer shall direct the secretary of the planning board or board of adjustment, as the case may be, to notify the

applicant, by certified mail, at the same time that the secretary receives the copy of the minutes with the veto from the chief operating officer pursuant to subsection c. of section 21 of P.L.2002, c.43 (C.52:27BBB-21).

C.52:27BBB-23 Approval, veto of ordinance, resolution.

23. a. Within three business days following each meeting of the governing body, a copy of each ordinance and resolution which has been adopted by the governing body shall be forwarded to the chief operating officer or mayor, as the case may be, who shall have 10 days from the receipt thereof to veto the ordinance or resolution, as the case may be. Any veto action by the chief operating officer or mayor shall be submitted to the governing body within 10 days of the veto. Within five business days thereafter, the governing body may override the veto by a two-thirds vote of the fully authorized membership thereof.

If, in the opinion of the chief operating officer, the action is contrary to the rehabilitation of economic recovery goals which justified the rehabilitation declaration, the chief operating officer can submit the action to the special arbitrator, who shall allow the action only upon a finding that the action is consistent with the rehabilitation and economic recovery of the qualified municipality. The decision of the special arbitrator shall not be subject to appeal.

b. The chief operating officer shall have full access to all municipal records and to municipal information from all officials and employees of the municipality. If the chief operating officer believes that an official or employee of the municipality is not answering the questions of the chief operating officer accurately or completely or is not furnishing information requested by the chief operating officer, the chief operating officer may notify the official or employee in writing to furnish answers to questions or to furnish documents or records, or both. If the official or employee refuses, the chief operating officer may seek a subpoena in the Superior Court, in a summary manner, to compel testimony and furnish records and documents.

C.52:27BBB-24 Hiring of nonpartisan, professional staff.

24. The governing body, in conjunction with the Eagleton Institute of Politics and the Rand Institute at Rutgers, The State University, shall hire a non-partisan, professional staff to assist the governing body in the execution of its governmental functions and shall provide the staff with the computer hardware and software necessary to perform their assigned tasks. Computer equipment shall be provided at State expense. The staff members shall possess expertise in areas of municipal government operation, including but not limited to, municipal law, planning, social services, public health, public finance and public works administration. Candidates for appointment shall possess a college degree which is relevant to the position which may include, but not be limited

to, business, law and public administration. Although a candidate may possess a law degree, staff members shall serve as subject matter experts to the governing body and shall not serve as legal counsel.

The Eagleton Institute and the Rand Institute shall also provide comprehensive training for members of the governing body and the non-partisan, professional staff to better enable them to discharge their representative functions in the public interest. The State shall adequately compensate the Eagleton Institute and the Rand Institute for their services, subject to appropriation.

C.52:27BBB-25 Governing body to retain functions, powers, duties.

25. Unless otherwise provided pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), the governing body shall retain all functions, powers and duties prescribed to it pursuant to the charter and administrative code of the municipality, Titles 40 and 40A generally and specifically in the "Local Bond Law," N.J.S.40A:2-1 et seq., the "Local Budget Law," N.J.S.40A:4-1 et seq., the "Local Fiscal Affairs Law," N.J.S.40A:5-1 et seq., the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the "New Jersey Water Supply Public-Private Contracting Act," P.L.1995, c.101 (C.58:26-19 et seq.), any specific form of government law according to which the municipality is governed, and such other sections or other laws which govern municipal operation or administration.

The governing body shall set the schedule and agenda for meetings of the governing body, which shall be duly advertised pursuant to the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). Meetings shall be presided over by the president of the governing body.

C.52:27BBB-26 Oversight, audit of qualified municipality.

26. a. The director may provide for oversight or audit of the activities of each qualified municipality and report the findings to the Local Finance Board and the chief operating officer. The cost of providing oversight and audit functions shall be borne by the State. The power to negotiate collective bargaining agreements pursuant to section 20 of P.L.1981, c.211 (C.52:27BB-66.1) shall be vested in the chief operating officer. Collective bargaining agreements entered into by the municipality prior to the commencement of the rehabilitation term shall remain in force as provided in those agreements, except when otherwise expressly provided in P.L.2002, c.43 (C.52:27BBB-1 et al.).

b. The director may make grants to a municipality under rehabilitation, using such funds as may be available to the director, for the purposes of conducting studies or engaging consultants as may be authorized by P.L.2002, c.43 (C.52:27BBB-1 et al.) to assist in rehabilitation, or those that the director and the chief operating officer or mayor, as appropriate, determine are necessary

to the rehabilitation of the municipality. Grants may be made subject to conditions deemed necessary by the director.

C.52:27BBB-27 No increase in municipal portion of general tax rate.

27. a. During the rehabilitation term, the chief operating officer shall not increase the municipal portion of the general tax rate over the rate established for the year during which the rehabilitation took effect.

b. The chief operating officer shall, in consultation with the mayor, annually prepare a budget pursuant to the provisions of the "Local Budget Law," N.J.S.40A:4-1 et seq. This budget shall conform in all respects with the requirements of the "Local Budget Law," N.J.S.40A:4-1 et seq. and shall be subject to the limitations on spending by municipalities set forth in P.L.1976, c.68 (C.40A:4-45.1 et seq.). The Local Finance Board may grant exceptions to the spending limitations set forth in P.L.1976, c.68 (C.40A:4-45.1 et seq.) upon application by the chief operating officer, if the Local Finance Board finds such exceptions to be necessary for the rehabilitation of the municipality.

c. Upon the preparation of the budget, the chief operating officer, in consultation with the mayor, shall fix: a date, place and time for the holding of a public hearing upon the budget; the amounts of money necessary to be appropriated for the use of the municipality for the ensuing year; and the various items and purposes for which the same are to be appropriated. The hearing shall be held in accordance with the provisions of the "Local Budget Law," N.J.S.40A:4-1 et seq.; however, the hearing shall be held at least 28 days after the date on which the budget is advertised. Notice of hearing, contents of the notice and the format and purpose of the hearing shall be as provided in that law. As part of the budget request, the chief operating officer may include provision for anticipation of rehabilitation aid if other revenues are insufficient to meet the revenues needed to offset total appropriations.

d. Following the hearing or hearings on the budget, the governing body shall vote upon the proposed budget. Failure to adopt the budget shall be communicated to the chief operating officer along with the reasons for each line item that is rejected. If the chief operating officer does not approve those alternatives proposed by the governing body, any disputed line item shall be considered an impasse and subject to the dispute resolution process set forth in section 5 of P.L.2002, c.43 (C.52:27BBB-5).

e. If the budget proposed by the chief operating officer includes a provision for rehabilitation aid, the chief operating officer shall apply to the director for approval of the amount and shall supply the director with documentation justifying the need. The director shall then recommend an amount to the State Treasurer. The treasurer, after consideration of the recommendation, shall determine the amount of the rehabilitation aid to be requested.

f. During the period that the municipality is under rehabilitation and economic recovery, the commissioner shall ensure that those appropriations in the municipal budget necessary for the improvement of internal audit mechanisms and controls are present on an annual basis.

C.52:27BBB-28 Ordinances authorizing debt subject to approval by local finance board.

28. During the rehabilitation term, all ordinances authorizing the issuance of debt shall be subject to approval of the Local Finance Board. Provisions of the "Local Bond Law," N.J.S.40A:2-1 et seq., with regard to the introduction of bond ordinances shall be followed, and approval of the chief operating officer shall serve as approval of the bond ordinance for publication. After a public hearing held by the governing body and approval of a bond ordinance by the chief operating officer, the chief operating officer shall apply to the Local Finance Board for approval of the bond ordinance. No bond ordinance shall take effect without the approval of the Local Finance Board. Amendments to existing bond ordinances that do not increase the amount of bonded indebtedness may be approved by the chief operating officer without the approval of the Local Finance Board.

C.52:27BBB-29 Biannual report on progress.

29. The chief operating officer shall biannually provide to the Local Finance Board a report on the progress of each qualified municipality toward achieving municipal rehabilitation and economic recovery. The director shall formally report annually to the Local Finance Board, the commissioner, the Attorney General, the treasurer, the Governor, each member of the governing body of each qualified municipality, including the mayor, each member of the county board of freeholders in the county in which the qualified municipality is situated, each member of the regional impact council, and each member of the Legislature on the municipality's progress towards achieving these goals. The reports may also include recommendations to the Legislature by the chief operating officer for specific changes to the law that the chief operating officer believes would facilitate the goal of rehabilitating the qualified municipality.

C.52:27BBB-30 Community advisory committee.

30. The mayor of each qualified municipality and the chief operating officer shall establish a community advisory committee in order to provide an efficient means of eliciting citizen input in the rehabilitation and economic recovery and community development of that municipality, which shall exist while the qualified municipality is under rehabilitation and economic recovery. The community advisory committee shall consist of 13 members as follows: three to be appointed by the Commissioner of Community Affairs; three by the governing body; and three by the chief operating officer. The mayor shall

serve as an ex officio member of the committee and shall appoint an additional three members. Members shall serve for a term of five years.

Membership of the committee shall include representatives of the municipality's neighborhood, business, labor, faith-based, civic, and public interest organizations. No fewer than three members of the committee shall represent private businesses situated within the qualified municipality.

The committee shall meet not less than twice a year, at the pleasure of the chief operating officer, and shall assist the chief operating officer in the conduct of the municipal management study pursuant to section 12 of P.L.2002, c.43 (C.52:27BBB-12) and such other functions as are assigned to it by the chief operating officer.

C.52:27BBB-31 Cooperation of State agencies with chief operating officer.

31. a. All State departments and agencies, to the extent not inconsistent with law and within budget constraints, shall cooperate with the chief operating officer and respond to requests for such information and assistance as are necessary to accomplish the purposes of P.L.2002, c.43 (C.52:27BBB-1 et al.).

b. Notwithstanding any law or regulation to the contrary, during the period of rehabilitation and economic recovery, each State department, agency, or authority shall supersede existing priority setting or ranking systems to place applications from the qualified municipality in the highest priority or ranking category for award or approval of grants, benefits, loans, projects, including highway, roads, sewer and other infrastructure projects or other considerations that would benefit the municipality. This shall be done to the greatest extent possible to benefit the municipality.

C.52:27BBB-32 Immunity from liability for State officer, employee.

32. The State shall not be liable in tort, contract or in the nature of tort for any action or inaction involving the rehabilitation or revitalization of the municipality. The chief operating officer, assistant chief operating officer, and any State officer or employee involved in the rehabilitation or revitalization of the municipality shall not be liable in tort, contract or in the nature of tort personally or as State employees for any action or inaction involving the rehabilitation or revitalization of the municipality.

This section shall not be construed to preclude an aggrieved person from maintaining an action in tort, contract or in the nature of tort against the chief operating officer or a State officer or employee involved in the rehabilitation or revitalization of the municipality, as municipal employees. For purposes of those actions the chief operating officer, appointees of the chief operating officer pursuant to subsection g. of section 9 of P.L.2002, c.43 (C.52:27BBB-9), and any State officer or employee involved in the rehabilitation shall be deemed officers or employees of the municipality and shall be entitled to the defenses

and immunities as provided under the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq. and the "New Jersey Contractual Liability Act," N.J.S.59:13-1 et seq. for public employees and shall be entitled to defense and indemnification by the municipality as provided to other municipal employees.

C.52:27BBB-33 Utilization of available mechanisms to facilitate communications.

33. The commissioner shall utilize available mechanisms, such as the Urban Coordinating Council, to coordinate and facilitate communications between the chief operating officer and the various State departments and agencies.

C.52:27BBB-34 Municipality to remain body corporate and politic; elections.

34. a. Notwithstanding that a municipality has been placed under rehabilitation and economic recovery under P.L.2002, c.43 (C.52:27BBB-1 et al.), the municipality shall remain a body corporate and politic in the same manner as existed prior to rehabilitation and economic recovery.

b. Nothing in P.L.2002, c.43 (C.52:27BBB-1 et al.) shall be construed to interrupt the holding of regular elections of the governing body, mayor or other chief executive officer.

C.52:27BBB-35 Agreement between library and county for operation.

35. Notwithstanding any law, rule or regulation to the contrary, the governing body of any qualified municipality in which a free public library has been established pursuant to R.S.40:54-1 et seq. situated in a county in which a free county library has been established pursuant to R.S.40:33-1 et seq. and in which is situated a qualified municipality may enter into an agreement with the governing body of the county, acting on behalf of the county library commission, for the county library to assume responsibility for the administration and operation of the municipal library system. The agreement shall provide for those financial arrangements necessary in order to assure a smooth transition from municipal to county operation and the transfer of library personnel from the municipal, to the county library system.

ARTICLE 3. REDEVELOPMENT MANAGEMENT

C.52:27BBB-36 State Economic Recovery board created in qualified municipality.

36. a. In order to facilitate the rehabilitation and economic recovery of each qualified municipality, there is created a subsidiary corporation of the New Jersey Economic Development Authority, which shall be known as the State Economic Recovery Board for (insert name of qualified municipality). The board shall operate for the period during which the municipality is under rehabilitation and economic recovery and for a period of two years thereafter. Any outstanding debts or obligations which remain at the termination of board

operation shall be assumed by the authority and any accounts payable to the board shall be due and payable to the authority.

b. The board shall consist of 15 voting members, as follows: the mayor of the qualified municipality; a representative of the municipal governing body selected by the governing body; the chief operating officer; the State Treasurer; the Commissioner of Community Affairs; the chairperson of the authority; a representative of the regional impact council selected by the council; the director of the board of chosen freeholders of the county in which the qualified municipality is situated, as provided hereunder, all of whom shall serve ex officio and may select a designee to serve in their stead; one public member chosen by the Senate President and one public member chosen by the Assembly Speaker; and five public members to be appointed by the Governor, to include one representative of organized labor and one representing the business community. Of the public members appointed by the Governor, at least three shall be municipal residents. In addition, the Senior Community Builder in the State office of the federal Department of Housing and Urban Development shall serve as an ex officio, non-voting member of the board.

A majority of the entire authorized membership of the board shall constitute a quorum at any meeting thereof.

c. Each public member shall serve for a term of five years. Vacancies in the public membership of the board shall be filled in the same manner as the original appointments are made and a member may be eligible for reappointment. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Each ex officio member shall serve for the period during which the municipality is under rehabilitation and economic recovery and for a period of two years thereafter.

The Governor shall designate the chairperson of the board.

d. The board shall be appointed as expeditiously as possible upon the enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.) and shall convene not later than 30 days following enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.) for its organizational meeting. Thereafter, the board shall meet regularly and on not less than a quarterly basis. At its first organizational meeting, the board shall appoint one of the public members to serve as its designee on the New Jersey Economic Development Authority pursuant to section 4 of P.L.1974, c.80 as amended by section 69 of P.L.2002, c.43 (C.34:1B-4).

e. The voting authority of the director of the county board of chosen freeholders shall not become effective until the filing with the Secretary of State of an agreement entered into by the chief operating officer, acting on behalf of the municipality, and the county, detailing the financial commitment of the county to the redevelopment of the infrastructure of the municipality which shall include improvements or other economic benefits totalling not

less than $20 million and a proposed construction schedule for the completion thereof.

C.52:27BBB-37 Duties of board.

37. The duties of the board shall include, but not be limited to:

a. in consultation with the chief operating officer and the mayor, the preparation of the capital improvement and infrastructure master plan, identification of resources necessary to assure its implementation, marshaling of efforts of public and private entities which operate within the qualified municipality, and performance of any other tasks requested by the chief operating officer to assure the efficient use of, and maximum access to, public resources in order to assure the economic recovery of the qualified municipality;

b. the preparation of a strategic revitalization plan for the qualified municipality in accordance with the provisions of section 38 of P.L.2002, c.43 (C.52:27BBB-38);

c. the review and approval of plans submitted by any institution of higher education as a prerequisite for the receipt of funding pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.). The approval of these plans shall not be unreasonably or arbitrarily withheld;

d. the review, on a timely basis, of all programs or projects undertaken pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), including but not limited to development and redevelopment efforts, including commercial, residential and industrial projects, facilities or sites, the issuance of any loan, grant or other equity investment pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) or any other State appropriation or allocation for the qualified municipality;

e. the preparation of project lists and financial plans in accordance with the provisions of section 45 of P.L.2002, c.43 (C.52:27BBB-44);

f. the review of all recommendations, studies or other proposals related to the purposes of, and undertaken pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.); and

g. the engagement, through contract or other appropriate means, of those professionals or organizations whose expertise and experience would prove essential to achieving a comprehensive and strategic economic development plan.

C.52:27BBB-38 Preparation of strategic revitalization plan.

38. a. Concurrently with the preparation of the capital improvement and infrastructure plan pursuant to section 42 of P.L.2002, c.43 (C.52:27BBB-41), the board shall oversee the preparation of a strategic revitalization plan for the qualified municipality.

The strategic revitalization plan shall incorporate a blueprint for the economic, social, and cultural revitalization of the municipality through the promotion of development and redevelopment in both the downtown business

district and residential neighborhoods. The plan shall promote diversification of land uses, including housing where appropriate, and enhance the linkages of these uses to the rest of the community. The plan shall ensure a full range of housing choices through redevelopment, new construction, rehabilitation, adaptive reuse of nonresidential buildings, to the extent possible, and the introduction of new housing into appropriate nonresidential settings. To the extent that the existing housing stock can be preserved, the plan shall encourage maintenance, rehabilitation and flexible regulation, where possible.

The plan shall promote economic development by encouraging strategic land assembly, site preparation and infill development and assure that infrastructure improvements support a central role for the municipality within the regional context. The plan shall include strategies for integrating port redevelopment, downtown regeneration and the revitalization of residential neighborhoods. The plan shall also provide for the maintenance and enhancement of a transportation system that capitalizes on high density settlement patterns by encouraging the use of public transit, walking, and alternative modes of transportation, including the use of water transportation, where appropriate.

In addition, the plan shall provide for maximum active and passive recreational opportunities and facilities at the neighborhood, local and regional levels by concentrating on the maintenance and rehabilitation of existing parks and open space while expanding and linking the system through redevelopment and reclamation projects.

The strategic revitalization plan shall be drafted by urban planners recruited through a comprehensive nationwide search.

b. The strategic revitalization plan shall be submitted to the chief operating officer, the mayor, each member of the governing body, the commissioner, the Governor, each member of the Senate and General Assembly, and each member of the regional impact council within six months after the first meeting of the board.

c. The strategic revitalization plan shall be adopted upon an affirmative vote of a majority of the full authorized membership of the board.

C.52:27BBB-39 Regional impact council.

39. a. There is established for each qualified municipality a regional impact council to serve for that period during which the municipality is under rehabilitation and economic recovery. The council shall consist of: the mayor of the qualified municipality or his or her designee; the mayor of any municipality in the county in which the qualified municipality is situated which on or before the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.) has participated in a regional collaborative established to further the strategic revitalization of the qualified municipality or the mayor's designee; the director

of the board of chosen freeholders of the county in which the qualified municipality is situated or his or her designee; the director of the Office of State Planning or his or her designee; one representative of the New Jersey Regional Coalition, to be appointed as provided hereinafter; and four public members, two of whom shall be appointed by the Governor, one of whom shall be appointed by the Senate President and one of whom shall be appointed by the Speaker of the General Assembly. The four public members shall include at least one member of the faith-based community within the region; one member of the business community; one member of the higher education community; and one member of the labor community within the region.

b. Within 30 days of the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.), the New Jersey Regional Coalition shall submit to the Governor three nominees for consideration, from which the Governor may choose. If the organization does not submit three nominees for consideration at any time required, the Governor may appoint a member of the Governor's choice.

c. No member of the council shall receive a salary for service on the council but shall be reimbursed for reasonable and necessary expenses associated with serving on the council.

d. A majority of the members of the council shall choose one of the members to serve as the chair. Each member of the council shall serve for a two-year term and, upon expiration of that term, may be reappointed. Vacancies among the membership shall be filled in the same manner in which the original appointment was made.

e. The council shall select an appropriate location or locations in which to meet. The council may adopt its own bylaws and procedures that are not inconsistent with P.L.2002, c.43 (C.52:27BBB-1 et al.).

f. The council shall be eligible for and may employ a consultant and such staff as it deems necessary, to the extent that funds are made available pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) or other sources. The council may call upon the commissioner for such assistance as it deems necessary.

g. The council may hold public hearings at the call of the chair and pursuant to the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

C.52:27BBB-40 Role of regional impact council.

40. It shall be the role of the regional impact council to promote coordination among communities within the region surrounding a qualified municipality and to assist in the formulation of long range strategies to address regional issues, including public safety, economic development, housing, and environmental issues with the goal of improving the quality of life within the region.

In fulfilling this role, the responsibilities of the regional impact council shall include, but not be limited to:

a. the representation of the regional interest in the economic recovery of the qualified municipality through participation in the State Economic Recovery Board established pursuant to section 36 of P.L.2002, c.43 (C.52:27BBB-36);

b. the review of the strategic revitalization plan prepared pursuant to section 38 of P.L.2002, c.43 (C.52:27BBB-38), the capital improvement and infrastructure plan pursuant to section 42 of P.L.2002, c.43 (C.52:27BBB-41), and of the report submitted by the chief operating officer pursuant to section 8 of P.L.2002, c.43 (C.52:27BBB-8), and provision of comments and recommendations, as appropriate, in order to reflect regional concerns;

c. if deemed necessary and appropriate by the council, a review of the county master plan and other regional plans and development of recommendations for the county planning board or other regional entities in order to strengthen the functioning of the municipalities in the regional context;

d. the formulation of an action plan which includes a series of tasks necessary to enhance the functioning of the region, including planning, programs and projects and the identification of the technical, institutional and financial resources necessary to execute them, the agencies and organizations responsible for each activity and a timetable for completion; and

e. any recommendations for legislation deemed advisable by the board to enhance regional cooperation among municipalities and maximize the efficient utilization of federal, State, local and private resources.

41. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read as follows:

C.34:1B-5 Powers.

5. The authority shall have the following powers:

a. To adopt bylaws for the regulation of its affairs and the conduct of its business;

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

c. To sue and be sued;

d. To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and such manner as it may deem proper, or by the exercise of the power of eminent domain in the manner provided by the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or other property which it may determine is reasonably necessary for any project or school facilities project; provided, however, that the authority in connection with any project shall not take by exercise of the power of eminent domain any real property except upon consent thereto given by resolution of the governing body of the municipality in which such real

property is located; and provided further that the authority shall be limited in its exercise of the power of eminent domain in connection with any project to municipalities receiving State aid under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to municipalities which had a population, according to the latest federal decennial census, in excess of 10,000;

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

f. To establish and maintain reserve and insurance funds with respect to the financing of the project or the school facilities project and any project financed pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

g. To sell, convey or lease to any person all or any portion of a project or school facilities project, for such consideration and upon such terms as the authority may determine to be reasonable;

h. To mortgage, pledge or assign or otherwise encumber all or any portion of a project, school facilities project or revenues, whenever it shall find such action to be in furtherance of the purposes of this act, P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

i. To grant options to purchase or renew a lease for any of its projects or school facilities projects on such terms as the authority may determine to be reasonable;

j. To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality or political subdivision thereof, or from any other source and to comply, subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) with the terms and conditions thereof;

k. In connection with any application for assistance under P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.) or the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) or commitments therefor, to require and collect such fees and charges as the authority shall determine to be reasonable;

l. To adopt, amend and repeal regulations to carry out the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401

(C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

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

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

o. To purchase, acquire, attach, seize, accept or take title to any project or school facilities project by conveyance or by foreclosure, and sell, lease, manage or operate any project or school facilities project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

p. To borrow money and to issue bonds of the authority and to provide for the rights of the holders thereof, as provided in P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

q. To extend credit or make loans to any person for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing of a project or school facilities project, which credits or loans may be secured by loan and security agreements, mortgages, leases and any other instruments, upon such terms and conditions as the authority shall deem reasonable, including provision for the establishment and maintenance of reserve and insurance funds, and to require the inclusion in any mortgage, lease, contract, loan and security agreement or other instrument, such provisions for the construction, use, operation and maintenance and financing of a project or school facilities project as the authority may deem necessary or desirable;

r. To guarantee up to 90% of the amount of a loan to a person, if the proceeds of the loan are to be applied to the purchase and installation, in a building devoted to industrial or commercial purposes, or in an office building, of an energy improvement system;

s. To employ consulting engineers, architects, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the authority to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) and to fix and pay their compensation from funds available to the authority therefor, all without regard to the provisions of Title 11A of the New Jersey Statutes;

t. To do and perform any acts and things authorized by P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) under, through or by means of its own officers, agents and employees, or by contract with any person;

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

v. To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

w. To construct, reconstruct, rehabilitate, improve, alter, equip, maintain or repair or provide for the construction, reconstruction, improvement, alteration, equipping or maintenance or repair of any development property and lot, award and enter into construction contracts, purchase orders and other contracts with respect thereto, upon such terms and conditions as the authority shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of any such development property and the settlement of any claims arising therefrom and the establishment and maintenance of reserve funds with respect to the financing of such development property;

x. When authorized by the governing body of a municipality exercising jurisdiction over an urban growth zone, to construct, cause to be constructed or to provide financial assistance to projects in an urban growth zone which shall be exempt from the terms and requirements of the land use ordinances and regulations, including, but not limited to, the master plan and zoning ordinances, of such municipality;

y. To enter into business employment incentive agreements as provided in the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.);

z. To undertake school facilities projects and to enter into agreements or contracts, execute instruments, and do and perform all acts or things necessary, convenient or desirable for the purposes of the authority to carry out any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.) and P.L.2000, c.72 (C.18A:7G-1 et al.), including, but not limited to, entering into contracts with the State Treasurer, the Commissioner of Education, districts and any other entity which may be required in order to carry out the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.);

aa. To enter into leases, rentals or other disposition of a real property interest in and of any school facilities project to or from any local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.);

bb. To make and contract to make loans or leases and to make grants to local units to finance the cost of school facilities projects and to acquire and contract to acquire bonds, notes or other obligations issued or to be issued by local units to evidence the loans or leases, all in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.);

cc. Subject to any agreement with holders of its bonds issued to finance a project or school facilities project, obtain as security or to provide liquidity for payment of all or any part of the principal of and interest and premium on the bonds of the authority or for the purchase upon tender or otherwise of the bonds, lines of credit, letters of credit, reimbursement agreements, interest rate exchange agreements, currency exchange agreements, interest rate floors or caps, options, puts or calls to hedge payment, currency, rate, spread or similar exposure or similar agreements, float agreements, forward agreements, insurance contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements, and other security agreements or instruments in any amounts and upon any terms as the authority may determine and pay any fees and expenses required in connection therewith;

dd. To charge to and collect from local units, the State and any other person, any fees and charges in connection with the authority's actions undertaken with respect to school facilities projects, including, but not limited to, fees and charges for the authority's administrative, organization, insurance, operating and other expenses incident to the financing, construction and placing into service and maintenance of school facilities projects;

ee. To make loans to refinance solid waste facility bonds through the issuance of bonds or other obligations and the execution of any agreements with counties or public authorities to effect the refunding or rescheduling of solid waste facility bonds, or otherwise provide for the payment of all or a portion of any series of solid waste facility bonds. Any county or public authority refunding or rescheduling its solid waste facility bonds pursuant to this subsection shall provide for the payment of not less than fifty percent of the aggregate debt service for the refunded or rescheduled debt of the particular county or public authority for the duration of the loan; except that, whenever the solid waste facility bonds to be refinanced were issued by a public authority and the county solid waste facility was utilized as a regional county solid waste facility, as designated in the respective adopted district solid waste management plans of the participating counties as approved by the department prior to November 10, 1997, and the utilization of the facility was established pursuant to tonnage obligations set forth in their respective interdistrict

agreements, the public authority refunding or rescheduling its solid waste facility bonds pursuant to this subsection shall provide for the payment of a percentage of the aggregate debt service for the refunded or rescheduled debt of the public authority not to exceed the percentage of the specified tonnage obligation of the host county for the duration of the loan. Whenever the solid waste facility bonds are the obligation of a public authority, the relevant county shall execute a deficiency agreement with the authority, which shall provide that the county pledges to cover any shortfall and to pay deficiencies in scheduled repayment obligations of the public authority. All costs associated with the issuance of bonds pursuant to this subsection may be paid by the authority from the proceeds of these bonds. Any county or public authority is hereby authorized to enter into any agreement with the authority necessary, desirable or convenient to effectuate the provisions of this subsection.

The authority shall not issue bonds or other obligations to effect the refunding or rescheduling of solid waste facility bonds after December 31, 2002. The authority may refund its own bonds issued for the purposes herein at any time;

ff. To pool loans for any local government units that are refunding bonds and do and perform any and all acts or things necessary, convenient or desirable for the purpose of the authority to achieve more favorable interest rates and terms for those local governmental units; and

gg. To finance projects approved by the board, provide staff support to the board, oversee and monitor progress on the part of the board in carrying out the revitalization, economic development and restoration projects authorized pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities pursuant thereto.

ARTICLE 4. DEMOLITION, CAPITAL IMPROVEMENT AND INFRASTRUCTURE

C.52:27BBB-41 Consultation with State Economic Recovery Board.

42. a. The chief operating officer and the mayor of the qualified municipality shall consult with the State Economic Recovery Board established pursuant to section 36 of P.L.2002, c.43 (C.52:27BBB-36) in its preparation of a capital improvement and infrastructure plan for each qualified municipality. The plan shall be submitted to the chief operating officer, the mayor, each member of the governing body, the commissioner, the Governor, each member of the county board of freeholders in the county in which the qualified municipality is situated, each member of the Senate and General Assembly, and each member of the regional impact council within six months after the first meeting of the board.

The first section of the plan shall be a water and sewer subplan where necessary. The water and sewer subplan shall provide a detailed blueprint for the separation of storm drains from the sewer system throughout the municipality, which improvements shall be completed within four years. In addition, the water and sewer subplan shall coordinate the overlay of municipal roads following the separation of underground lines and designate those roads which require reconstruction and allocate administrative and financial responsibility among various agencies for effectuating the plan. Funds shall be earmarked by the appropriate State agencies from the "Transportation Trust Fund Account," created pursuant to section 20 of P.L.1984, c.73 (C.27:1B-20) and the "New Jersey Environmental Infrastructure Trust" created pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4), in order to accomplish the work plan set forth in the water and sewer subplan.

The capital improvement and infrastructure plan shall include those features of the municipal capital improvement program authorized pursuant to section 20 of P.L.1975, c.291 (C.40:55D-29). In addition, the plan shall specifically incorporate: a time frame for making any improvements necessary in the public water system to accommodate proposed redevelopment in the municipality and surrounding areas; a parks and open public space subplan which encompasses projects to improve the streetscapes, parks, public spaces, and any other relevant aspects of the public environment; and an analysis of public building needs, including administrative offices of the municipality, firehouses, police stations, libraries, and any other municipal government functions in light of the organizational and functional analysis of municipal government operations contained in the municipal management study.

The capital improvement and infrastructure plan shall recognize the plans of the county in which the qualified municipality is situated, any regional authorities with jurisdiction in the municipality, the State Department of Transportation, the New Jersey Transit Corporation, any State universities situated within the municipality, and any other public and nonprofit entities which operate in the municipality.

Any municipal plan which affects the physical development of the municipality and is adopted by the municipality or any agency or instrumentality thereof after the adoption of the capital improvement and infrastructure plan shall be consistent with that plan.

b. The capital improvement and infrastructure plan shall be adopted upon an affirmative vote of a majority of the full authorized membership of the board.

C.52:27BBB-42 Property tax collection audit.

43. In addition to the municipal management study, the chief operating officer in consultation with the mayor, shall cause to be conducted a property

tax collection audit in order to ascertain those properties which are in arrears with regard to property taxes and subject to tax sale or foreclosure. The study shall identify the ownership of those properties, the length of time during which taxes have been in arrears, and the likelihood that the properties might be developed individually or assembled with adjacent properties for demolition or redevelopment.

Following the completion of the property tax collection audit, the chief operating officer shall submit the study to the Commissioner of Community Affairs, who shall designate the board to assist in the preparation of a demolition funding plan.

The State shall provide the necessary level of funding to allow for the demolition of unsafe structures and clearing of those lots for future development.

C.52:27BBB-43 Conveyance of right, title, interest in certain real property.

44. The governing body of each qualified municipality shall convey to the board, for the period of rehabilitation and economic recovery, its right, title and interest in any real property, acquired through the purchase of any tax sale certificate covering that real property whose rights of redemption have been foreclosed under the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.), so long as the liens have previously been offered by the municipality at a public tax lien sale.

ARTICLE 5. PROJECT FINANCING

C.52:27BBB-44 Project list.

45. a. The board shall prepare and submit a project list, as provided hereunder. The list shall be consistent with the strategic revitalization plan and capital improvement and infrastructure plans for the qualified municipality to the extent practicable and shall include a series of projects which are prioritized according to their importance in revitalizing the qualified municipality.

Following the enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.) and the preparation of the plans mentioned above, the capital and infrastructure needs shall be assessed and projects shall be anticipated over a three-year period. The bond moneys authorized to be issued pursuant to section 47 of P.L.2002, c.43 (C.52:27BBB-46) shall be expended over a three year period.

The board shall adopt each project list by a majority of those members present. In the event that the board selects to rescind a project from the list, such a vote shall be by a two-thirds vote of the fully authorized membership thereof.

Each project list shall be submitted to the Commission on Capital Budgeting and Planning, the Chairperson of the Senate Appropriations Committee and

the Chairperson of the Assembly Appropriations Committee, or their successors, and the Legislative Budget and Finance Officer, on or before March 1 of each year.

b. The President of the Senate and the Speaker of the General Assembly shall cause the date of submission of the project list to be entered upon the Senate Journal and the Minutes of the General Assembly.

c. On or before March 1 of each year, the board shall submit a report of general project categories and proposed projects thereunder to be financed in the ensuing fiscal year, including therewith a description of the projects, the county or counties within which they are to be located, a distinction between State, local and private projects, and the amount estimated to be expended on each project. This report shall be known as the "Annual Qualified Municipality Capital and Economic Recovery Program" for the upcoming fiscal year. The program shall be consistent with, and reflective of, the goals and priorities of the Strategic Revitalization Plan, capital improvement and infrastructure plan, and the program shall include an explanation which demonstrates how it is consistent with, and reflective of, the goals and priorities.

d. On or before August 1 of each year, the board shall also submit a "Qualified Municipality Capital and Economic Recovery Financial Plan" designed to implement the financing of the proposed projects. The financial plan shall contain an enumeration of the bonds, notes or other obligations of the authority which the authority intends to issue, including the amounts thereof and the conditions therefor.

In addition, the plan shall contain proposed amounts to be appropriated and expended, as well as amounts for which the authority anticipates to obligate during the ensuing fiscal year for any future expenditures.

C.52:27BBB-45 Definitions relative to project financing.

46. As used in this article:

"Authority reserves" means the unrestricted funds of the authority that have not been designated for authority programs;

"Bonds" means bonds, notes or other obligations issued by the authority pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.); and

"Refunding bonds" means bonds, notes or other obligations issued to refinance bonds, notes or other obligations previously issued by the authority pursuant to section 47 of P.L.2002, c.43 (C.52:27BBB-46).

C.52:27BBB-46 Powers of authority.

47. Notwithstanding the provisions of any law, rule, regulation or order to the contrary:

a. The authority shall issue bonds and refunding bonds, incur indebtedness and borrow money secured, in whole or in part, by money received pursuant to sections 48 and 49 of P.L.2002, c.43 (C.52:27BBB-47 and C.52:27BBB-48),

for the purpose of making the deposits described in section 50 of P.L.2002, c.43 (C.52:27BBB-49). The total outstanding principal amount of the bonds shall not exceed $175,000,000. In computing the foregoing limitation as to amount, there shall be excluded all bonds which shall be issued for (1) costs incurred in connection with the issuance of the bonds and (2) refunding purposes, provided that the refunding shall be determined by the authority to result in a debt service savings. The authority may establish reserve or other funds to further secure bonds and refunding bonds.

In computing the foregoing limitation, the authority may include those reserves of the authority or other State authorities to be made available for the purposes of P.L.2002, c.43 (C.52:27BBB-1 et al.) or those amounts to be made available by any bistate or other agency with jurisdiction in the qualified municipality.

Prior to the approval of this financing plan, the authority shall submit a copy for review and approval of the Joint Budget and Oversight Committee.

b. The authority may, in any resolution authorizing the issuance of bonds or refunding bonds, pledge the contract with the State Treasurer, provided for in section 49 of P.L.2002, c.43 (C.52:27BBB-48), or any part thereof, for the payment or redemption of the bonds or refunding bonds, and covenant as to the use and disposition of money available to the authority for payments of bonds and refunding bonds. All costs associated with the issuance of bonds and refunding bonds by the authority for the purposes set forth in P.L.2002, c.43 (C.52:27BBB-1 et al.) may be paid by the authority from amounts it receives from the proceeds of the bonds or refunding bonds and from amounts it receives pursuant to sections 48 and 49 of P.L.2002, c.43 (C.52:27BBB-47 and C.52:27BBB-48), which costs may include, but are not limited to, any costs relating to the issuance of the bonds or refunding bonds and costs attributable to the agreements described in subsection c. of this section. The bonds or refunding bonds shall be authorized by resolution, which shall stipulate the manner of execution and form of the bonds whether the bonds are in one or more series, the date or dates of issue, time or times of maturity, which shall not exceed 40 years, the rate or rates of interest payable on the bonds, which may be at fixed rates or variable rates, and which interest may be current interest or may accrue, the denomination or denominations in which the bonds are issued, conversion or registration privileges, the sources and medium of payment and place or places of payment, terms of redemption, privileges of exchangeability or interchangeability, and entitlement to priorities of payment or security in the amounts to be received by the authority pursuant to sections 48 and 49 of P.L.2002, c.43 (C.52:27BBB-47 and C.52:27BBB-48). The bonds may be sold at a public or private sale at a price or prices determined by the authority. The authority is authorized to enter into any agreements necessary or desirable to effectuate the purposes of this section, including

agreements to sell bonds or refunding bonds to any persons and to comply with the laws of any jurisdiction relating thereto.

c. In connection with any bonds or refunding bonds issued pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), the authority may also enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, currency exchange agreement, interest rate floor or cap, options, puts or calls to hedge payment, currency, rate, spread or similar exposure, or similar agreements, float agreements, forward agreements, insurance contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements and other security agreements approved by the authority.

d. No resolution adopted by the authority authorizing the issuance of bonds or refunding bonds pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) shall be adopted or otherwise made effective without the approval in writing of the State Treasurer. Except as provided by subsection i. of section 4 of P.L.1974, c.80 (C.34:1B-4), bonds or refunding bonds may be issued without obtaining the consent of any department, division, commission, board, bureau or agency of the State, other than the approval as required by this subsection, and without any other proceedings or the occurrence of any other conditions or other things other than those proceedings, conditions or things which are specifically required by P.L.2002, c.43 (C.52:27BBB-1 et al.).

e. Bonds and refunding bonds issued by the authority pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) shall be special and limited obligations of the authority payable from, and secured by, such funds and moneys determined by the authority in accordance with this section. Neither the members of the authority nor any other person executing the bonds or refunding bonds shall be personally liable with respect to payment of interest and principal on these bonds or refunding bonds. Bonds or refunding bonds issued pursuant to the provisions of P.L.2002, c.43 (C.52:27BBB-1 et al.) shall not be a debt or liability of the State or any agency or instrumentality thereof, except as otherwise provided by this subsection, either legal, moral or otherwise, and nothing contained in P.L.2002, c.43 (C.52:27BBB-1 et al.) shall be construed to authorize the authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof, and all bonds and refunding bonds issued by the authority shall contain a statement to that effect on their face.

f. The authority is authorized to engage, subject to the approval of the State Treasurer and in such manner as the State Treasurer shall determine, the services of financial advisors and experts, placement agents, underwriters, appraisers, and such other advisors, consultants and agents as may be necessary to effectuate the purposes of P.L.2002, c.43 (C.52:27BBB-1 et al.).

g. The proceeds from the sale of the bonds, other than refunding bonds, issued pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), after payment of any costs related to the issuance of such bonds, shall be applied to the purposes set forth in section 50 of P.L.2002, c.43 (C.52:27BBB-49).

h. All bonds or refunding bonds issued by the authority are deemed to be issued by a body corporate and politic of the State for an essential governmental purpose, and the interest thereon and the income derived from all funds, revenues, incomes and other moneys received for or to be received by the authority and pledged and available to pay or secure the payment on bonds or refunding bonds and the interest thereon, shall be exempt from all taxes levied pursuant to the provisions of Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, except for transfer, inheritance and estate taxes levied pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

i. The State hereby pledges and covenants with the holders of any bonds or refunding bonds issued pursuant to the provisions of P.L.2002, c.43 (C.52:27BBB-1 et al.), that it will not limit or alter the rights or powers vested in the authority by P.L.2002, c.43 (C.52:27BBB-1 et al.), nor limit or alter the rights or powers of the State Treasurer in any manner which would jeopardize the interest of the holders or any trustee of such holders, or inhibit or prevent performance or fulfillment by the authority or the State Treasurer with respect to the terms of any agreement made with the holders of these bonds or refunding bonds or agreements made pursuant to subsection e. of this section, except that the failure of the Legislature to appropriate moneys for any purpose of P.L.2002, c.43 (C.52:27BBB-1 et al.) shall not be deemed a violation of this section.

j. Notwithstanding any restriction contained in any other law, rule, regulation or order to the contrary, the State and all political subdivisions of this State, their officers, boards, commissioners, departments or other agencies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, saving and loan associations, investment companies and other persons carrying on a banking or investment business, and all executors, administrators, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest any sinking funds, moneys or other funds, including capital, belonging to them or within their control, in any bonds or refunding bonds issued by the authority under the provisions of P.L.2002, c.43 (C.52:27BBB-1 et al.); and said bonds and refunding bonds are hereby made securities which may properly and legally be deposited with, and received by any State or municipal officers or agency of the State, for any purpose for which the deposit of bonds or other obligations of the State is now, or may hereafter be authorized by law.

C.52:27BBB-47 Payment to authority for debt service.

48. a. The State Treasurer shall, in each State fiscal year, pay from the General Fund to the authority, in accordance with a contract or contracts between the State Treasurer and the authority, authorized pursuant to section 49 of P.L.2002, c.43 (C.52:27BBB-48), an amount equivalent to the amount due to be paid in such State fiscal year to pay the debt service incurred for such State fiscal year on the bonds or refunding bonds of the authority issued pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) and any additional costs authorized by section 47 of P.L.2002, c.43 (C.52:27BBB-46); and

b. In addition to such terms and conditions as are agreed upon pursuant to section 49 of P.L.2002, c.43 (C.52:27BBB-48), the contract or contracts shall provide that all such payments from the General Fund shall be subject to, and dependent upon, appropriations being made from time to time by the Legislature for these purposes.

C.52:27BBB-48 Contracts between State Treasurer and authority for debt service.

49. The State Treasurer and the authority are authorized to enter into one or more contracts to implement the payment arrangement that is provided for in section 48 of P.L.2002, c.43 (C.52:27BBB-47). The contract or contracts shall provide for payment by the State Treasurer of the amounts required to be paid pursuant to section 48 of P.L.2002, c.43 (C.52:27BBB-47) and shall set forth the procedure for the transfer of moneys for the purpose of paying such moneys. The contract or contracts shall contain such terms and conditions as are determined by the parties, and shall include, but not be limited to, terms and conditions necessary pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.); provided, however, that notwithstanding any other provision of any law, rule, regulation or order to the contrary, the authority shall be paid only such funds as shall be determined by the contract or contracts and further provided that the incurrence of any obligation of the State under the contract or contracts, including any payments to be made thereunder from the General Fund, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes of P.L.2002, c.43 (C.52:27BBB-1 et al.).

C.52:27BBB-49 Series of special funds.

50. a. The authority shall establish and maintain a series of special funds as provided in sections 51 and 52 of P.L.2002, c.43 (C.52:27BBB-50 and C.52:27BBB-51) into which shall be deposited such moneys: (1) as shall be paid to the funds by the State Treasurer for the purposes of those funds; (2) as shall be appropriated by the State for the purpose of such funds; (3) as shall be deposited into the funds in accordance with the "Annual Qualified Municipal Capital and Economic Recovery Program" and the "Qualified Municipality Capital and Economic Recovery Financial Plan" adopted pursuant to section

45 of P.L.2002, c.43 (C.52:27BBB-44) and (4) any other moneys or funds of the authority which it determines to deposit therein. Moneys in the funds may be invested in such obligations as the authority may approve and interest or other earnings on such investments shall be credited to the funds.

b. In addition to the powers of the authority set forth in section 5 of P.L.1974, c.80 (C.34:1B-5) and other powers which may be conferred on the authority or the executive director by P.L.2002, c.43 (C.52:27BBB-1 et al.), the authority, by resolution, shall have the power to: (1) pay all or part of the cost of an eligible project; and (2) make loans, guarantees, equity investments, and grants, or provide other forms of financing for an eligible project.

c. The purpose of the special funds established pursuant to subsection a. of this section shall be to provide loans, guarantees, equity investments, and grants or other forms of financing of a sufficient scale and visibility to expand and sustain economic activity in qualified municipalities, both within the central business district and port district and in order to encourage revitalization of the municipality's neighborhoods outside of the central business district through the rehabilitation, acquisition, demolition and redevelopment of property within those neighborhoods, the improvement of municipally-owned water supply and distribution facilities, and, where necessary, the remediation of brownfields sites to foster redevelopment. Grants shall be made available to qualified municipalities in order to strengthen the provision of municipal services through capital construction and reconstruction of public buildings and financial assistance necessary to allow for the purchase of equipment considered vital to the sustenance of municipal public services, particularly public safety.

C.52:27BBB-50 Overseeing of funds by board; amounts, purposes.

51. The board shall oversee the following funds:

a. the "Residential Neighborhood Improvement Fund," into which shall be deposited the sum of $35 million from bond proceeds, to be disbursed at the direction of the board and upon the recommendation of the chief operating officer, to make grants, matching grants or loans, to support water and sewer improvements not funded by the county, to support the removal of litter and clean community activities, the development of tot-lots, community gardens, landscape amenities, small scale demolitions, streetscape improvements, property acquisition, housing, and restoration in neighborhoods outside of the central business district;

b. the "Demolition and Redevelopment Financing Fund," into which shall be deposited the sum of $43 million from bond proceeds, to be disbursed at the direction of the board and upon the recommendation of the chief operating officer, which shall be used to provide grants, match-

ing grants or loans to support neighborhood rehabilitation, land acquisition, brownfields remediation, demolition and redevelopment;

c. the "Downtown Revitalization and Recovery Fund" into which shall be deposited the sum of $45.8 million from bond proceeds, to be disbursed at the direction of the board and upon the recommendation of the chief operating officer, which shall be used to make grants, matching grants or loans to support streetscape improvements, facade restoration, street signage improvements, street resurfacing, demolition and restoration of commercial structures, property acquisition, and redevelopment projects, brownfields remediation in order to foster redevelopment, industrial development, port redevelopment, and the development of entertainment and cultural facilities such as aquariums and community schools for the arts.

The sum of $25 million out of this fund shall be used to make grants, matching grants or loans to support from bond proceeds the expansion and upgrade of an aquarium in a qualified municipality by a private developer. Moneys from the fund for aquarium purposes shall be made available on a matching basis, with three dollars of State money to be made available for every dollar raised by a private developer. The receipt of funds by a private developer shall be subject to those conditions set forth pursuant to section 53 of P.L.2002, c.43 (C.52:27BBB-52).

Funds paid out of this fund in support of an aquarium may be used for debt retirement; however, any funds used for that purpose shall not be subject to the matching requirement pursuant to this subsection;

d. the "Higher Education and Regional Health Care Development Fund" into which shall be deposited the sum of $47.7 million from bond proceeds, to be disbursed at the direction of the board and upon the recommendation of the chief operating officer, in accordance with the provisions of section 52 of P.L.2002, c.43 (C.52:27BBB-51);

e. the "Economic Recovery Planning Fund" into which shall be deposited the sum of $3.5 million from bond proceeds, to be disbursed at the direction of the board and upon the recommendation of the chief operating officer, to cover those planning and administrative costs incurred in preparing the strategic revitalization plan pursuant to section 38 of P.L.2002, c.43 (C.52:27BBB-38), the capital improvement and infrastructure plan prepared pursuant to section 42 of P.L.2002, c.43 (C.52:27BBB-41), and such other plans as are required to be prepared pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.); and

f. the "Qualified Municipality Economic Opportunity Fund" into which shall be deposited the sum of $1.5 million, which shall be used, in coordination with the job training provisions of the State's school construction program, to create employment and entrepreneurial opportunities through the completion of projects in the central business district, entrepreneurial training, and grants

and loans to small business development in residential neighborhoods, and loans for housing development.

C.52:27BB-51 "Higher Education and Regional Health Care Development Fund."

52. There is created the "Higher Education and Regional Health Care Development Fund" which shall be used to provide grants, to nonprofit educational institutions and regional health care facilities, as provided hereunder.

a. Those grants to be provided to nonprofit educational institutions under this section shall be provided on a one-to-one matching basis in order to encourage the development of student housing, retail facilities and commercial enterprises in the central business district of the qualified municipality, subject to those conditions set forth in section 53 of P.L.2002, c.43 (C.52:27BBB-52).

Any facility constructed using bond proceeds shall be located within the central business district of the qualified municipality and shall be co-located with other university buildings.

With respect to Rowan University, these funds shall be made available on the condition that the university shall offer at least two full four- year programs, thereby allowing students to complete an entire course of study on the campus housed in the central business district. In addition, any of these institutions may use these matching funds in conjunction with land acquisition moneys received by that university from the Delaware River Port Authority.

The bond proceeds shall be allocated as follows:

(1) the sum of $11 million shall be made available to Rutgers, the State University;

(2) the sum of $5.1 million shall be made available to Rowan University;

(3) the sum of $9 million shall be made available to the University of Medicine and Dentistry of New Jersey; and

(4) the sum of $3.5 million shall be made available to Camden County College.

Moneys shall be committed within four years of the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.).

b. Those grants to be provided to regional health care facilities under this section shall be provided, on a matching basis, to regional health care facilities situated within the qualified municipality, to allow for facility expansion, including but not limited to, facilities for pre-admission testing, occupational health, health-related educational facilities such as a school of nursing and emergency room facilities, subject to those conditions set forth in section 53 of P.L.2002, c.43 (C.52:27BBB-52). Each health care facility shall be required to raise one dollar for every three dollars provided by the State. The bond proceeds shall be allocated as follows:

(1) the sum of $4.5 million shall be made available to Our Lady of Lourdes Medical Center;

(2) the sum of $13.35 million shall be made available to Cooper Hospital/University Medical Center; provided, however, that no funds shall be made available to Cooper Hospital/University Medical Center for the purpose of establishing or expanding family practice facilities. Cooper Hospital/University Medical Center may make available a portion of these funds to a federally-qualified health center operating in the City of Camden;

(3) the sum of $1 million shall be made available to Virtua Hospital to allow for the establishment of an in-patient drug treatment facility; and

(4) the sum of $250,000 shall be made available to Partners in Health to further community outreach efforts in underserved communities and the promotion of programs for minority children, the elderly, uninsured or underinsured families and disabled persons.

C.52:27BBB-52 Conditions on tax-exempt entities receiving funding.

53. Any entity which is otherwise tax-exempt pursuant to Title 54 of the Revised Statutes and which receives funding pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) to finance the purchase of any real property or construction of any improvement which would otherwise be tax-exempt shall be subject to the following conditions:

a. The entity shall pay an annual service charge for a period of 20 years following the receipt of funding pursuant thereto, which shall be negotiated by the tax-exempt entity and the chief operating officer on behalf of the qualified municipality according to the formula set forth pursuant to section 12 of P.L.1991, c.431 (C.40A:20-12).

b. The board shall approve in advance any facility plans or other such documentation produced by the tax-exempt entity which include detailed information concerning the projects proposed to be funded with the matching grants and the agreement negotiated by the chief operating officer pursuant to subsection a. of this section.

The receipt of matching funds by such an entity pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) shall be conditioned upon compliance with the provisions of this section, as determined by the board.

ARTICLE 6. ECONOMIC DEVELOPMENT

C.52:27BBB-53 Definitions relative to open for business incentives.

54. As used in this section and section 55 of P.L.2002, c.43 (C.52:27BBB-54):

a. "Business facility" means any factory, mill, plant, refinery, warehouse, building, complex of buildings or structural components of buildings, and

all machinery, equipment and personal property located within a qualified municipality, used in connection with the operation of the business of a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), and all facility preparation and start-up costs of the taxpayer for the business facility which it capitalizes for federal income tax purposes.

b. "Business relocation or business expansion property" means improvements to real property and tangible personal property, but only if that improvement or personal property is constructed or purchased and placed in service or use by the taxpayer, for use as a component part of a new or expanded business facility located in a qualified municipality.

(1) Business relocation or business expansion property shall include only:

(a) improvements to real property placed in service or use as a business facility on or after the operative date of P.L.2002, c.43 (C.52:27BBB-1 et al.) by the taxpayer;

(b) tangible personal property placed in service or use by the taxpayer on or after the operative date of P.L.2002, c.43 (C.52:27BBB-1 et al.), with respect to which depreciation, or amortization in lieu of depreciation, is allowable in determining the corporation business tax liability of the taxpayer under P.L.1945, c.162, and which has a remaining recovery period of three or more years at the time the property is placed in service or use in a qualified municipality; or

(c) tangible personal property owned and used by the taxpayer at a business location outside a qualified municipality which is moved into a qualified municipality on or after the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.), for use as a component part of a new or expanded business facility located in the qualified municipality; provided that the property is depreciable or amortizable personal property for income tax purposes, and has a remaining recovery period of three or more years at the time the property is placed in service or use in a qualified municipality.

(2) Property purchased for business relocation or expansion shall not include:

(a) repair costs, including materials used in the repair, unless for federal income tax purposes, the cost of the repair must be capitalized and not expensed;

(b) airplanes;

(c) property which is primarily used outside a qualified municipality with that use being determined based upon the amount of time the property is actually used both within and without the qualified municipality;

(d) property which is acquired incident to the purchase of the stock or assets of the seller.

(3) Property shall be deemed to have been purchased prior to a specified date only if:

(a) the physical construction, reconstruction or erection of the property was begun prior to the specified date, or such property was constructed, reconstructed, erected or acquired pursuant to a written contract as existing and binding on the purchase prior to the specified date; or

(b) the machinery or equipment was owned by the taxpayer prior to the specified date, or was acquired by the taxpayer pursuant to a binding purchase contract which was in effect prior to the specified date.

c. "Business relocation or expansion" means capital investment in a new or expanded business facility in a qualified municipality.

d. "Controlled group" means one or more chains of corporations connected through stock ownership with a common parent corporation if stock possessing at least 50% of the voting power of all classes of stock of each of the corporations is owned directly or indirectly by one or more of the corporations; and the common parent owns directly stock possessing at least 50% of the voting power of all classes of stock of at least one of the other corporations.

e. "Director" means the Director of the Division of Taxation in the Department of the Treasury.

f. "Expanded business facility" means any business facility, other than a new business facility, resulting from acquisition, construction, reconstruction, installation or erection of improvements or additions to existing property if such improvements or additions are purchased on or after the effective date of rehabilitation and economic recovery.

g. "Incentive payment" means: the amount of tax owed by a taxpayer for a privilege period, as computed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), multiplied by a fraction, the numerator of which is the average value of the taxpayer's business relocation or business expansion property within a qualified municipality during the period covered by its report, and the denominator of which is the average value of all the taxpayer's real and tangible personal property in New Jersey during such period which result is multiplied by 96 percent; provided, however, that for the purpose of determining average value, the provisions with respect to depreciation as set forth in subparagraph (F) of paragraph (2) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4) shall be taken into account for arriving at such value; and provided further that incentive payments shall be made for a period not to exceed 10 years, commencing on the date of a taxpayer's first acquisition of business relocation or business expansion property in the qualified municipality following the operative date of P.L.2002, c.43 (C.52:27BBB-1 et al.).

h. "New business facility" means a business facility which:

(1) is employed by a taxpayer in the conduct of a business which is or will be taxable under P.L.1945, c.162 (C.54:10A-1 et seq.). A business facility shall not be considered a new business facility in the hands of a taxpayer if

the taxpayer's only activity with respect to the facility is to lease it to another person;

(2) is purchased by a taxpayer and is placed in service or use on or after the effective date of rehabilitation and economic recovery;

(3) was not purchased by a taxpayer from a related person; and

(4) was not in service or use during the 90-day period immediately prior to transfer of the title to the facility.

i. "Partnership" means a syndicate, group, pool, joint venture or other unincorporated organization through or by means of which any business, financial operation or venture is carried on, and which is not a trust or estate, a corporation or a sole proprietorship. The term "partner" includes a member in such a syndicate, group, pool, joint venture or organization.

j. "Purchase" means, with respect to the determination of whether business relocation or business expansion property was purchased, any acquisition of property, including an acquisition pursuant to a lease, but only if:

(1) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of deductions under section 267 or subsection (b) of section 707 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.267 or s.707;

(2) the property is not acquired by one member of a controlled group from another member of the same controlled group; and

(3) the basis of the property for federal income tax purposes, in the hands of the person acquiring it, is not determined:

(a) in whole or in part by reference to the federal adjusted basis of such property in the hands of the person from whom it was acquired; or

(b) under subsection (e) of section 1014 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1014.

k. "Related person" means:

(1) a corporation, partnership, association or trust controlled by the taxpayer;

(2) an individual, corporation, partnership, association or trust that is in control of the taxpayer;

(3) a corporation, partnership, association or trust controlled by an individual, corporation, partnership, association or trust that is in control of the taxpayer; or

(4) a member of the same controlled group as the taxpayer.

C.52:27BBB-54 "Qualified Municipality Open for Business Incentive Program."

55. a. There is established in the authority the "Qualified Municipality Open for Business Incentive Program," the purpose of which is to foster business investment in qualified municipalities. Businesses that locate or expand in a qualified municipality during the period that the municipality

is under rehabilitation and economic recovery shall be eligible to receive a rebate from the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.) as provided herein.

b. For each year in which a taxpayer is eligible for a rebate of a portion of the incentive payment, the Director of the Division of Taxation shall certify to the State Treasurer (1) that the taxpayer's corporation business tax return has been filed; (2) that the taxpayer's entire corporation business tax obligation has been satisfied; and (3) the amount of the taxpayer's incentive payment entitlement. Upon such certification, the treasurer shall certify to the executive director of the authority the amount of the taxpayer's incentive payment and, subject to the approval of the Director of the Division of Budget and Accounting, transfer that incentive payment to the fund established with the proceeds of those funds appropriated pursuant to subsection b. of section 73 of P.L.2002, c.43.

c. The executive director of the authority shall rebate to the taxpayer up to 75% of the incentive payment paid by the taxpayer and placed by the treasurer into a fund established using those funds appropriated pursuant to subsection b. of section 73 of P.L.2002, c.43 if the taxpayer applies for a rebate within two years of deposit of the incentive payment into the fund and establishes to the satisfaction of the executive director of the authority that the taxpayer will utilize those monies for business relocation or business expansion property. The cumulative amount of monies distributed to the taxpayer pursuant to this section shall not exceed the amount paid or to be paid by the taxpayer for the business relocation or business expansion property. In the event that the taxpayer does not establish its eligibility for a rebate of a portion of the incentive payment within two years of its deposit into the fund, the fund shall retain any remaining amount of the incentive payment.

C.52:27BBB-55 Application for CBT tax credit for new positions.

56. a. A taxpayer engaged in the conduct of business within a qualified municipality and who is not receiving a benefit under the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), may apply to receive a tax credit against the amount of tax otherwise imposed under the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.) equal to: $2,500 for each new full-time position at that location in credit year one and $1,250 for each new full-time position at that location in credit year two.

b. (1) The credit pursuant to subsection a. of this section for credit year one shall be allowed for the privilege period in which or with which credit year one ends; the credit pursuant to subsection a. of this section for credit year two shall be allowed for the privilege period in which or with which credit year two ends.

(2) An unused credit may be carried forward, if necessary, for use in the five privilege periods following the privilege period for which the credit is allowed.

(3) The order of priority of the application of the credit allowed under this section and any other credits allowed by law shall be as prescribed by the Director of the Division of Taxation. The amount of the credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with any other credits allowed by law, shall not exceed 50% of the tax liability otherwise due and shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162.

c. (1) Notwithstanding the provisions of subsection b. of this section to the contrary, the credit allowed for credit year one may be refundable at the close of the privilege period in which or with which credit year two ends, pursuant to the requirements and limitations of this subsection.

(2) That amount of the credit received for credit year one remaining, if any, after the liabilities for the privilege period in which or with which credit year two ends and for any prior privilege period have been satisfied, multiplied by the sustained effort ratio, shall be an overpayment for the purposes of section R.S.54:49-15 for the privilege period in which or with which credit year two ends; that amount of the credit received for credit year one remaining, if any, that is not an overpayment pursuant to this paragraph may be carried forward pursuant to subsection b. of this section.

d. The burden of proof shall be on the taxpayer to establish by clear and convincing evidence that the taxpayer is entitled to the credits or refund allowed pursuant to this section. The director shall by regulation establish criteria for the determination of when new or expanded operations have begun at a location. No taxpayer shall be allowed more than a single 24-month continuous period in which credits shall be allowed for activity at a location within a qualified municipality pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.).

e. For the purposes of this section:

"Credit year one" means the first twelve calendar months following initial or expanded operations at a location within a qualified municipality pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.).

"Credit year two" means the twelve calendar months following credit year one.

"Employee of the taxpayer" does not include an individual with an ownership interest in the business, that individual's spouse or dependants, or that individual's ancestors or descendants.

"Full time position" means a position filled by an employee of the taxpayer for at least 140 hours per month on a permanent basis, which does not include employment that is temporary or seasonal.

"New full time position" means a position that did not exist prior to credit year one. New full time positions shall be measured by the increase, from the twelve-month period preceding credit year one to the measured credit year, in the average number of full-time positions and full-time position equivalents employed by the taxpayer at the location within a qualified municipality pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.). The hours of employees filling part-time positions shall be aggregated to determine the number of full-time position equivalents.

"Part-time position" means a position filled by an employee of the taxpayer for at least 20 hours per week for at least three months during the credit year.

"Sustained effort ratio" means the proportion that the credit year two new full-time positions bears to the credit year one new full-time positions, not to exceed one.

C.52:27BBB-56 "Residential property" defined; tax credit for certain principal residences.

57. a. For the purposes of subsection b. of this section, "residential property" shall include land, a dwelling house or a condominium unit under the form of real property ownership provided for under the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.).

b. A taxpayer who shall not previously have occupied property owned by the taxpayer as a principal residence and who, during the taxable year, purchases residential property within a qualified municipality for the purpose of occupying the property as the taxpayer's principal residence shall be allowed in that taxable year, and for four taxable years thereafter, a credit not to exceed $5,000 against the tax otherwise due under N.J.S.54A:1-1 et seq. The credit shall be allowed beginning in any taxable year during the period of rehabilitation and economic recovery.

No taxpayer filing either a single or a joint return shall be eligible for a credit under this section: (1) if, in a prior taxable year, the taxpayer or the taxpayer's spouse, either singly or jointly with each other or with another, shall have owned and occupied as a principal residence any residential property; or (2) if the taxpayer or the taxpayer's spouse has received an annual stipend pursuant to section 18 of P.L.2002, c.43 (C.52:27BBB-18).

In the case of a husband and wife who elect to file separate tax returns, each shall, unless otherwise ineligible, be entitled to one-half of the credit allowed.

If a taxpayer who shall have been allowed a credit under the provisions of this section with respect to the purchase of residential property fails to occupy the property as the taxpayer's principal residence within one year after the date of the purchase, or terminates occupation of the property as the taxpayer's principal residence within 10 years after the date of the purchase or the date on which such occupation shall have commenced, whichever is later, the

taxpayer shall be liable for tax in an amount equal to the credit previously so allowed.

ARTICLE 7. LABOR RELATIONS AND CONTRACTS

58. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to read as follows:

C.34:1B-5.1 Rules, regulations relative to payment of prevailing wage rate.

1. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of construction contracts undertaken in connection with any of its projects, those projects which it undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) or school facilities projects. The prevailing wage rate shall be the rate determined by the Commissioner of Labor pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.).

C.52:27BBB-57 Prevailing wage rate on construction contracts under act.

59. Not less than the prevailing wage rate shall be paid to any workers employed in the performance of construction contracts undertaken in connection with any projects undertaken pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.). The prevailing wage rate shall be the rate determined by the Commissioner of Labor pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.).

C.52:27BBB-58 Affirmative action program on EDA projects.

60. In order to fulfill its obligation to establish an affirmative action program for the hiring of minority and female workers employed in the performance of construction contracts undertaken in connection with a project undertaken or financed by the authority pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), the authority shall comply with all requirements for pre-apprenticeship and apprenticeship applicable to the authority on or after the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.).

C.52:27BBB-59 Arbitrator to consider rehabilitation when deciding certain labor disputes.

61. For the purposes of section 3 of P.L.1977, c.85 (C.34:13A-16), when deciding the award in a dispute involving public fire or police departments of the qualified municipality during the rehabilitation term, the arbitrator or panel of arbitrators shall, when considering the interests and welfare of the public and the lawful authority of the employer, include in those assessments the fact that the municipality is under rehabilitation pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.).

C.52:27BBB-60 Arrangements with other public entities by qualified municipality.

62. During the rehabilitation term, the qualified municipality may enter into arrangements with other municipalities, counties, local public authorities,

or the State, for the purpose of affording the municipality those benefits which may accrue pursuant to any laws providing for contracted provision of goods or services. Notwithstanding any other provision of law to the contrary all State agencies are authorized to enter into such agreements or arrangements with the qualified municipality during the rehabilitation term as are necessary or useful in furthering the purposes of P.L.2002, c.43 (C.52:27BBB-1 et al.).

C.52:27BBB-61 Contract to contain provision for termination.

63. All contracts and agreements entered into by the qualified municipality during the rehabilitation term pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) shall contain provisions stating that the director or chief operating officer may, upon 30 days' notice, terminate the contract or agreement for any reason without payment of penalty or damages. This section shall not apply to collective bargaining agreements.

ARTICLE 8. MISCELLANEOUS

64. Section 2 of P.L.1991, c.266 (C.40:14B-23.1) is amended to read as follows:

C.40:14B-23.1 Definitions; host community benefit.

2. a. As used in this section:

"Residential property" means any building or part of a building used, to be used or held for use as a home or residence, together with the land upon which it is situate. A residential property shall include single family dwellings, multifamily dwellings as defined under subsection (k) of section 3 of the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), and other rental unit property, and individual residences within a horizontal property regime as defined pursuant to the "Horizontal Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.), or a condominium as defined pursuant to the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.), units in a cooperative, and units in a mutual housing corporation;

"Cooperative" means a housing corporation or association which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment, manufactured or mobile home or other unit of housing owned or leased by the corporation or association, or to lease or purchase a unit of housing constructed or to be constructed by the corporation or association;

"Mutual housing corporation" means a corporation not-for-profit, incorporated under the laws of this State on a mutual or cooperative basis within the scope of section 607 of the "National Defense Housing Act," Pub.L.76-849, (42 U.S.C. s. 1521 et seq.), as amended, which acquired a National Defense Housing Project pursuant to that act;

"Qualified resident" means a person who owns, rents or occupies residential property;

"Qualified entity" means a building or facility which is owned and used by:

(1) a public or private school, university, college or seminary for either classroom space or administrative office space;

(2) a church, synagogue or temple for holding religious services, or which is used to house church-, synagogue- or temple- related personnel;

(3) a clinic or hospital, including a residential building which is used to house personnel who are employed by the clinic or hospital;

(4) a nonprofit organization which operates under the provisions of Title 15A of the New Jersey Statutes, for the purposes for which the organization was created, or for administrative office space; or

(5) a business which has less than 10 full-time employees.

b. A city of the second class with a population of more than 79,000 but less than 88,000 according to the latest federal decennial census, located in a county of the second class with a population of more than 455,000 but less than 510,000 according to the latest federal decennial census, and a county or municipal utilities authority whose operations plant is located within the city's boundaries may negotiate a host community benefit for qualified residents and qualified entities within the city. The benefit may be applied against the rate, fee or charge assessed pursuant to section 23 of P.L.1957, c.183 (C.40:14B-23) or the connection fee or tapping fee assessed pursuant to section 21 of P.L.1957, c.183 (C.40:14B-21), or both, at the discretion of the county or municipal utilities authority. The benefit shall be provided as a credit against the individual accounts of the qualified resident or entity, and the county or municipal utilities authority and the city shall negotiate the amount of the benefit. Upon agreement of the parties, the governing body of the city shall adopt an ordinance setting forth the specific requirements under the agreement. In cases in which a qualified resident is not billed directly for the county or municipal utilities authority's services, the city shall, as part of the ordinance setting forth the specific requirements of the agreement, establish procedures under which the owner of the appropriate property shall insure that the qualified resident is compensated for the amount of the credit.

65. Section 8 of P.L.1983, c.530 (C.55:14K-8) is amended to read as follows:

C.55:14K-8 Eligibility for admission to housing projects; termination of tenancy or interest; excessive income; surcharge; disposition.

8. a. Admission to housing projects constructed, improved or rehabilitated under this act shall be limited to families whose gross aggregate family income

at the time of admission does not exceed six times the annual rental or carrying charges, including the value or cost to them of heat, light, water, sewerage, parking facilities and cooking fuel, of the dwellings that may be furnished to such families, or seven times those charges if there are three or more dependents. There may be included in the carrying charges to any family for residence in any mutual housing project constructed, improved or rehabilitated with a loan from the agency an amount equal to 6% of the original cash investment of the family in the mutual housing project and, to the extent authorized by the agency where not included in the carrying charges, the value or cost of repainting the apartment and replacing any fixtures or appliances. Notwithstanding the provisions of this section, no family or individual shall be eligible for admission to any housing project constructed, improved or rehabilitated with a loan from the agency, whose gross aggregate family income exceeds such amount as shall be established from time to time by the agency, by rules or regulations promulgated hereunder; except that with respect to any project financed by an agency loan insured or guaranteed by the United States of America or any agency or instrumentality thereof, the agency may adopt the admission standards for such projects then currently utilized or required by the guarantor or insurer.

The provisions of this subsection shall not apply to any housing project situated in a qualified municipality that is constructed, improved or rehabilitated on or after the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.).

b. The agency shall by rules and regulations provide for the periodic examination of the income of any person or family residing in any housing project constructed, improved or rehabilitated with a loan from the agency. If the gross aggregate family income of a family residing in a housing project increases and the ratio to the current rental or carrying charges of the dwelling unit becomes greater than the ratio prescribed for admission in subsection a. of this section but is not more than 25% above the family income so prescribed for admission to the project, the owner or managing agent of the housing project shall permit the family to continue to occupy the unit. The agency or (with the approval of the agency) the housing sponsor of any housing project constructed, improved or rehabilitated with a loan from the agency, may terminate the tenancy or interest of any family residing in the housing project whose gross aggregate family income exceeds by 25% or more the amount prescribed herein and which continues to do so for a period of six months or more; but no tenancy or interest of any such family in any such housing project shall be terminated except upon reasonable notice and opportunity to obtain suitable alternate housing, in accordance with rules and regulations of the agency; and any such family, with the approval of the agency, may be permitted to continue to occupy the unit, subject to payment of a rent or carrying charge surcharge to the housing sponsor in accordance with a

schedule of surcharges fixed by the agency. The housing sponsor shall pay the surcharge to the municipality granting tax exemption, but only up to an amount that together with payments made to the municipality in lieu of taxes and for any land taxes equals 25% of the total rents or carrying charges of the housing project for the current and any prior years that the project has been in operation.

The provisions of this subsection shall not apply to any housing project situated in a qualified municipality that is constructed, improved or rehabilitated on or after the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.).

c. For projects on which the agency has made a loan and financed the loan with the proceeds of bonds issued prior to January 1, 1973, any remainder of the surcharge, or the total surcharge if tax exemption has not been granted, shall be paid into the housing finance fund securing the bonds issued to finance the project for the use of the agency; for projects financed on or after January 1, 1973, any remainder of the surcharge, or the total surcharge if tax exemption has not been granted, shall be paid to the agency.

d. Any family residing in a mutual housing project required to remove from the project because of excessive income as herein provided shall be discharged from liability on any note, bond or other evidence of indebtedness relating thereto and shall be reimbursed, in accordance with the rules of the agency, for all sums paid by the family to the housing sponsor on account of the purchase of stock or debentures as a condition of occupancy or on account of the acquisition of title for such purpose.

The provisions of this subsection shall not apply to any housing project situated in a qualified municipality that is constructed, improved or rehabilitated on or after the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.).

e. The agency shall establish admission rules and regulations for any housing project financed in whole or in part by loans authorized hereunder which shall provide priority categories for person displaced by urban renewal projects, highway programs or other public works, persons living in substandard housing, persons and families who, by reason of family income, family size or disabilities, have special needs, elderly persons and families living under conditions violative of minimum health and safety standards.

The provisions of this subsection shall not apply to any housing project situated in a qualified municipality that is constructed, improved or rehabilitated on or after the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.).

C.52:27BBB-62 Moratorium on regional contribution agreements.

66. Upon the enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.) and during the rehabilitation term, there shall be a moratorium on regional contribution agreements pursuant to P.L.1985, c.222 (C.52:27D-301 et al.) in any qualified municipality.

C.52:27BBB-63 Membership of board of education of Type II school district.

67. a. Notwithstanding the provisions of any law to the contrary, in the case of a Type II school district which is contiguous with a qualified municipality and which has a nine-member board of education, the Governor shall appoint three additional members to the board of education upon the enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.). The appointed members shall be voting members of the board who shall serve at the pleasure of the Governor for three-year terms and they shall be eligible for reappointment. Two members shall be residents of the qualified municipality and one member shall be employed in the qualified municipality.

b. At the first organizational meeting conducted pursuant to N.J.S.18A:10-3 following the establishment of the qualified municipality, the voting membership of the board of education shall be comprised of the three members appointed by the Governor pursuant to subsection a. of this section and any member of the board of education as comprised prior to the establishment of a qualified municipality with an unexpired term.

c. At the second organizational meeting conducted pursuant to N.J.S.18A:10-3 following the establishment of the qualified municipality, the voting membership of the board of education shall be comprised of the three members appointed by the Governor pursuant to subsection a. of this section, three members appointed by the mayor of the qualified municipality with the advice and consent of the city council and any member of the board of education as comprised prior to the establishment of a qualified municipality with an unexpired term. Members appointed by the mayor, with the advice and consent of the city council shall serve three-year terms and shall be eligible for reappointment.

d. There shall be no school election of school board members conducted in the first two years following the establishment of a qualified municipality. In the third year following the establishment of the qualified municipality, a school election of school board members shall be conducted pursuant to P.L.1995, c.278 (C.19:60-1 et seq.) and three members of the board of education shall be elected by the voters to serve three-year terms.

e. In the fourth year and each subsequent year thereafter, up until the tenth year following the establishment of the qualified municipality, members shall be appointed or elected as provided hereinabove upon the expiration of the members' terms. In the tenth year following the establishment of the qualified municipality, a school election of school board members shall be conducted pursuant to P.L.1995, c.278 (C.19:60-1 et seq.) and three members of the board of education shall be elected by the voters to fill the vacancies of the Governor's appointees whose terms expire. The elected members shall serve three-year terms. In the eleventh year following the establishment of

the qualified municipality, a school election of school board members shall be conducted pursuant to P.L.1995, c.278 (C.19:60-1 et seq.) and three members of the board of education shall be elected by the voters to fill the vacancies of the mayor's appointees whose terms expire. The elected members shall serve three-year terms. In the twelfth year following the establishment of the qualified municipality and each year thereafter successors to the members whose terms expire shall be elected for three-year terms as provided by law.

f. At all times the board of education and its membership shall comply with the requirements of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.) and the "School Ethics Act," P.L.1991, c.393 (C.18A:12-21 et seq.), and meet the requirements and qualifications for board membership established pursuant to chapter 12 of Title 18A of the New Jersey Statutes.

C.52:27BBB-64 Board of education minutes subject to veto provision.

68. a. Notwithstanding the provisions of Title 18A or any other law, rule, or regulation to the contrary, the minutes of every meeting of the board of education of a school district contiguous with a qualified municipality and constituted pursuant to N.J.S.18A:9-3 shall be subject to the veto provisions set forth in subsection b. of this section.

b. A true copy of the minutes of every meeting of a board of education described in subsection a. of this section shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at that meeting of the board of education shall have force or effect until 15 days after a copy of the minutes shall have been so delivered unless during that 15-day period the Governor shall approve those minutes, in which case the action shall become effective upon that approval. If, in the 15-day period, the Governor returns the copy of those minutes with a veto of any action taken by the board of education or any member thereof at that meeting, the action shall be null and void and of no effect.

69. Section 4 of P.L.1974, c.80 (C.34:1B-4) is amended to read as follows:

C.34:1B-4 "New Jersey Economic Development Authority."

4. a. There is hereby established in, but not of, the Department of the Treasury a public body corporate and politic, with corporate succession, to be known as the "New Jersey Economic Development Authority." The authority is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the authority of the powers conferred by the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.) or section 6 of P.L.2001, c.401 (C.34:1B-4.1) shall be deemed and held to be an essential governmental function of the State.

b. The authority shall consist of the Commissioner of Banking and Insurance, the Chief Executive Officer and Secretary of the New Jersey

Commerce and Economic Growth Commission, the Commissioner of Labor, the Commissioner of Education, and the State Treasurer, who shall be members ex officio, and eight public members appointed by the Governor as follows: two public members (who shall not be legislators) shall be appointed by the Governor upon recommendation of the Senate President; two public members (who shall not be legislators) shall be appointed by the Governor upon recommendation of the Speaker of the General Assembly; and four public members shall be appointed by the Governor, all for terms of three years. In addition, a public member of the State Economic Recovery Board established pursuant to section 36 of P.L.2002, c.43 (C.52:27BBB-36) appointed by the board, shall serve as a non-voting, ex officio member of the authority. Each member shall hold office for the term of the member's appointment and until the member's successor shall have been appointed and qualified. A member shall be eligible for reappointment. Any 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. In the event the authority shall by resolution determine to accept the declaration of an urban growth zone by any municipality, the mayor or other chief executive officer of such municipality shall ex officio be a member of the authority for the purpose of participating and voting on all matters pertaining to such urban growth zone.

The Governor shall appoint three alternate members of the authority, of which one alternate member (who shall not be a legislator) shall be appointed by the Governor upon the recommendation of the Senate President, and one alternate member (who shall not be a legislator) shall be appointed by the Governor upon the recommendation of the Speaker of the General Assembly; and one alternate member shall be appointed by the Governor, all for terms of three years. The chairperson may authorize an alternate member, in order of appointment, to exercise all of the powers, duties and responsibilities of such member, including, but not limited to, the right to vote on matters before the authority.

Each alternate member shall hold office for the term of the member's appointment and until the member's successor shall have been appointed and qualified. An alternate member shall be eligible for reappointment. Any vacancy in the alternate membership occurring other than by the expiration of a term shall be filled in the same manner as the original appointment but for the unexpired term only. Any reference to a member of the authority in this act shall be deemed to include alternate members unless the context indicates otherwise.

The terms of office of the members and alternate members of the authority appointed by the Governor who are serving on July 18, 2000 shall expire upon the appointment by the Governor of eight public members and three alternate

members. The initial appointments of the eight public members shall be as follows: the two members appointed upon the recommendation of the President of the Senate and the two members appointed upon the recommendation of the Speaker of the General Assembly shall serve terms of three years; two members shall serve terms of two years; and two members shall serve terms of one year. The initial appointments of the alternate members shall be as follows: the alternate member appointed upon the recommendation of the President of the Senate shall serve a term of three years; the alternate member appointed upon the recommendation of the Speaker of the General Assembly shall serve a term of two years; and one alternate member shall serve a term of one year. No member shall be appointed who is holding elective office.

c. Each member appointed by the Governor may be removed from office by the Governor, for cause, after a public hearing, and may be suspended by the Governor pending the completion of such hearing. Each member before entering upon his duties shall take and subscribe an oath to perform the duties of the office faithfully, impartially and justly to the best of his ability. A record of such oaths shall be filed in the office of the Secretary of State.

d. A chairperson shall be appointed by the Governor from the public members. The members of the authority shall elect from their remaining number a vice chairperson and a treasurer thereof. The authority shall employ an executive director who shall be its secretary and chief executive officer. The powers of the authority shall be vested in the members thereof in office from time to time and seven members of the authority shall constitute a quorum at any meeting thereof; provided, however, that the public member designated by the State Economic Recovery Board pursuant to the "Municipal Rehabilitation and Economic Recovery Act,"P.L.2002, c.43 (C.52:27BBB-1 et al.) shall not count toward the quorum. Action may be taken and motions and resolutions adopted by the authority at any meeting thereof by the affirmative vote of at least seven members of the authority. No vacancy in the membership of the authority shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the authority.

e. Each member of the authority shall execute a bond to be conditioned upon the faithful performance of the duties of such member in such form and amount as may be prescribed by the Director of the Division of Budget and Accounting in the Department of the Treasury. Such bonds shall be filed in the office of the Secretary of State. At all times thereafter the members and treasurer of the authority shall maintain such bonds in full force and effect. All costs of such bonds shall be borne by the authority.

f. The members of the authority shall serve without compensation, but the authority shall reimburse its members for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding the provisions of any other law, no officer or employee of the State shall be deemed to have

forfeited or shall forfeit any office or employment or any benefits or emoluments thereof by reason of the acceptance of the office of ex officio member of the authority or any services therein.

g. Each ex officio member of the authority may designate an officer or employee of the member's department to represent the member at meetings of the authority, and each such designee may lawfully vote and otherwise act on behalf of the member for whom the person constitutes the designee. Any such designation shall be in writing delivered to the authority and shall continue in effect until revoked or amended by writing delivered to the authority.

h. The authority may be dissolved by act of the Legislature on condition that the authority has no debts or obligations outstanding or that provision has been made for the payment or retirement of such debts or obligations. Upon any such dissolution of the authority, all property, funds and assets thereof shall be vested in the State.

i. A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at such meeting by the authority shall have force or effect until 10 days, Saturdays, Sundays, and public holidays excepted, after the copy of the minutes shall have been so delivered, unless during such 10-day period the Governor shall approve the same in which case such action shall become effective upon such approval. If, in that 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting, such action shall be null and void and of no effect. The powers conferred in this subsection i. upon the Governor shall be exercised with due regard for the rights of the holders of bonds and notes of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection i. shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or notes or for the benefit, protection or security of the holders thereof.

j. On or before March 31 in each year, the authority shall make an annual report of its activities for the preceding calendar year to the Governor and the Legislature. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and cause a copy thereof to be filed with the Secretary of State and the Director of the Division of Budget and Accounting in the Department of the Treasury.

k. The Director of the Division of Budget and Accounting in the Department of the Treasury and the director's legally authorized representatives

are hereby authorized and empowered from time to time to examine the accounts, books and records of the authority including its receipts, disbursements, contracts, sinking funds, investments and any other matters relating thereto and to its financial standing.

l. No member, officer, employee or agent of the authority shall be interested, either directly or indirectly, in any project or school facilities project, or in any contract, sale, purchase, lease or transfer of real or personal property to which the authority is a party.

70. Section 3 of P.L.1991, c.431 (C.40A:20-3) is amended to read as follows:

C.40A:20-3 Definitions.

3. As used in this act:

a. "Gross revenue" means annual gross revenue or gross shelter rent or annual gross rents, as appropriate, and other income, for each urban renewal entity designated pursuant to this act. The financial agreement shall establish the method of computing gross revenue for the entity, and the method of determining insurance, operating and maintenance expenses paid by a tenant which are ordinarily paid by a landlord, which shall be included in the gross revenue; provided, however, that any federal funds received, whether directly or in the form of rental subsidies paid to tenants, by a nonprofit corporation that is the sponsor of a qualified subsidized housing project, shall not be included in the gross revenue of the project for purposes of computing the annual services charge for municipal services supplied to the project.

b. "Limited-dividend entity" means an urban renewal entity incorporated pursuant to Title 14A of the New Jersey Statutes, or established pursuant to Title 42 of the Revised Statutes, for which the profits and the entity are limited as follows. The allowable net profits of the entity shall be determined by applying the allowable profit rate to each total project unit cost, if the project is undertaken in units, or the total project cost, if the project is not undertaken in units, for the period commencing on the date on which the construction of the unit or project is completed, and terminating at the close of the fiscal year of the entity preceding the date on which the computation is made, where:

"Allowable profit rate" means the percentage per annum arrived at by adding 1 1/4% to the annual interest percentage rate payable on the entity's initial permanent mortgage financing. If the initial permanent mortgage is insured or guaranteed by a governmental agency, the mortgage insurance premium or similar charge, if payable on a per annum basis, shall be considered as interest for this purpose. If there is no permanent mortgage financing the allowable profit rate shall be arrived at by adding 1 1/4% per annum to the

interest rate per annum which the municipality determines to be the prevailing rate on mortgage financing on comparable improvements in the county.

c. "Net profit" means the gross revenues of the urban renewal entity less all operating and non-operating expenses of the entity, all determined in accordance with generally accepted accounting principles, but:

(1) there shall be included in expenses: (a) all annual service charges paid pursuant to section 12 of P.L.1991, c.431 (C.40A:20-12); (b) all payments to the municipality of excess profits pursuant to section 15 or 16 of P.L.1991, c.431 (C.40A:20-15 or 40A:20-16); (c) an annual amount sufficient to amortize the total project cost over the life of the improvements, as set forth in the financial agreement, which shall not be less than the terms of the financial agreement; and (d) all reasonable annual operating expenses of the urban renewal entity, including the cost of all management fees, brokerage commissions, insurance premiums, all taxes or service charges paid, legal, accounting, or other professional service fees, utilities, building maintenance costs, building and office supplies, and payments into repair or maintenance reserve accounts;

(2) there shall not be included in expenses either depreciation or obsolescence, interest on debt, income taxes, or salaries, bonuses or other compensation paid, directly or indirectly to directors, officers and stockholders of the entity, or officers, partners or other persons holding any proprietary ownership interest in the entity.

The urban renewal entity shall provide to the municipality an annual audited statement which clearly identifies the calculation of net profit for the urban renewal entity during the previous year. The annual audited statement shall be prepared by a certified public accountant and shall be submitted to the municipality within 90 days of the close of the fiscal year.

d. "Nonprofit entity" means an urban renewal entity incorporated pursuant to Title 15A of the New Jersey Statutes for which no part of its net profits inures to the benefit of its members.

e. "Project" means any work or undertaking pursuant to a redevelopment plan adopted pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.), which has as its purpose the redevelopment of all or any part of a redevelopment area including any industrial, commercial, residential or other use, and may include any buildings, land, including demolition, clearance or removal of buildings from land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such as, but not limited to, streets, sewers, utilities, parks, site preparation, landscaping, and administrative, community, health, recreational, educational and welfare facilities.

f. "Redevelopment area" means an area determined to be in need of redevelopment and for which a redevelopment plan has been adopted by a

municipality pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.).

g. "Urban renewal entity" means a limited-dividend entity, the New Jersey Economic Development Authority or a nonprofit entity which enters into a financial agreement pursuant to this act with a municipality to undertake a project pursuant to a redevelopment plan for the redevelopment of all or any part of a redevelopment area, or a project necessary, useful, or convenient for the relocation of residents displaced or to be displaced by the redevelopment of all or any part of one or more redevelopment areas, or a low and moderate income housing project.

h. "Total project unit cost" or "total project cost" means the aggregate of the following items as related to a unit of a project, if the project is undertaken in units, or to the total project, if the project is not undertaken in units, all of which as limited by, and approved as part of the financial agreement: (1) cost of the land and improvements to the entity, whether acquired from a private or a public owner, with cost in the case of leasehold interests to be computed by capitalizing the aggregate rental at a rate provided in the financial agreement; (2) architect, engineer and attorney fees, paid or payable by the entity in connection with the planning, construction and financing of the project; (3) surveying and testing charges in connection therewith; (4) actual construction costs which the entity shall cause to be certified and verified to the municipality and the municipal governing body by an independent and qualified architect, including the cost of any preparation of the site undertaken at the entity's expense; (5) insurance, interest and finance costs during construction; (6) costs of obtaining initial permanent financing; (7) commissions and other expenses paid or payable in connection with initial leasing; (8) real estate taxes and assessments during the construction period; (9) a developer's overhead based on a percentage of actual construction costs, to be computed at not more than the following schedule:

$500,000 or less	- 10%
$500,000 through $1,000,000	- $50,000 plus 8% on excess above $500,000
$1,000,001 through $2,000,000	- $90,000 plus 7% on excess above $1,000,000
$2,000,001 through $3,500,000	- $160,000 plus 5.6667% on excess above $2,000,000
$3,500,001 through $5,500,000	- $245,000 plus 4.25% on excess above $3,500,000
$5,500,001 through $10,000,000	- $330,000 plus 3.7778% on excess above $5,500,000
over $10,000,000	- 5%

If the financial agreement so provides, there shall be excluded from the total project cost actual costs incurred by the entity and certified to the municipality by an independent and qualified architect or engineer which are associated with site remediation and cleanup of environmentally hazardous materials or contaminants in accordance with State or federal law.

i. "Housing project" means any work or undertaking to provide decent, safe, and sanitary dwellings for families in need of housing; the undertaking may include any buildings, land (including demolition, clearance or removal of buildings from land), equipment, facilities, or other real or personal properties or interests therein which are necessary, convenient or desirable appurtenances of the undertaking, such as, but not limited to, streets, sewers, water, utilities, parks; site preparation; landscaping, and administrative, community, health, recreational, educational, welfare, commercial, or other facilities, or to provide any part or combination of the foregoing.

j. "Redevelopment relocation housing project" means a housing project which is necessary, useful or convenient for the relocation of residents displaced by redevelopment of all or any part of one or more redevelopment areas.

k. "Low and moderate income housing project" means a housing project which is occupied, or is to be occupied, exclusively by households whose incomes do not exceed income limitations established pursuant to any State or federal housing program.

l. "Qualified subsidized housing project" means a low and moderate income housing project owned by a nonprofit corporation organized under the provisions of Title 15A of the New Jersey Statutes for the purpose of developing, constructing and operating rental housing for senior citizens under section 202 of Pub.L. 86-372 (12 U.S.C. s.1701q) or rental housing for persons with disabilities under section 811 of Pub.L. 101-625 (42 U.S.C. s.8013), or under any other federal program that the Commissioner of Community Affairs by rule may determine to be of a similar nature and purpose.

C.52:27BBB-65 Severability.

71. If any section, subsection, paragraph, sentence or other part of P.L.2002, c.43 (C.52:27BBB-1 et al.) is adjudged unconstitutional or invalid, that judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this act directly involved in the controversy in which that judgment shall have been rendered.

ARTICLE 9. APPROPRIATIONS

72. From the proceeds of bonds authorized pursuant to section 47 of P.L.2002, c.43 (C.52:27BBB-46), the New Jersey Economic Development Authority shall deposit:

a. $35 million into the "Residential Neighborhood Improvement Fund" created pursuant to section 51 of P.L.2002, c.43 (C.52:27BBB-50);

b. $43 million into the "Demolition and Redevelopment Financing Fund" created pursuant to section 51 of P.L.2002, c.43 (C.52:27BBB-50);

c. $45.8 million into the "Downtown Revitalization and Recovery Fund" created pursuant to section 51 of P.L.2002, c.43 (C.52:27BBB-50);

d. $47.7 million into the "Higher Education and Regional Health Care Development Fund" created pursuant to section 52 of P.L.2002, c.43 (C.52:27BBB-51); and

e. $3.5 million into the "Economic Recovery Planning Fund" created pursuant to section 51 of P.L.2002, c.43 (C.52:27BBB-50).

Notwithstanding this division of bond funds, up to 20% of the total amount deposited into these funds may be reallocated among these funds and subaccounts thereof, with the approval of the executive director of the authority and the chief operating officer, in order to serve the economic revitalization goals which P.L.2002, c.43 (C.52:27BBB-1 et al.) seeks to promote.

73. a. There is appropriated from the General Fund to the Department of Community Affairs such sums as may be required for rehabilitation aid to be allocated pursuant to subsection b. of section 26 of P.L.2002, c.43 (C.52:27BBB-26).

b. There is appropriated from the General Fund to the Department of the Treasury such sums as may be required to fund the buyout of retirees who choose the retirement option set forth in section 19 of P.L.2002, c.43 (C.52:27BBB-19) and those sums necessary to fund the incentives provided for in Article 6 of P.L.2002, c.43 (C.52:27BBB-53 et seq.).

c. There is appropriated from the General Fund such sums as may be required, not to exceed $1,500,000, to the Department of Community Affairs, Division of Local Government Services for the costs of: the salaries of the chief operating officer and the staff thereto; any salary differentials incurred in recruiting qualified personnel to serve under the chief operating officer; the stipend provided to encourage residency in qualified municipalities pursuant to section 18 of P.L.2002, c.43 (C.52:27BBB-18); and the additional SAVER rebate provided under section 20 of P.L.2002, c.43 (C.52:27BBB-20); all subject to the approval of the Director of the Division of Budget and Accounting in the Department of the Treasury.

d. There is appropriated from the General Fund to the Department of Law and Public Safety the sum of $1,500,000 for police services and special initiatives in qualified municipalities.

e. There is appropriated from the General Fund to the Department of Health and Senior Services the sum of $3 million to be made available as an operating subsidy to the Neo-Natal Intensive Care Unit of the Children's Regional Hospital at Cooper Hospital/Medical Center.

74. There is appropriated from the General Fund to the Department of Labor the sum of $1.5 million to capitalize the "Qualified Municipality Economic Opportunity Fund" created pursuant to section 51 of P.L.2002, c.43 (C.52:27BBB-50).

75. This act shall take effect immediately, but in any case shall be retroactive to June 30, 2002

Approved July 22, 2002.

CHAPTER 44

AN ACT concerning project labor agreements with labor organizations in connection with public works contracts.

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

C.52:38-1 Findings, declarations relative to project labor agreements.

1. The Legislature finds and declares:

a. The United States Supreme Court held in *Building & Const. Trades Council of Metropolitan Dist.* v. *Associated Builders & Contractors of Massachusetts/Rhode Island, Inc.*, 507 *U.S.* 218 (1993) that state and local governments, when acting as market participants, are permitted under the National Labor Relations Act (29 U.S.C. s.151 et seq.) to enforce bid specifications requiring contractors to abide by project labor agreements with labor organizations for construction projects owned by those state and local governments;

b. The Supreme Court commented in that case that when a State or local governmental agency utilizes bid specifications containing a project labor agreement for a construction project owned by the agency, the agency "does not regulate the workings of market forces" in violation of National Labor Relations Act pre-emption of such regulation, but is acting as a market

participant and "exemplifies" the workings of market forces, and therefore is not prevented from doing so by the National Labor Relations Act;

c. New Jersey has a compelling interest in carrying out public works projects at the lowest reasonable cost and the highest degree of quality;

d. New Jersey has a compelling interest in having labor disputes in connection with public works projects resolved without the disruptions of strikes, lock-outs, or slowdowns;

e. Project labor agreements make possible legally enforceable guarantees that projects will be carried out in an orderly and timely manner, without strikes, lock-outs, or slowdowns;

f. Project labor agreements also make it possible to provide for peaceful, orderly, and mutually binding procedures for resolving labor issues;

g. The State also has a compelling interest in guaranteeing that public works projects meet the highest standards of safety and quality;

h. A highly skilled workforce ensures lower costs for repairs and maintenance over the lifetime of the completed project;

i. Project labor agreements make it possible to provide the State with a guarantee that public works projects are completed with highly skilled workers;

j. Project labor agreements allow public agencies to more accurately predict the actual cost of projects;

k. Project labor agreements make it possible to provide the State with assurances that public works projects are completed with a diverse workforce;

l. Project labor agreements facilitate the efficient integration of work schedules among different trades on project sites;

m. Project labor agreements also promote harmonious and productive work environments in public works projects;

n. New Jersey can best accomplish these goals by encouraging, for suitable public works projects, project labor agreements between public works contractors and subcontractors and labor organizations concerning important issues of employment, including work hours, starting times, overtime rates, and procedures for resolving disputes; and

o. Project labor agreements, therefore, give the State an effective means to advance the interests of efficiency, quality, and timeliness of suitable public works projects.

C.52:38-2 Definitions relative to project labor agreements.

2. For the purposes of this act:

"Apprenticeship program" means a registered apprenticeship program providing to each trainee 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, and registered by the Bureau of

Apprenticeship and Training of the U.S. Department of Labor and meeting the standards established by the bureau, or registered by a State apprenticeship agency recognized by the bureau.

"Labor organization" means, with respect to a contracted work on a public works project, an organization which represents,for purposes of collective bargaining, employees involved in the performance of public works contracts and eligible to be paid prevailing wages under the "New Jersey Prevailing Wage Act", P.L.1963, c.150 (C.34:11-56.25 et seq.) and has the present ability to refer, provide or represent sufficient numbers of qualified employees to perform the contracted work, in a manner consistent with the provisions of this act and any plan mutually agreed upon by the labor organization and the public entity pursuant to subsection g. of section 5 of this act.

"Project labor agreement" means a form of pre-hire collective bargaining agreement covering terms and conditions of a specific project.

"Public entity" means the State, any of its political subdivisions, any authority created by the Legislature and any instrumentality or agency of the State or of any of its political subdivisions.

"Public works project" means any public works project for the construction, reconstruction, demolition or renovation of buildings at the public expense, other than pumping stations or water or sewage treatment plants, for which:

(1) It is required by law that workers be paid the prevailing wage determined by the Commissioner of Labor pursuant to the provisions of the "New Jersey Prevailing Wage Act", P.L.1963, c.150 (C.34:11-56.25 et seq.); and

(2) The public entity estimates that the total cost of the project, exclusive of any land acquisition costs, will equal or exceed $5 million.

C.52:38-3 Public entity to include project labor agreements in certain public works projects.

3. A public entity may include a project labor agreement in a public works project on a project-by-project basis, if the public entity determines, taking into consideration the size, complexity and cost of the public works project,that, with respect to that project the project labor agreement will meet the requirements of section 5 of this act, including promoting labor stability and advancing the interests of the public entity in cost, efficiency, skilled labor force, quality, safety and timeliness. If the public entity determines that a project labor agreement will meet those requirements with respect to a particular public works project, the public entity shall either: directly negotiate in good faith a project labor agreement with one or more labor organizations; or condition the award of a contract to a construction manager upon a requirement that the construction manager negotiate in good faith a project labor agreement with one or more labor organizations. Upon the request of the public entity, the Commissioner of Labor shall assist in facilitating the negotiation of the

project labor agreement. The decision by the public entity to require the inclusion of a project labor agreement requirement shall not be deemed to unduly restrict competition if the public entity finds that the project labor agreement is reasonably related to the satisfactory performance and completion of the public works project, and any bidder for the public works project refusing to agree to abide by the conditions of the project labor agreement or the requirement to negotiate a project labor agreement shall not be regarded as a responsible bidder. Upon the request of the public entity, the Commissioner of Labor shall review the finalized project labor agreement and provide to the public entity, not more than 30 calendar days after the agreement is submitted to the commissioner by the public entity, a written advisory statement regarding whether the project labor agreement conforms with the provisions of this act.

C.52:38-4 Project labor agreement binding.

4. Any project labor agreement negotiated pursuant to this act between the public entity or its representative or a construction manager and one or more labor organizations shall be binding on all contractors and subcontractors working on the public works project and may include provisions that permit contractors and subcontractors working on the public works project to retain a percentage of their current workforce, and provisions that the successful bidder and any subcontractor of the bidder need not be a party to a labor agreement with the labor organizations other than for the public works project covered by the project labor agreement.

C.52:38-5 Requirements for project labor agreement.

5. Each project labor agreement executed pursuant to the provisions of this act shall:

a. Advance the interests of the public entity, including the interests in cost, efficiency, quality, timeliness, skilled labor force, and safety;

b. Contain guarantees against strikes, lock-outs, or other similar actions;

c. Set forth effective, immediate, and mutually binding procedures for resolving jurisdictional and labor disputes arising before the completion of the work;

d. Be made binding on all contractors and subcontractors on the public works project through the inclusion of appropriate bid specifications in all relevant bid documents;

e. Require that each contractor and subcontractor working on the public works project have an apprenticeship program;

f. Fully conform to all statutes, regulations, executive orders and applicable local ordinances regarding the implementation of set-aside goals for women and minority owned businesses, the obligation to comply with which shall be expressly provided in the project labor agreement;

g. Include a publicly available plan regarding the shares of employment and apprenticeship positions in the public works project for minority group members and women which is in full conformance with the requirements of all applicable statutes, regulations, executive orders and local ordinances and is mutually agreed upon by the participating labor organizations and the public entity which will own the facilities which are built, altered or repaired under the public works project, provided that any shares mutually agreed upon pursuant to this subsection shall equal or exceed the requirements of other statutes, regulations, executive orders or local ordinances;

h. Require the contract for the public works project to provide whatever resources may be needed to prepare for apprenticeship a number of women and minority members sufficient to enable compliance with the plan agreed upon pursuant to subsection g. of this section and provide that the use of those resources be administered jointly by the participating labor organizations and the public entity or community-based organizations selected by the public entity; and

i. Require the public body to monitor, or arrange to have a State agency monitor, the amount and share of work done on the project by minority group members and women and the progression of minority group members and women into apprentice and journey worker positions and require the public body to make public, or have the State agency make public, all records of monitoring conducted pursuant to this subsection.

C.52:38-6 Annual report to Governor, Legislature.

6. The Commissioner of Labor shall make an annual report to the Governor and the Legislature on the effectiveness of all project labor agreements entered into pursuant to this act in advancing the purposes of this act and in meeting the requirements of this act, including any recommendations deemed necessary by the commissioner to better effectuate those purposes. The report shall include a reporting, review and analysis of the information obtained from the monitoring conducted pursuant to subsection i. of section 5 of this act, an analysis of the effectiveness of the project labor agreements in meeting the objectives of section 5 of this act, and a comparison of the performance of public works projects with project labor agreements to the performance of public works projects without project labor agreements.

The first report shall be made on or before December 31, 2003, and subsequent reports shall be made on December 31 of each year thereafter. The report issued on December 31, 2006 shall include an analysis of the overall effectiveness of the implementation of the act from the time of its enactment and any recommendations regarding legislation to make changes in the act deemed necessary by the commissioner to better effectuate those purposes.

7. This act shall take effect immediately.

Approved July 25, 2002.

CHAPTER 45

AN ACT implementing the sourcing rules of the federal "Mobile Telecommunications Sourcing Act" for purposes of the sales and use tax, amending P.L.1966, c.30.

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

1. Section 2 of P.L.1966, c.30 (C.54:32B-2) is amended to read as follows:

C.54:32B-2 Definitions.

2. Unless the context in which they occur requires otherwise, the following terms when used in this act shall mean:

(a) Person. Person includes an individual, partnership, society, association, joint stock company, corporation, public corporation or public authority, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

(b) Purchase at retail. A purchase by any person at a retail sale.

(c) Purchaser. A person who purchases property or who receives services.

(d) Receipt. The amount of the sales price of any property and the charge for any service taxable under this act, valued in money, whether received in money or otherwise, including any amount for which credit is allowed by the vendor to the purchaser, without any deduction for expenses or early payment discounts, but excluding any credit for property of the same kind that is not tangible personal property purchased for lease accepted in part payment and intended for resale, excluding the cost of transportation where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser, and excluding the amount of the sales price for which food stamps have been properly tendered in full or part payment pursuant to the federal Food Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. s.2011 et seq.).

(e) Retail sale. (1) A sale of tangible personal property to any person for any purpose, other than (A) for resale either as such or as converted into or as a component part of a product produced for sale by the purchaser, including the conversion of natural gas into another intermediate or end product,

other than electricity or thermal energy, produced for sale by the purchaser, or (B) for use by that person in performing the services subject to tax under subsection (b) of section 3 where the property so sold becomes a physical component part of the property upon which the services are performed or where the property so sold is later actually transferred to the purchaser of the service in conjunction with the performance of the service subject to tax.

(2) For the purposes of this act, the term retail sales includes: Sales of tangible personal property to all contractors, subcontractors or repairmen of materials and supplies for use by them in erecting structures for others, or building on, or otherwise improving, altering, or repairing real property of others.

(3) For the purposes of this act, the term retail sale includes the purchase of tangible personal property for lease.

(4) The term retail sales does not include:

(A) Professional, insurance, or personal service transactions which involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made.

(B) The transfer of tangible personal property to a corporation, solely in consideration for the issuance of its stock, pursuant to a merger or consolidation effected under the laws of New Jersey or any other jurisdiction.

(C) The distribution of property by a corporation to its stockholders as a liquidating dividend.

(D) The distribution of property by a partnership to its partners in whole or partial liquidation.

(E) The transfer of property to a corporation upon its organization in consideration for the issuance of its stock.

(F) The contribution of property to a partnership in consideration for a partnership interest therein.

(G) The sale of tangible personal property where the purpose of the vendee is to hold the thing transferred as security for the performance of an obligation of the vendor.

(f) Sale, selling or purchase. Any transfer of title or possession or both, exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration, or any agreement therefor, including the rendering of any service, taxable under this act, for a consideration or any agreement therefor.

(g) Tangible personal property. Corporeal personal property of any nature including energy.

(h) Use. The exercise of any right or power over tangible personal property by the purchaser thereof and includes, but is not limited to, the receiving, storage or any keeping or retention for any length of time, withdrawal from storage, any distribution, any installation, any affixation to real or personal property,

or any consumption of such property. Use also includes the exercise of any right or power over intrastate or interstate telecommunications, mobile telecommunications services, and prepaid telephone calling arrangements. Use also includes the exercise of any right or power over utility service.

(i) Vendor. (1) The term "vendor" includes:

(A) A person making sales of tangible personal property or services, the receipts from which are taxed by this act;

(B) A person maintaining a place of business in the State and making sales, whether at such place of business or elsewhere, to persons within the State of tangible personal property or services, the use of which is taxed by this act;

(C) A person who solicits business either by employees, independent contractors, agents or other representatives or by distribution of catalogs or other advertising matter and by reason thereof makes sales to persons within the State of tangible personal property or services, the use of which is taxed by this act;

(D) Any other person making sales to persons within the State of tangible personal property or services, the use of which is taxed by this act, who may be authorized by the director to collect the tax imposed by this act;

(E) The State of New Jersey, any of its agencies, instrumentalities, public authorities, public corporations (including a public corporation created pursuant to agreement or compact with another state) or political subdivisions when such entity sells services or property of a kind ordinarily sold by private persons;

(F) A person who purchases tangible personal property for lease, whether in this State or elsewhere. For the purposes of Title 54 of the Revised Statutes, the presence of leased tangible personal property in this State is deemed to be a place of business in this State; and

(G) A person who sells, stores, delivers or transports energy to users or customers in this State whether by mains, lines or pipes located within this State or by any other means of delivery.

(2) In addition, when in the opinion of the director it is necessary for the efficient administration of this act to treat any salesman, representative, peddler or canvasser as the agent of the vendor, distributor, supervisor or employer under whom he operates or from whom he obtains tangible personal property sold by him or for whom he solicits business, the director may, in his discretion, treat such agent as the vendor jointly responsible with his principal, distributor, supervisor or employer for the collection and payment over of the tax.

(j) Hotel. A building or portion of it which is regularly used and kept open as such for the lodging of guests. The term "hotel" includes an apartment hotel, a motel, boarding house or club, whether or not meals are served.

(k) Occupancy. The use or possession or the right to the use or possession, of any room in a hotel.

(l) Occupant. A person who, for a consideration, uses, possesses, or has the right to use or possess, any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

(m) Permanent resident. Any occupant of any room or rooms in a hotel for at least 90 consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

(n) Room. Any room or rooms of any kind in any part or portion of a hotel, which is available for or let out for any purpose other than a place of assembly.

(o) Admission charge. The amount paid for admission, including any service charge and any charge for entertainment or amusement or for the use of facilities therefor.

(p) Amusement charge. Any admission charge, dues or charge of roof garden, cabaret or other similar place.

(q) Charge of a roof garden, cabaret or other similar place. Any charge made for admission, refreshment, service, or merchandise at a roof garden, cabaret or other similar place.

(r) Dramatic or musical arts admission charge. Any admission charge paid for admission to a theater, opera house, concert hall or other hall or place of assembly for a live, dramatic, choreographic or musical performance.

(s) Lessor. Any person who is the owner, licensee, or lessee of any premises or tangible personal property which he leases, subleases, or grants a license to use to other persons.

(t) Place of amusement. Any place where any facilities for entertainment, amusement, or sports are provided.

(u) Casual sale. Casual sale means an isolated or occasional sale of an item of tangible personal property by a person who is not regularly engaged in the business of making sales at retail where such property was obtained by the person making the sale, through purchase or otherwise, for his own use in this State.

(v) Motor vehicle. Motor vehicle shall include all vehicles propelled otherwise than by muscular power (excepting such vehicles as run only upon rails or tracks), trailers, semitrailers, housetrailers, or any other type of vehicle drawn by a motor-driven vehicle, and motorcycles, designed for operation on the public highways.

(w) "Persons required to collect tax" or "persons required to collect any tax imposed by this act" shall include: every vendor of tangible personal property or services; every recipient of amusement charges; every operator of a hotel; every lessor; and every vendor of telecommunications. Said terms shall also include any officer or employee of a corporation or of a dissolved corporation who as such officer or employee is under a duty to act for such corporation in complying with any requirement of this act and any member

of a partnership. Provided, however, the vendor of tangible personal property to all contractors, subcontractors or repairmen, consisting of materials and supplies for use by them in erecting structures for others, or building on, or otherwise improving, altering or repairing real property of others, shall not be deemed a person required to collect tax, and the tax imposed by any section of this act shall be paid directly to the director by such contractors, subcontractors or repairmen.

(x) "Customer" shall include: every purchaser of tangible personal property or services; every patron paying or liable for the payment of any amusement charge; and every occupant of a room or rooms in a hotel.

(y) "Property and services the use of which is subject to tax" shall include: (1) all property sold to a person within the State, whether or not the sale is made within the State, the use of which property is subject to tax under section 6 or will become subject to tax when such property is received by or comes into the possession or control of such person within the State; (2) all services rendered to a person within the State, whether or not such services are performed within the State, upon tangible personal property the use of which is subject to tax under section 6 or will become subject to tax when such property is distributed within the State or is received by or comes into possession or control of such person within the State; (3) intrastate or interstate telecommunications, other than mobile telecommunications services, charged to a service address in this State; (4) (Deleted by amendment, P.L.1995, c.184); (5) energy sold, exchanged or delivered in this State for use in this State; (6) utility service sold, exchanged or delivered in this State for use in this State; (7) direct mail advertising processing services in connection with advertising or promotional material distributed in this State; and (8) intrastate and interstate mobile telecommunications services provided to a customer with a place of primary use in this State.

(z) Director. Director means the Director of the Division of Taxation of the State Department of the Treasury, or any officer, employee or agency of the Division of Taxation in the Department of the Treasury duly authorized by the director (directly, or indirectly by one or more redelegations of authority) to perform the functions mentioned or described in this act.

(aa) "Lease" means the possession or control of tangible personal property by an agreement, not transferring sole title, as may be evidenced by a contract, contracts, or by implication from other circumstances including course of dealing or usage of trade or course of performance, for a period of more than 28 days.

(bb) "The amount of the sales price" of tangible personal property purchased for lease means, at the election of the lessor, either (1) the amount of the lessor's purchase price or (2) the amount of the total of the lease payments attributable to the lease of such property. Tangible personal property purchased for lease

is subject to the provisions of subsection (a) of section 3 of P.L.1966, c.30 (C.54:32B-3).

(cc) "Telecommunications" means the act or privilege of originating or receiving messages or information through the use of any kind of one-way or two-way communication; including but not limited to voice, video, facsimile, teletypewriter, computer, mobile telecommunications service or any other type of communication; using electronic or electromagnetic methods, and all services and equipment provided in connection therewith or by means thereof. "Telecommunications" shall not include:

(1) one-way radio or television broadcasting transmissions available universally to the general public without a fee;

(2) purchases of telecommunications by a telecommunications provider for use as a component part of telecommunications provided to an ultimate retail consumer who (A) originates or terminates the taxable end-to-end communications or (B) pays charges exempt from taxation pursuant to paragraph (5) of this subsection;

(3) services provided by a person, or by that person's wholly owned subsidiary, not engaged in the business of rendering or offering telecommunications services to the public, for private and exclusive use within its organization, provided however, that "telecommunications" shall include the sale of telecommunications services attributable to the excess unused telecommunications capacity of that person to another;

(4) charges in the nature of subscription fees paid by subscribers for cable television service;

(5) charges subject to the local calling rate paid by inserting coins into a coin operated telecommunications device available to the public; and

(6) purchases of telecommunications using a prepaid telephone arrangement.

(dd) "Interstate telecommunication" means any telecommunication that originates or terminates inside this State, including international telecommunication. In the case of mobile telecommunications service, "interstate telecommunication" means any mobile telecommunications service that originates in one state and terminates in another state, territory, or foreign country that is provided to a customer with a place of primary use in this State.

(ee) "Intrastate telecommunication" means any telecommunication that originates and terminates within this State. In the case of mobile telecommunications service, "intrastate telecommunication" means any mobile telecommunications service that originates and terminates within the same state that is provided to a customer with a place of primary use in this State.

(ff) "Natural gas" means any gaseous fuel distributed through a pipeline system.

(gg) "Energy" means natural gas or electricity.

(hh) "Utility service" means the transportation or transmission of natural gas or electricity by means of mains, wires, lines or pipes, to users or customers.

(ii) "Self-generation unit" means a facility located on the user's property, or on property purchased or leased from the user by the person owning the self-generation unit and such property is contiguous to the user's property, which generates electricity to be used only by that user on the user's property and is not transported to the user over wires that cross a property line or public thoroughfare unless the property line or public thoroughfare merely bifurcates the user's or self-generation unit owner's otherwise contiguous property.

(jj) "Co-generation facility" means a facility the primary purpose of which is the sequential production of electricity and steam or other forms of useful energy which are used for industrial or commercial heating or cooling purposes and which is designated by the Federal Energy Regulatory Commission, or its successor, as a "qualifying facility" pursuant to the provisions of the "Public Utility Regulatory Policies Act of 1978," Pub.L.95-617.

(kk) "Non-utility" means a company engaged in the sale, exchange or transfer of natural gas that was not subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to December 31, 1997.

(ll) "Pre-paid telephone calling arrangement "means the right to purchase exclusively telecommunications services, that must be paid for in advance, that enables the origination of calls using an access number or authorization code, whether manually or electronically dialed; provided, that the remaining amount of units of service that have been pre-paid shall be known by the service provider on a continuous basis.

(mm) "Mobile telecommunications service" means commercial mobile radio service, as defined in section 20.3 of title 47 of the Code of Federal Regulations as in effect on June 1, 1999.

(nn) "Place of primary use" means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which shall be the residential street address or the primary business street address of the customer and within the licensed service area of the home service provider. For the purposes of determining the primary place of use, the terms used shall have the meanings provided pursuant to the federal "Mobile Telecommunications Sourcing Act," 4 U.S.C. s.124 (Pub.L.106-252).

2. Section 3 of P.L.1966, c.30 (C.54:32B-3) is amended to read as follows:

C.54:32B-3 Imposition of sales tax.

3. There is imposed and there shall be paid a tax of 6% upon:

(a) The receipts from every retail sale of tangible personal property, except as otherwise provided in this act. If the lessor of tangible personal property purchased for lease elects to pay tax on the amount of the sales price as provided

in paragraph (2) of subsection (bb) of section 2 of P.L.1966, c.30 (C.54:32B-2), any and each subsequent lease or rental is a retail sale, and a subsequent sale of such property is a retail sale.

(b) The receipts from every sale, except for resale, of the following services:

(1) Producing, fabricating, processing, printing or imprinting tangible personal property, performed for a person who directly or indirectly furnishes the tangible personal property, not purchased by him for resale, upon which such services are performed.

(2) Installing tangible personal property, or maintaining, servicing, repairing tangible personal property not held for sale in the regular course of business, whether or not the services are performed directly or by means of coin-operated equipment or by any other means, and whether or not any tangible personal property is transferred in conjunction therewith, except (i) such services rendered by an individual who is engaged directly by a private homeowner or lessee in or about his residence and who is not in a regular trade or business offering his services to the public, (ii) such services rendered with respect to personal property exempt from taxation hereunder pursuant to section 13 of P.L.1980, c.105 (C.54:32B-8.1), (iii) (Deleted by amendment, P.L.1990, c.40), (iv) any receipts from laundering, dry cleaning, tailoring, weaving, pressing, shoe repairing and shoeshining and (v) services rendered in installing property which, when installed, will constitute an addition or capital improvement to real property, property or land.

(3) Storing all tangible personal property not held for sale in the regular course of business and the rental of safe deposit boxes or similar space.

(4) Maintaining, servicing or repairing real property, other than a residential heating system unit serving not more than three families living independently of each other and doing their cooking on the premises, whether the services are performed in or outside of a building, as distinguished from adding to or improving such real property by a capital improvement, but excluding services rendered by an individual who is not in a regular trade or business offering his services to the public, and excluding garbage removal and sewer services performed on a regular contractual basis for a term not less than 30 days.

(5) Direct-mail advertising processing services, except for direct-mail advertising processing services in connection with distribution of advertising or promotional material to out-of-State recipients.

(6) (Deleted by amendment, P.L.1995, c.184).

(7) Utility service provided to persons in this State, any right or power over which is exercised in this State.

Wages, salaries and other compensation paid by an employer to an employee for performing as an employee the services described in this

subsection are not receipts subject to the taxes imposed under this subsection (b).

Services otherwise taxable under paragraph (1) or (2) of this subsection (b) are not subject to the taxes imposed under this subsection, where the tangible personal property upon which the services were performed is delivered to the purchaser outside this State for use outside this State.

(c) Receipts from the sale of food and drink in or by restaurants, taverns, vending machines or other establishments in this State, or by caterers, including in the amount of such receipts any cover, minimum, entertainment or other charge made to patrons or customers:

(1) In all instances where the sale is for consumption on the premises where sold;

(2) In those instances where the vendor or any person whose services are arranged for by the vendor, after the delivery of the food or drink by or on behalf of the vendor for consumption off the premises of the vendor, serves or assists in serving, cooks, heats or provides other services with respect to the food or drink, except for meals especially prepared for and delivered to homebound elderly, age 60 or older, and to disabled persons, or meals prepared and served at a group-sitting at a location outside of the home to otherwise homebound elderly persons, age 60 or older, and otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private, nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization;

(3) In those instances where the sale is for consumption off the premises of the vendor, and consists of a meal, or food prepared and ready to be eaten, of a kind obtainable in restaurants as the main course of a meal, including a sandwich, except where food other than sandwiches is sold in an unheated state and is of a type commonly sold in the same form and condition in food stores other than those which are principally engaged in selling prepared foods; and

(4) Sales of food and beverages sold through coin-operated vending machines, at the wholesale price of such sale, which shall be defined as 70% of the retail vending machine selling price, except sales of milk, which shall not be taxed. Nothing herein contained shall affect other sales through coin-operated vending machines taxable pursuant to subsection (a) above or the exemption thereto provided by section 21 of P.L.1980, c.105 (C.54:32B-8.9).

The tax imposed by this subsection (c) shall not apply to food or drink which is sold to an airline for consumption while in flight.

(d) The rent for every occupancy of a room or rooms in a hotel in this State, except that the tax shall not be imposed upon (1) a permanent resident, or (2) where the rent is not more than at the rate of $2.00 per day.

(e) (1) Any admission charge, where such admission charge is in excess of $0.75 to or for the use of any place of amusement in the State, including charges for admission to race tracks, baseball, football, basketball or exhibitions, dramatic or musical arts performances, motion picture theaters, except charges for admission to boxing, wrestling, kick boxing or combative sports exhibitions, events, performances or contests which charges are taxed under any other law of this State or under section 20 of P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for admission to, or use of, facilities for sporting activities in which such patron is to be a participant, such as bowling alleys and swimming pools. For any person having the permanent use or possession of a box or seat or lease or a license, other than a season ticket, for the use of a box or seat at a place of amusement, the tax shall be upon the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by the holder, licensee or lessee, and shall be paid by the holder, licensee or lessee.

(2) The amount paid as charge of a roof garden, cabaret or other similar place in this State, to the extent that a tax upon such charges has not been paid pursuant to subsection (c) hereof.

(f) (1) The receipts from every sale, except for resale, of intrastate or interstate telecommunications (other than mobile telecommunications services) charged to an address in this State, regardless of where the services are billed or paid.

(2) The receipts from every sale, except for resale, of intrastate or interstate mobile telecommunications services billed by or for a customer's home service provider and provided to a customer with a place of primary use in this State. The provisions and definitions of the federal "Mobile Telecommunications Sourcing Act," 4 U.S.C. ss. 116-126 (Pub.L. 106-252), are applicable herein.

(g) The receipts from every sale, except for resale, of prepaid telephone calling arrangements and the recharge of prepaid telephone calling arrangements. If the sale or recharge of a prepaid telephone calling arrangement does not take place at the vendor's place of business, the sale or recharge shall be conclusively determined to take place at the customer's shipping address, or if there is no item shipped, at the customer's billing address or the location associated with the customer's mobile telephone number.

3. Section 6 of P.L.1966, c.30 (C.54:32B-6) is amended to read as follows:

C.54:32B-6 Imposition of compensating use tax.

6. Unless property or services have already been or will be subject to the sales tax under this act, there is hereby imposed on and there shall be paid

by every person a use tax for the use within this State of 6%, except as otherwise exempted under this act, (A) of any tangible personal property purchased at retail, including energy, provided however, that electricity consumed by the generating facility that produced it shall not be subject to tax, (B) of any tangible personal property manufactured, processed or assembled by the user, if items of the same kind of tangible personal property are offered for sale by him in the regular course of business, or if items of the same kind of tangible personal property are not offered for sale by him in the regular course of business and are used as such or incorporated into a structure, building or real property, (C) of any tangible personal property, however acquired, where not acquired for purposes of resale, upon which any taxable services described in paragraphs (1) and (2) of subsection (b) of section 3 of P.L.1966, c.30 (C.54:32B-3) have been performed, (D) of interstate or intrastate telecommunications and mobile telecommunications described in subsection (f) of section 3 of P.L.1966, c.30, (E) (Deleted by amendment, P.L.1995, c.184), (F) of utility service provided to persons in this State for use in this State, provided however, that utility service used by the facility that provides the service shall not be subject to tax, (G) of direct-mail advertising processing services described in paragraph (5) of subsection (b) of section 3 of P.L.1966, c.30 (C.54:32B-3) and (H) of prepaid telephone calling arrangements and the recharge of prepaid telephone calling arrangements. For purposes of clause (A) of this section, the tax shall be at the applicable rate, as set forth hereinabove, of the consideration given or contracted to be given for such property or for the use of such property, but excluding any credit for property of the same kind accepted in part payment and intended for resale, plus the cost of transportation, except where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser, provided however, that there shall be no exclusion for the cost of the utility service. For the purposes of clause (B) of this section, the tax shall be at the applicable rate, as set forth hereinabove, of the price at which items of the same kind of tangible personal property are offered for sale by the user, or if items of the same kind of tangible personal property are not offered for sale by the user in the regular course of business and are used as such or incorporated into a structure, building or real property the tax shall be at the applicable rate, as set forth hereinabove, of the consideration given or contracted to be given for the tangible personal property manufactured, processed or assembled by the user into the tangible personal property the use of which is subject to use tax pursuant to this section, and the mere storage, keeping, retention or withdrawal from storage of tangible personal property by the person who manufactured, processed or assembled such property shall not be deemed a taxable use by him. For purposes of clause (C) of this section, the tax shall be at the applicable rate, as set forth hereinabove, of the consideration given or contracted to be given for the service, including the

consideration for any tangible personal property transferred in conjunction with the performance of the service, plus the cost of transportation, except where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser. For the purposes of clause (D) of this section, the tax shall be at the applicable rate on the charge made by the telecommunications service provider. For purposes of clause (F) of this section, the tax shall be at the applicable rate on the charge made by the utility service provider. For purposes of clause (G) of this section, the tax shall be at the applicable rate on that proportion of the amount of all processing costs charged by a direct-mail advertising processing service provider that is attributable to the advertising or promotional material distributed in this State. For the purposes of clause (H) of this section, the tax shall be at the applicable rate on the consideration given or contracted to be given for the prepaid telephone calling arrangement or the recharge of the prepaid telephone calling arrangement.

4. This act shall take effect immediately and shall apply to customer bills issued after August 1, 2002.

Approved July 30, 2002.

CHAPTER 46

AN ACT requiring public employers to deduct a representation fee in lieu of dues in certain circumstances and amending P.L.1979, c.477.

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

1. Section 2 of P.L.1979, c.477 (C.34:13A-5.5) is amended to read as follows:

C.34:13A-5.5 Representation fee in lieu of dues.

2. a. Notwithstanding any other provisions of law to the contrary, the majority representative and the public employer of public employees in an appropriate unit shall, where requested by the majority representative, negotiate concerning the subject of requiring the payment by all nonmember employees in the unit to the majority representative of a representation fee in lieu of dues for services rendered by the majority representative. Where agreement is reached it shall be embodied in writing and signed by the authorized representatives of the public employer and the majority representative. If no agreement is reached, the majority representative may petition the commission

to conduct an investigation. If the commission determines during the investigation that a majority of the employees in the negotiations unit are voluntary dues paying members of the majority representative and that the majority representative maintains a demand and return system as required by subsection c. of this section and section 3 of P.L.1979, c.477 (C.34:13A-5.6), the commission shall order the public employer to institute a payroll deduction of the representation fee in lieu of dues from the wages or salaries of the employees in the negotiations unit who are not members of the majority representative.

b. The representation fee in lieu of dues shall be in an amount equivalent to the regular membership dues, initiation fees and assessments charged by the majority representative to its own members less the cost of benefits financed through the dues, fees and assessments and available to or benefitting only its members, but in no event shall such fee exceed 85% of the regular membership dues, fees and assessments.

c. Any public employee who pays a representation fee in lieu of dues shall have the right to demand and receive from the majority representative, under proceedings established and maintained in accordance with section 3 of P.L.1979, c.477 (C.34:13A-5.6), a return of any part of that fee paid by him which represents the employee's additional pro rata share of expenditures by the majority representative that is either in aid of activities or causes of a partisan political or ideological nature only incidentally related to the terms and conditions of employment or applied toward the cost of any other benefits available only to members of the majority representative. The pro rata share subject to refund shall not reflect, however, the costs of support of lobbying activities designed to foster policy goals in collective negotiations and contract administration or to secure for the employees represented advantages in wages, hours, and other conditions of employment in addition to those secured through collective negotiations with the public employer.

2. Section 3 of P.L.1979, c.477 (C.34:13A-5.6) is amended to read as follows:

C.34:13A-5.6 Representation fee in lieu of dues by payroll deduction.

3. Where a negotiated agreement is reached, pursuant to section 2 of P.L.1979, c.477 (C.34:13A-5.5), or where the public employer has been ordered by the commission to institute a payroll deduction of the representation fee in lieu of dues, a majority representative of public employees in an appropriate unit shall be entitled to a representation fee in lieu of dues by payroll deduction from the wages or salaries of the employees in such unit who are not members of a majority representative; provided, however, that membership in the majority representative is available to all employees in the unit on an equal basis and

that the representation fee in lieu of dues shall be available only to a majority representative that has established and maintained a demand and return system which provides pro rata returns as described in subsection c. of section 2 of P.L.1979, c.477 (C.34:13A-5.5). The demand and return system shall include a provision by which persons who pay a representation fee in lieu of dues may obtain review of the amount returned through full and fair proceedings placing the burden of proof on the majority representative. Such proceedings shall provide for an appeal to a board consisting of three members to be appointed by the Governor, by and with the advice and consent of the Senate, who shall serve without compensation but shall be reimbursed for actual expenses reasonably incurred in the performance of their official duties. Of such members, one shall be representative of public employers, one shall be representative of public employee organizations and one, as chairman, who shall represent the interest of the public as a strictly impartial member not having had more than a casual association or relationship with any public employers, public employer organizations or public employee organizations in the 10 years prior to appointment. Of the first appointees, one shall be appointed for one year, one for a term of two years and the chairman, for a term of three years. Their successors shall be appointed for terms of two years each and until their successors are appointed and qualified, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whose office has become vacant. Nothing herein shall be deemed to require any employee to become a member of the majority representative.

3. This act shall take effect immediately.

Approved August 1, 2002.

CHAPTER 47

AN ACT concerning the provision of water supply and wastewater treatment services, and amending and supplementing parts of the statutory law.

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

C.40A:12-17.1 Lease of land for provision of water supply, wastewater treatment services in city of first class.

1. a. Notwithstanding the provisions of the "Local Lands and Buildings Law," P.L.1971, c.199 (C.40A:12-1 et seq.) or any other law, rule or regulation to the contrary, when the governing body of a city of the first class shall

determine by ordinance, with or without competitive bidding, that it is in the public interest to contract with a duly incorporated nonprofit association for the provision of water supply services as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15), or for the provision of wastewater treatment services as defined in subsection (19) of section 15 of P.L.1971, c.198 (C.40A:11-15), the governing body is hereby authorized to lease any real property, capital improvement or personal property, or interests therein, or any part thereof, without compliance with any other law governing disposal of lands by municipalities except as provided pursuant to paragraph (1) of this subsection. Any such lease may be made or given, with or without consideration, for a period not to exceed 40 years and under any agreement and on any terms and conditions which may be approved by the governing body and which may be agreed to by the nonprofit association.

(1) (a) Any lands subject to the provisions of P.L.1988, c.163, as amended by P.L.1990, c.19, that are leased or otherwise conveyed to a duly incorporated nonprofit association pursuant to the provisions of P.L.2002, c.47 (C.40A:12-17.1 et al.) shall continue to be subject to the provisions of P.L.1988, c.163, as amended by P.L.1990, c.19.

(b) Upon leasing or otherwise controlling lands subject to the provisions of P.L.1988, c.163, as amended by P.L.1990, c.19, a duly incorporated nonprofit association subject to the provisions of P.L.2002, c.47 (C.40A:12-17.1 et al.) shall be subject to the provisions of P.L.1988, c.163, as amended by P.L.1990, c.19, with respect to those lands.

(c) The leasing of lands subject to the provisions of P.L.1988, c.163, as amended by P.L.1990, c.19, by a city of the first class to a duly incorporated nonprofit association pursuant to the provisions of P.L.2002, c.47 (C.40A:12-17.1 et al.) shall not be considered a conveyance for the purposes of P.L.1988, c.163, as amended by P.L.1990, c.19.

(d) Any lands that are leased or otherwise conveyed to a duly incorporated nonprofit association pursuant to the provisions of P.L.2002, c.47 (C.40A:12-17.1 et al.) shall not be developed for any purpose other than for the provision of water supply services or wastewater treatment services as determined by the Commissioner of Environmental Protection.

(2) Nothing contained in this section abrogates, amends, modifies, impairs or repeals the obligations previously assumed by a city of the first class pursuant to the provisions of R.S.58:14-1 et seq., including any contract or compact entered into thereby.

b. The authorization provided in this section shall be subject to the provisions of sections 3 through 6 of P.L.2002, c.47 (C.58:28-4 through 58:28-7).

c. Notwithstanding any other provisions of this section to the contrary, a duly incorporated nonprofit association that intends to enter into a contract

with the governing body of a city of the first class for the provision of water supply services as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15), or for the provision of wastewater treatment services as defined in subsection (19) of section 15 of P.L.1971, c.198 (C.40A:11-15), or both, as the case may be, shall be subject to the provisions of the "Local Fiscal Affairs Law," N.J.S.40A:5-1 et seq., the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), the "Local Government Ethics Law," P.L.1991, c.29 (C.40A:9-22.1 et seq.), and the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), inclusive, and shall be considered a "local unit" pursuant to N.J.S.40A:5-2, an "authority" pursuant to section 3 of P.L.1983, c.313 (C.40A:5A-3), a "local government agency" pursuant to section 3 of P.L.1991, c.29 (C.40A:9-22.3), and a "public body" pursuant to section 3 of P.L.1975, c.231 (C.10:4-8), respectively.

d. Notwithstanding the provisions of any other law to the contrary, any property that is leased or otherwise conveyed to a duly incorporated nonprofit association pursuant to the provisions of P.L.2002, c.47 (C.40A:12-17.1 et al.) shall not be subject to any exemption from taxation.

e. Nothing contained in this section or in any contract entered into pursuant to sections 1 and 2 of P.L.2002, c.47 (C.40A:12-17.1 and C.40A:11-5.1) abrogates, amends, modifies, impairs or repeals the obligations and responsibilities imposed on a city of the first class or a duly incorporated nonprofit association by the environmental laws of this State, including, but not limited to, the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), and the "Water Supply and Wastewater Operators' Licensing Act," P.L.1983, c.230 (C.58:11-64 et seq.).

C.40A:11-5.1 Authority of city of first class to contract for water supply, wastewater treatment services.

2. The Legislature finds and declares it to be in the public interest and to be the public policy of the State to foster and promote by all reasonable means the collection, storage and distribution of an adequate supply of water for the inhabitants and businesses of the counties and municipalities of this State and to foster and promote the public health by providing for the collection and treatment of sewerage through adequate sewerage facilities.

To further promote these interests, and notwithstanding the provisions of any other law, rule or regulation to the contrary, the governing body of a city of the first class may enter into a contract with a duly incorporated nonprofit association for the provision of water supply services as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15), or for the provision of

wastewater treatment services as defined in subsection (19) of section 15 of P.L.1971, c.198 (C.40A:11-15), or both, as the case may be.

The governing body of a city of the first class that has entered into a contract with a duly incorporated nonprofit association pursuant to this section shall obtain the written opinion of bond counsel as to the effect of the contract on the tax exempt status of existing and future financing instruments executed by the parties given the terms of the contract and the federal laws or regulations concerning this matter.

Any concession fee or monetary benefit paid by a duly incorporated nonprofit association to the governing body of a city of the first class shall be used for the purposes of reducing or off-setting property taxes, reducing water supply services or wastewater treatment services charges, rates or fees, one-time nonrecurring expenses or capital asset expenditures related to water supply facilities or wastewater treatment systems.

Upon executing such contract, the duly incorporated nonprofit association shall be deemed to be providing essential governmental functions on behalf of the city of the first class and, to the extent permitted in the contract, shall exercise all powers and responsibilities of the city of the first class related to the provision of water supply services and wastewater treatment services now or hereinafter provided under law.

The authorization provided in this section shall be subject to the provisions of sections 3 through 6 of P.L.2002, c.47 (C.58:28-4 through 58:28-7).

C.58:28-4 Definitions relative to water supply, wastewater treatment services.

3. As used in sections 3 through 6 of P.L.2002, c.47 (C.58:28-4 through 58:28-7):

"Board" means the Board of Public Utilities.

"Concession fee" means a payment from a duly incorporated nonprofit association to the governing body of a city of the first class, regardless of when it is received, that is exclusive of or exceeds any contractually specified reimbursement of direct costs incurred by the governing body.

"Contract" means a long-term written agreement wherein a duly incorporated nonprofit association agrees to provide water supply services or wastewater treatment services on behalf of the governing body of a city of the first class and wherein the duly incorporated nonprofit association agrees to provide, during the term of the contract, capital expenditures on behalf of the governing body's water supply facility as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15) or wastewater treatment system as defined in subsection (19) of section 15 of P.L.1971, c.198 (C.40A:11-15), or both, as the case may be, which expenditures are set forth in the contract.

"Department" means the Department of Environmental Protection.

"Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

"Division" means the Division of Local Government Services in the Department of Community Affairs.

"Proposal document" means the document prepared by or on behalf of the governing body of a city of the first class describing the water supply services or wastewater treatment services that the governing body is considering having provided by a duly incorporated nonprofit association pursuant to a contract.

C.58:28-5 Published notice of intent to enter into contract.

4. a. The governing body of a city of the first class shall publish notice of its intent to enter into a contract pursuant to sections 1 and 2 of P.L.2002, c.47 (C.40A:12-17.1 and 40A:11-5.1) in at least one newspaper of general circulation in the jurisdiction or service area that will receive water supply services or wastewater treatment services under the terms of the contract and one newspaper of broad regional circulation, at least 30 days prior to conducting the public hearing required under section 5 of P.L.2002, c.47 (C.58:28-6). In addition, a governing body that intends to enter into a contract with a duly incorporated nonprofit association for the provision of water supply services or wastewater treatment services shall notify in writing the board, department and division of its intent.

b. The public notice required under subsection a. of this section shall describe the type of services desired and provide the name, address and phone number of the person who can provide additional information and a proposal document to an interested party.

c. The public entity shall set forth in writing the reasons for the selection of the nonprofit association and shall make this document available to the public along with the proposed contract upon request and during the public hearing conducted pursuant to section 5 of P.L.2002, c.47 (C.58:28-6).

d. A contract entered into pursuant to sections 1 and 2 of P.L.2002, c.47 (C.40A:12-17.1 and 40A:11-5.1) shall include provisions addressing the following:

(1) The charges, rates, fees or formulas to be used to determine the charges, rates, or fees to be charged by the nonprofit association for the water supply services or wastewater treatment services to be provided.

(2) The allocation of the risks of financing and constructing planned capital additions or upgrades to existing water supply facilities or wastewater treatment systems.

(3) The allocation of the risks of operating and maintaining the water supply facilities or wastewater treatment systems.

(4) The allocation of the risks associated with circumstances or occurrences beyond the control of the parties to the contract.

(5) The defaulting and termination of the contract.

(6) The employment of current employees of the city of the first class whose positions or employment will be affected by the terms of the contract.

(7) The nonprofit association's authority and the extent, or the procedures for the use, of that authority to initiate, negotiate and finalize the terms for a bulk sale of surplus water. The contract shall either grant the nonprofit association such authority or specifically state that the nonprofit association is denied that authority. Nothing in P.L.2002, c.47 (C.40A:12-17.1 et al.) shall be construed to authorize a city of the first class that enters into a contract pursuant to sections 1 and 2 of P.L.2002, c.47 (C.40A:12-17.1 and 40A:11-5.1) to provide for the bulk sale, lease or transfer of water if the water being transferred, leased or sold has been supplied to the city of the first class either by the New Jersey Water Supply Authority or by the North Jersey District Water Supply Commission, unless the authority pursuant to P.L.1981, c.293 (C.58:1B-1 et seq.) or the district pursuant to R.S.58:5-1 et seq., as appropriate, has agreed to the bulk sale, lease or transfer.

(8) The requirements for the provision of a performance bond by the nonprofit association, if so required by the governing body.

e. A contract entered into pursuant to sections 1 and 2 of P.L.2002, c.47 (C.40A:12-17.1 and 40A:11-5.1) shall provide that any lands leased or otherwise conveyed to the duly incorporated nonprofit association pursuant to the provisions of P.L.2002, c.47 (C.40A:12-17.1 et al.) shall not be developed for any purpose other than for the provision of water supply services or wastewater treatment services as determined by the Commissioner of Environmental Protection.

f. If a dispute over contract compliance, performance or termination cannot be resolved by the parties to the contract pursuant to the procedures set forth in the contract, either party to the contract may file with the Superior Court which has appropriate jurisdiction a request for an order either to terminate the contract based on the reasons stated in the request or for an order for other appropriate relief to the dispute. The court may take such action as it may deem necessary to facilitate the expeditious resolution of the dispute and an expeditious response to the request, including ordering the parties to undertake a dispute resolution or mediation process. The court shall use, as it deems necessary, the services of a financial expert in the area of water supply service or wastewater treatment service contracts in its analysis of the contract and the issues before it. Within 90 days after the filing of a request, the court shall either grant the request or deny the request. If the request is granted, the court shall order such appropriate relief measures or remedies as it deems appropriate and necessary.

C.58:28-6 Public hearing on contract.

5. a. The governing body of a city of the first class that intends to enter into a contract with a duly incorporated nonprofit association for the provision of water supply services as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15), or for the provision of wastewater treatment services as defined in subsection (19) of section 15 of P.L.1971, c.198 (C.40A:11-15), or both, as the case may be, shall conduct a public hearing on the proposed contract authorized pursuant to sections 1 and 2 of P.L.2002, c.47 (C.40A:12-17.1 and 40A:11-5.1). The governing body shall also conduct a public hearing pursuant to this section on revisions to a contract required by subsection b. of section 6 of P.L.2002, c.47 (C.58:28-7) or on substantial amendments to a contract as required by subsection g. of section 6 of P.L.2002, c.47 (C.58:28-7).

b. The governing body shall provide, at least 14 days prior to the public hearing, (1) notice in writing to the board, department and the division of its intent to enter into a contract with a duly incorporated nonprofit association for the provision of water supply services or wastewater treatment services, and (2) notice of the public hearing by publication in at least one newspaper of general circulation in the jurisdiction or service area of the governing body to be served under the terms of the proposed contract. The publication shall include notice of the date, time and place of the public hearing, notice of the place at which copies of the proposed contract will be available for public inspection, and the times during which such inspection will be permitted. The notice shall specifically state whether any concession fee will be paid by the duly incorporated nonprofit association to the governing body as a result of the contract for water supply services or wastewater treatment services, the monetary amount of the concession fee and the potential impact of the concession fee on the charges, rates or fees which will be paid for water supply services or wastewater treatment services by users in the jurisdiction or service area that will receive the water supply services or wastewater treatment services pursuant to the terms of the contract.

c. At the public hearing, the governing body shall explain the terms and conditions of the proposed contract and shall answer questions raised by prospective consumers and other interested parties. The governing body shall explain during the hearing the charges, rates or fees that will or may be charged to users in the jurisdiction or service area for water supply services or wastewater treatment services as a result of the proposed contract. In addition, the governing body shall explain any concession fee to be paid by a duly incorporated nonprofit association to the governing body as a result of the contract for water supply services or wastewater treatment services, the monetary amount of the concession fee and the potential impact of the concession fee or benefit on the charges, rates or fees which will be paid for water supply services or

wastewater treatment services by users in the jurisdiction or service area that will receive the water supply services or wastewater treatment services pursuant to the terms of the contract.

d. The governing body shall produce a verbatim record of the public hearing. The record of the public hearing shall be kept open for a period of seven days following the conclusion of the hearing, during which time interested parties may submit written statements to be included in the hearing report. The governing body shall prepare a written hearing report, which shall include a copy of the proposed contract, the verbatim record of the public hearing, written statements submitted by interested parties, a copy of the bond counsel's written opinion required pursuant to section 2 of P.L.2002, c.47 (C.40A:11-5.1) and a statement prepared by the governing body summarizing the major issues raised at the public hearing and the governing body's specific responses to those issues. The governing body shall make copies of the hearing report available to interested parties, upon request, at a cost not to exceed the actual cost of printing or copying.

e. The governing body may adopt an ordinance as provided in section 1 of P.L.2002, c.47 (C.40A:12-17.1) and may enter into a contract as provided in section 2 of P.L.2002, c.47 (C.40A:11-5.1). The ordinance may be introduced at the first meeting of the governing body held after the public hearing on the proposed contract, and shall acknowledge that the contract requires approval pursuant to the provisions of section 6 of P.L.2002, c.47 (C.58:28-7).

f. Within 30 days after the close of a public hearing on a proposed contract held pursuant to subsection a. of this section and upon at least seven days' prior written notice, the governing body shall submit an application for approval to the division and the board and shall submit the hearing report to the department for review pursuant to the provisions of section 6 of P.L.2002, c.47 (C.58:28-7). The division shall specify the form of the application to be submitted.

C.58:28-7 Approval, conditional approval of application.

6. a. Within 45 days of receipt of the application, the board and division shall approve, or conditionally approve, an application submitted by a governing body pursuant to subsection f. of section 5 of P.L.2002, c.47 (C.58:28-6). Within 25 days of receipt of the hearing report, the department shall provide any comments on the hearing report that it deems appropriate to the board, division and the governing body. If the board or division fail to approve or conditionally approve the application within 50 days after receipt, the application shall be deemed approved, unless the governing body has agreed to an extension of the period.

b. If either the board or the division conditionally approves the application, the board or division shall state in writing the revision to the proposed contract

that is necessary in order for it to be approved. If the board or division determines that the required revision is substantial, the governing body shall hold a public hearing on the revision and adhere to the provisions of section 5 of P.L.2002, c.47 (C.58:28-6) in so doing, except that the required notice shall be published at least seven days prior to the public hearing. A substantial revision shall be a change that results in an increase in the charges, rates or fees which will be paid for water supply services or wastewater treatment services by users in the jurisdiction or service area that will receive the water supply services or wastewater treatment services pursuant to the terms of the contract, or that materially changes other terms and conditions of the contract. The proposed revision to the contract shall be submitted to the board, division and the department 15 days prior to the date of the public hearing.

If the board or division determines that the required revision in the conditional approval is not substantial, the governing body shall submit the proposed revision to the contract to the board and the division for approval and to the department for review. The revision shall be approved if found to be consistent with the conditions set forth in the conditional approval, or disapproved with a written explanation as to why the revision is not consistent, within 15 days after the next public meeting of the board or division.

c. In its review of a contract, the board shall apply the following criteria in determining whether to approve the contract:

(1) The duly incorporated nonprofit association entering into the contract has the technical and administrative experience to ensure continuity of service over the term of the contract and that the standards and requirements contained in the application documents concerning the technical and administrative capacity of the nonprofit association are necessary and sufficient to protect the public interest.

(2) The terms of the contract are not unreasonable. In determining whether the terms of the contract are not unreasonable, the board shall review the charge, rates or fees to be charged or assessed under the contract to determine that they are reasonable to the city of the first class, taking into consideration all of the obligations undertaken by the nonprofit association and all the benefits obtained by the city of the first class. In making this determination, the board shall not use the traditional rate based rate of return methodology.

(3) The franchise customers of a public utility participating in a contract are protected from the risks of the proposed contract and that they are not subsidizing the contract. If the nonprofit association is not a public utility, the board shall ensure that under the terms of the proposed contract the users of water outside of the jurisdiction or service area that will receive water supply services under the contract are also protected from the risks of the contract and that water users outside the jurisdiction or service area are not subsidizing the contract through increased charges, rates or fees for the supply of water.

(4) The contract contains the provisions required by paragraphs (1), (2) and (6) of subsection d. of section 4 of P.L.2002, c.47 (C.58:28-5).

Upon approval of a contract as proposed or as revised in response to a conditional approval, the jurisdiction of the board over the contract shall terminate until or unless the contract is amended to change the formula or other basis of determining charges, rates or fees contained therein.

d. In its review of a contract, the division shall apply the following criteria in determining whether to approve the contract:

(1) The terms of the proposed contract do not materially impair the ability of the governing body to punctually pay principal and interest due on its outstanding indebtedness and to supply other essential public improvements and services;

(2) A concession fee paid by a duly incorporated nonprofit association as a result of the contract is paid directly to the municipality that created or constitutes the governing body, and any concession fee paid by a duly incorporated nonprofit association to a governing body is used for the purposes of reducing or off-setting property taxes, reducing water supply services or wastewater treatment services charges, rates or fees, one-time nonrecurring expenses or capital asset expenditures related to water supply facilities or wastewater treatment systems; and

(3) The contract contains the provisions required by paragraphs (3), (4), (5), (7) and (8) of subsection d. of section 4 of P.L.2002, c.47 (C.58:28-5).

The division shall also review and specifically approve any contract provision pursuant to which a governing body will or may execute a financing instrument for the purposes set forth in the contract. In addition, the division shall review any contract between the governing body of a city of the first class and a duly incorporated nonprofit association in which a concession fee is paid by the nonprofit association to determine if the payment of the concession fee is in the best interest of the parties to the contract.

e. The board or division may provide the governing body with any non-binding comments or advice during or after the review of the application as the board or division deems appropriate.

f. The board or division shall assess and the applicant shall pay a fee equal to the cost incurred by the board or division for an analysis of an application by an independent person who has expertise in the areas of water supply services or wastewater treatment services if during the review of an application the board or division determines that such an analysis is required.

g. If the governing body of a city of the first class and the duly incorporated nonprofit association would like to amend a contract after approval of an application by the board and division, the governing body shall submit proposed amendments to the board and division for approval and to the department for review. At the next public meeting of the board and of the division after

receipt of proposed amendments, the board and the division shall determine whether the proposed amendments are substantial. If the amendments are substantial in nature as determined by either the board or the division, the governing body shall conduct a hearing pursuant to section 5 of P.L.2002, c.47 (C.58:28-6). Within 45 days of the receipt of proposed amendments that are not determined to be substantial, or within 45 days of the receipt of an application for approval of proposed amendments that are determined to be substantial, the board and division shall approve or conditionally approve the amendments in accordance with the applicable procedures established for approval of an original contract pursuant to this section.

7. Section 2 of P.L.1971, c.198 (C.40A:11-2) is amended to read as follows:

C.40A:11-2 Definitions.

2. As used herein the following words have the following definitions, unless the context otherwise indicates:

(1) "Contracting unit" means:

(a) Any county; or

(b) Any municipality; or

(c) Any board, commission, committee, authority or agency, which is not a State board, commission, committee, authority or agency, and which has administrative jurisdiction over any district other than a school district, project, or facility, included or operating in whole or in part, within the territorial boundaries of any county or municipality which exercises functions which are appropriate for the exercise by one or more units of local government, and which has statutory power to make purchases and enter into contracts awarded by a contracting agent for the provision or performance of goods or services.

The term shall not include a private firm that has entered into a contract with a public entity for the provision of water supply services pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

"Contracting unit" shall not include a private firm or public authority that has entered into a contract with a public entity for the provision of wastewater treatment services pursuant to P.L.1995, c.216 (C.58:27-19 et al.).

"Contracting unit" shall not include a duly incorporated nonprofit association that has entered into a contract with the governing body of a city of the first class for the provision of water supply services or wastewater treatment services pursuant to section 2 of P.L.2002, c.47 (C.40A:11-5.1).

(2) "Governing body" means:

(a) The governing body of the county, when the purchase is to be made or the contract or agreement is to be entered into by, or in behalf of, a county; or

(b) The governing body of the municipality, when the purchase is to be made or the contract or agreement is to be entered into by, or on behalf of, a municipality; or

(c) Any board, commission, committee, authority or agency of the character described in subsection (1) (c) of this section.

(3) "Contracting agent" means the governing body of a contracting unit, or its authorized designee, which has the power to prepare the advertisements, to advertise for and receive bids and, as permitted by this act, to make awards for the contracting unit in connection with purchases, contracts or agreements.

(4) "Purchase" means a transaction, for a valuable consideration, creating or acquiring an interest in goods, services and property, except real property or any interest therein.

(5) (Deleted by amendment, P.L.1999, c.440.)

(6) "Professional services" means services rendered or performed by a person authorized by law to practice a recognized profession, whose practice is regulated by law, and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. Professional services may also mean services rendered in the provision or performance of goods or services that are original and creative in character in a recognized field of artistic endeavor.

(7) "Extraordinary unspecifiable services" means services which are specialized and qualitative in nature requiring expertise, extensive training and proven reputation in the field of endeavor.

(8) (Deleted by amendment, P.L.1999, c.440.)

(9) "Work" includes services and any other activity of a tangible or intangible nature performed or assumed pursuant to a contract or agreement with a contracting unit.

(10) "Homemaker--home health services" means at home personal care and home management provided to an individual or members of the individual's family who reside with the individual, or both, necessitated by the individual's illness or incapacity. "Homemaker--home health services" includes, but is not limited to, the services of a trained homemaker.

(11) "Recyclable material" means those materials which would otherwise become municipal solid waste, and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(12) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(13) "Marketing" means the sale, disposition, assignment, or placement of designated recyclable materials with, or the granting of a concession to, a reseller, processor, materials recovery facility, or end-user of recyclable material, in accordance with a district solid waste management plan adopted pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) and shall not include the collection of such recyclable material when collected through a system of routes by local government unit employees or under a contract administered by a local government unit.

(14) "Municipal solid waste" means, as appropriate to the circumstances, all residential, commercial and institutional solid waste generated within the boundaries of a municipality; or the formal collection of such solid wastes or recyclable material in any combination thereof when collected through a system of routes by local government unit employees or under a contract administered by a local government unit.

(15) "Distribution" (when used in relation to electricity) means the process of conveying electricity from a contracting unit that is a generator of electricity or a wholesale purchaser of electricity to retail customers or other end users of electricity.

(16) "Transmission" (when used in relation to electricity) means the conveyance of electricity from its point of generation to a contracting unit that purchases it on a wholesale basis for resale.

(17) "Disposition" means the transportation, placement, reuse, sale, donation, transfer or temporary storage of recyclable materials for all possible uses except for disposal as municipal solid waste.

(18) "Cooperative marketing" means the joint marketing by two or more contracting units of the source separated recyclable materials designated in a district recycling plan required pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13) pursuant to a written cooperative agreement entered into by the participating contracting units thereof.

(19) "Aggregate" means the sums expended or to be expended for the provision or performance of any goods or services in connection with the same immediate purpose or task, or the furnishing of similar goods or services, during the same contract year through a contract awarded by a contracting agent.

(20) "Bid threshold" means the dollar amount set in section 3 of P.L.1971, c.198 (C.40A:11-3), above which a contracting unit shall advertise for and receive sealed bids in accordance with procedures set forth in P.L.1999, c.440 (C.40A:11-4.1 et al.).

(21) "Contract" means any agreement, including but not limited to a purchase order or a formal agreement, which is a legally binding relationship

enforceable by law, between a vendor who agrees to provide or perform goods or services and a contracting unit which agrees to compensate a vendor, as defined by and subject to the terms and conditions of the agreement. A contract also may include an arrangement whereby a vendor compensates a contracting unit for the vendor's right to perform a service, such as, but not limited to, operating a concession.

(22) "Contract year" means the period of 12 consecutive months following the award of a contract.

(23) "Competitive contracting" means the method described in sections 1 through 5 of P.L.1999, c.440 (C.40A:11-4.1 thru 40A:11-4.5) of contracting for specialized goods and services in which formal proposals are solicited from vendors; formal proposals are evaluated by the purchasing agent or counsel or administrator; and the governing body awards a contract to a vendor or vendors from among the formal proposals received.

(24) "Goods and services" or "goods or services" means any work, labor, commodities, equipment, materials, or supplies of any tangible or intangible nature, except real property or any interest therein, provided or performed through a contract awarded by a contracting agent, including goods and property subject to N.J.S.12A:2-101 et seq.

(25) "Library and educational goods and services" means textbooks, copyrighted materials, student produced publications and services incidental thereto, including but not limited to books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microfilms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, video and magnetic tapes, other printed or published matter and audiovisual and other materials of a similar nature, necessary binding or rebinding of library materials, and specialized computer software used as a supplement or in lieu of textbooks or reference material.

(26) "Lowest price" means the least possible amount that meets all requirements of the request of a contracting agent.

(27) "Lowest responsible bidder or vendor" means the bidder or vendor: (a) whose response to a request for bids offers the lowest price and is responsive; and (b) who is responsible.

(28) "Official newspaper" means any newspaper designated by the contracting unit pursuant to R.S.35:1-1 et seq.

(29) "Purchase order" means a document issued by the contracting agent authorizing a purchase transaction with a vendor to provide or perform goods or services to the contracting unit, which, when fulfilled in accordance with the terms and conditions of a request of a contracting agent and other provisions and procedures that may be established by the contracting unit, will result in payment by the contracting unit.

(30) "Purchasing agent" means the individual duly assigned the authority, responsibility, and accountability for the purchasing activity of the contracting unit, and who has such duties as are defined by an authority appropriate to the form and structure of the contracting unit, and P.L.1971, c.198 (C.40A:11-1 et seq.).

(31) "Quotation" means the response to a formal or informal request made by a contracting agent by a vendor for provision or performance of goods or services, when the aggregate cost is less than the bid threshold. Quotations may be in writing, or taken verbally if a record is kept by the contracting agent.

(32) "Responsible" means able to complete the contract in accordance with its requirements, including but not limited to requirements pertaining to experience, moral integrity, operating capacity, financial capacity, credit, and workforce, equipment, and facilities availability.

(33) "Responsive" means conforming in all material respects to the terms and conditions, specifications, legal requirements, and other provisions of the request.

(34) "Public works" means building, altering, repairing, improving or demolishing any public structure or facility constructed or acquired by a contracting unit to house local government functions or provide water, waste disposal, power, transportation, and other public infrastructures.

(35) "Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

(36) "Administrator" means a municipal administrator appointed pursuant to N.J.S.40A:9-136 and N.J.S.40A:9-137; a business administrator, a municipal manager or a municipal administrator appointed pursuant to the "Optional Municipal Charter Law," P.L.1950, c.210 (C.40:69A-1 et seq.); a municipal manager appointed pursuant to "the municipal manager form of government law," R.S.40:79-1 et seq.; or the person holding responsibility for the overall operations of an authority that falls under the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.).

(37) "Concession" means the granting of a license or right to act for or on behalf of the contracting unit, or to provide a service requiring the approval or endorsement of the contracting unit, and which may or may not involve a payment or exchange, or provision of services by or to the contracting unit.

(38) "Index rate" means the rate of annual percentage increase, rounded to the nearest half-percent, in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, computed and published quarterly by the United States Department of Commerce, Bureau of Economic Analysis.

(39) "Proprietary" means goods or services of a specialized nature, that may be made or marketed by a person or persons having the exclusive right to make or sell them, when the need for such goods or services has been certified

in writing by the governing body of the contracting unit to be necessary for the conduct of its affairs.

(40) "Service or services" means the performance of work, or the furnishing of labor, time, or effort, or any combination thereof, not involving or connected to the delivery or ownership of a specified end product or goods or a manufacturing process. Service or services may also include an arrangement in which a vendor compensates the contracting unit for the vendor's right to operate a concession.

8. Section 5 of P.L.1971, c.198 (C.40A:11-5) is amended to read as follows:

C.40A:11-5 Exceptions.

5. Any contract the amount of which exceeds the bid threshold, may be negotiated and awarded by the governing body without public advertising for bids and bidding therefor and shall be awarded by resolution of the governing body if:

(1) The subject matter thereof consists of:

(a) (i) Professional services. The governing body shall in each instance state supporting reasons for its action in the resolution awarding each contract and shall forthwith cause to be printed once, in the official newspaper, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and contract are on file and available for public inspection in the office of the clerk of the county or municipality, or, in the case of a contracting unit created by more than one county or municipality, of the counties or municipalities creating such contracting unit; or (ii) Extraordinary unspecifiable services. The application of this exception shall be construed narrowly in favor of open competitive bidding, whenever possible, and the Division of Local Government Services is authorized to adopt and promulgate rules and regulations after consultation with the Commissioner of Education limiting the use of this exception in accordance with the intention herein expressed. The governing body shall in each instance state supporting reasons for its action in the resolution awarding each contract and shall forthwith cause to be printed, in the manner set forth in subsection (1) (a) (i) of this section, a brief notice of the award of such contract;

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

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

(d) The furnishing of a tax map or maps for the contracting unit;

(e) The purchase of perishable foods as a subsistence supply;

(f) The supplying of any product or the rendering of any service by a public utility, which is subject to the jurisdiction of the Board of Public Utilities or the Federal Energy Regulatory Commission or its successor, in accordance

with tariffs and schedules of charges made, charged or exacted, filed with the board or commission;

(g) The acquisition, subject to prior approval of the Attorney General, of special equipment for confidential investigation;

(h) The printing of bonds and documents necessary to the issuance and sale thereof by a contracting unit;

(i) Equipment repair service if in the nature of an extraordinary unspecifiable service and necessary parts furnished in connection with such service, which exception shall be in accordance with the requirements for extraordinary unspecifiable services;

(j) The publishing of legal notices in newspapers as required by law;

(k) The acquisition of artifacts or other items of unique intrinsic, artistic or historical character;

(l) Those goods and services necessary or required to prepare and conduct an election;

(m) Insurance, including the purchase of insurance coverage and consultant services, which exception shall be in accordance with the requirements for extraordinary unspecifiable services;

(n) The doing of any work by handicapped persons employed by a sheltered workshop;

(o) The provision of any goods or services including those of a commercial nature, attendant upon the operation of a restaurant by any nonprofit, duly incorporated, historical society at or on any historical preservation site;

(p) (Deleted by amendment, P.L.1999, c.440.)

(q) Library and educational goods and services;

(r) On-site inspections undertaken by private agencies pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and the regulations adopted pursuant thereto;

(s) The marketing of recyclable materials recovered through a recycling program, or the marketing of any product intentionally produced or derived from solid waste received at a resource recovery facility or recovered through a resource recovery program, including, but not limited to, refuse-derived fuel, compost materials, methane gas, and other similar products;

(t) (Deleted by amendment, P.L.1999, c.440.)

(u) Contracting unit towing and storage contracts, provided that all such contracts shall be pursuant to reasonable non-exclusionary and non-discriminatory terms and conditions, which may include the provision of such services on a rotating basis, at the rates and charges set by the municipality pursuant to section 1 of P.L.1979, c.101 (C.40:48-2.49). All contracting unit towing and storage contracts for services to be provided at rates and charges other than those established pursuant to the terms of this paragraph shall only be awarded to the lowest responsible bidder in accordance

with the provisions of the "Local Public Contracts Law" and without regard for the value of the contract therefor;

(v) The purchase of steam or electricity from, or the rendering of services directly related to the purchase of such steam or electricity from a qualifying small power production facility or a qualifying cogeneration facility as defined pursuant to 16 U.S.C.s.796;

(w) The purchase of electricity or administrative or dispatching services directly related to the transmission of such purchased electricity by a contracting unit engaged in the generation of electricity;

(x) The printing of municipal ordinances or other services necessarily incurred in connection with the revision and codification of municipal ordinances;

(y) An agreement for the purchase of an equitable interest in a water supply facility or for the provision of water supply services entered into pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or an agreement entered into pursuant to P.L.1989, c.109 (N.J.S.40A:31-1 et al.), so long as such agreement is entered into no later than six months after the effective date of P.L.1993, c.381;

(z) A contract for the provision of water supply services entered into pursuant to P.L.1995, c.101 (C.58:26-19 et al.);

(aa) The cooperative marketing of recyclable materials recovered through a recycling program;

(bb) A contract for the provision of wastewater treatment services entered into pursuant to P.L.1995, c.216 (C.58:27-19 et al.);

(cc) Expenses for travel and conferences;

(dd) The provision or performance of goods or services for the support or maintenance of proprietary computer hardware and software, except that this provision shall not be utilized to acquire or upgrade non-proprietary hardware or to acquire or update non-proprietary software;

(ee) The management or operation of an airport owned by the contracting unit pursuant to R.S.40:8-1 et seq.;

(ff) Purchases of goods and services at rates set by the Universal Service Fund administered by the Federal Communications Commission;

(gg) A contract for the provision of water supply services or wastewater treatment services entered into pursuant to section 2 of P.L.2002, c.47 (C.40A:11-5.1), or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15) or a wastewater treatment system as defined in subsection (19) of section 15 of P.L.1971, c.198 (C.40A:11-15), or any component part or parts thereof, including a water filtration system as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15).

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

(3) Bids have been advertised pursuant to section 4 of P.L.1971, c.198 (C.40A:11-4) on two occasions and (a) no bids have been received on both occasions in response to the advertisement, or (b) the governing body has rejected such bids on two occasions because it has determined that they are not reasonable as to price, on the basis of cost estimates prepared for or by the contracting agent prior to the advertising therefor, or have not been independently arrived at in open competition, or (c) on one occasion no bids were received pursuant to (a) and on one occasion all bids were rejected pursuant to (b), in whatever sequence; any such contract may then be negotiated and may be awarded upon adoption of a resolution by a two-thirds affirmative vote of the authorized membership of the governing body authorizing such contract; provided, however, that:

(i) A reasonable effort is first made by the contracting agent to determine that the same or equivalent goods or services, at a cost which is lower than the negotiated price, are not available from an agency or authority of the United States, the State of New Jersey or of the county in which the contracting unit is located, or any municipality in close proximity to the contracting unit;

(ii) The terms, conditions, restrictions and specifications set forth in the negotiated contract are not substantially different from those which were the subject of competitive bidding pursuant to section 4 of P.L.1971, c.198 (C.40A:11-4); and

(iii) Any minor amendment or modification of any of the terms, conditions, restrictions and specifications, which were the subject of competitive bidding pursuant to section 4 of P.L.1971, c.198 (C.40A:11-4), shall be stated in the resolution awarding such contract; provided further, however, that if on the second occasion the bids received are rejected as unreasonable as to price, the contracting agent shall notify each responsible bidder submitting bids on the second occasion of its intention to negotiate, and afford each bidder a reasonable opportunity to negotiate, but the governing body shall not award such contract unless the negotiated price is lower than the lowest rejected bid price submitted on the second occasion by a responsible bidder, is the lowest negotiated price offered by any responsible vendor, and is a reasonable price for such goods or services.

Whenever a contracting unit shall determine that a bid was not arrived at independently in open competition pursuant to subsection (3) of this section it shall thereupon notify the county prosecutor of the county in which the contracting unit is located and the Attorney General of the facts upon which its determination is based, and when appropriate, it may institute appropriate proceedings in any State or federal court of competent jurisdiction for a violation

of any State or federal antitrust law or laws relating to the unlawful restraint of trade.

(4) The contracting unit has solicited and received at least three quotations on materials, supplies or equipment for which a State contract has been issued pursuant to section 12 of P.L.1971, c.198 (C.40A:11-12), and the lowest responsible quotation is at least 10% less than the price the contracting unit would be charged for the identical materials, supplies or equipment, in the same quantities, under the State contract. Any such contract entered into pursuant to this subsection may be awarded only upon adoption of a resolution by the affirmative vote of two-thirds of the full membership of the governing body of the contracting unit at a meeting thereof authorizing such a contract. A copy of the purchase order relating to any such contract, the requisition for purchase order, if applicable, and documentation identifying the price of the materials, supplies or equipment under the State contract and the State contract number shall be filed with the director within five working days of the award of any such contract by the contracting unit. The director shall notify the contracting unit of receipt of the material and shall make the material available to the State Treasurer. The contracting unit shall make available to the director upon request any other documents relating to the solicitation and award of the contract, including, but not limited to, quotations, requests for quotations, and resolutions. The director periodically shall review material submitted by contracting units to determine the impact of such contracts on local contracting and shall consult with the State Treasurer on the impact of such contracts on the State procurement process. The director may, after consultation with the State Treasurer, adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to limit the use of this subsection, after considering the impact of contracts awarded under this subsection on State and local contracting, or after considering the extent to which the award of contracts pursuant to this subsection is consistent with and in furtherance of the purposes of the public contracting laws.

(5) Notwithstanding any provision of law, rule or regulation to the contrary, the subject matter consists of the combined collection and marketing, or the cooperative combined collection and marketing of recycled material recovered through a recycling program, or any product intentionally produced or derived from solid waste received at a resource recovery facility or recovered through a resource recovery program including, but not limited to, refuse-derived fuel, compost materials, methane gas, and other similar products, provided that in lieu of engaging in such public advertising for bids and the bidding therefor, the contracting unit shall, prior to commencing the procurement process, submit for approval to the Director of the Division of Local Government Services, a written detailed description of the process to be followed in securing said services. Within 30 days after receipt of the written description the director

shall, if the director finds that the process provides for fair competition and integrity in the negotiation process, approve, in writing, the description submitted by the contracting unit. If the director finds that the process does not provide for fair competition and integrity in the negotiation process, the director shall advise the contracting unit of the deficiencies that must be remedied. If the director fails to respond in writing to the contracting unit within 30 days, the procurement process as described shall be deemed approved. As used in this section, "collection" means the physical removal of recyclable materials from curbside or any other location selected by the contracting unit.

9. Section 15 of P.L.1971, c.198 (C.40A:11-15) is amended to read as follows:

C.40A:11-15 Duration of certain contracts.

15. All contracts for the provision or performance of goods or services shall be awarded for a period not to exceed 24 consecutive months, except that contracts for professional services pursuant to subparagraph (i) of paragraph (a) of subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5) shall be awarded for a period not to exceed 12 consecutive months. Contracts may be awarded for longer periods of time as follows:

(1) Supplying of:

(a) (Deleted by amendment, P.L.1996, c.113.)

(b) (Deleted by amendment, P.L.1996, c.113.)

(c) Thermal energy produced by a cogeneration facility, for use for heating or air conditioning or both, for any term not exceeding 40 years, when the contract is approved by the Board of Public Utilities. For the purposes of this paragraph, "cogeneration" means the simultaneous production in one facility of electric power and other forms of useful energy such as heating or process steam;

(2) (Deleted by amendment, P.L.1977, c.53.)

(3) The collection and disposal of municipal solid waste, the collection and disposition of recyclable material, or the disposal of sewage sludge, for any term not exceeding in the aggregate, five years;

(4) The collection and recycling of methane gas from a sanitary landfill facility, for any term not exceeding 25 years, when such contract is in conformance with a district solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), and with the approval of the Division of Local Government Services in the Department of Community Affairs and the Department of Environmental Protection. The contracting unit shall award the contract to the highest responsible bidder, notwithstanding that the contract price may be in excess of the amount of any necessarily related administrative expenses; except that if the contract requires the contracting unit to expend funds only, the contracting unit shall award the contract to the lowest responsible

bidder. The approval by the Division of Local Government Services of public bidding requirements shall not be required for those contracts exempted therefrom pursuant to section 5 of P.L.1971, c.198 (C.40A:11-5);

(5) Data processing service, for any term of not more than seven years;

(6) Insurance, including the purchase of insurance coverages, insurance consulting or administrative services, claims administration services and including participation in a joint self-insurance fund, risk management program or related services provided by a contracting unit insurance group, or participation in an insurance fund established by a local unit pursuant to N.J.S.40A:10-6, or a joint insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more than three years;

(7) Leasing or servicing of automobiles, motor vehicles, machinery and equipment of every nature and kind, for a period not to exceed five years; provided, however, such contracts shall be awarded only subject to and in accordance with the rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

(8) The supplying of any product or the rendering of any service by a company providing voice, data, transmission or switching services for a term not exceeding five years;

(9) Any single project for the construction, reconstruction or rehabilitation of any public building, structure or facility, or any public works project, including the retention of the services of any architect or engineer in connection therewith, for the length of time authorized and necessary for the completion of the actual construction;

(10) The providing of food services for any term not exceeding three years;

(11) On-site inspections and plan review services undertaken by private agencies pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) for any term of not more than three years;

(12) The provision or performance of goods or services for the purpose of conserving energy in buildings owned by, or operations conducted by, the contracting unit, the entire price of which to be established as a percentage of the resultant savings in energy costs, for a term not to exceed 15 years; provided, however, that such contracts shall be entered into only subject to and in accordance with guidelines promulgated by the Board of Public Utilities establishing a methodology for computing energy cost savings;

(13) (Deleted by amendment, P.L.1999, c.440.)

(14) (Deleted by amendment, P.L.1999, c.440.)

(15) Leasing of motor vehicles, machinery and other equipment primarily used to fight fires, for a term not to exceed ten years, when the contract includes an option to purchase, subject to and in accordance with rules and regulations

promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

(16) The provision of water supply services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility, or any component part or parts thereof, including a water filtration system, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs, the Board of Public Utilities, and the Department of Environmental Protection pursuant to P.L.1985, c.37 (C.58:26-1 et al.), except that no such approvals shall be required for those contracts otherwise exempted pursuant to subsection (30), (31), (34), (35) or (43) of this section. For the purposes of this subsection, "water supply services" means any service provided by a water supply facility; "water filtration system" means any equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, rehabilitated, or operated for the collection, impoundment, storage, improvement, filtration, or other treatment of drinking water for the purposes of purifying and enhancing water quality and insuring its potability prior to the distribution of the drinking water to the general public for human consumption, including plants and works, and other personal property and appurtenances necessary for their use or operation; and "water supply facility" means and refers to the real property and the plants, structures, interconnections between existing water supply facilities, machinery and equipment and other property, real, personal and mixed, acquired, constructed or operated, or to be acquired, constructed or operated, in whole or in part by or on behalf of a political subdivision of the State or any agency thereof, for the purpose of augmenting the natural water resources of the State and making available an increased supply of water for all uses, or of conserving existing water resources, and any and all appurtenances necessary, useful or convenient for the collecting, impounding, storing, improving, treating, filtering, conserving or transmitting of water and for the preservation and protection of these resources and facilities and providing for the conservation and development of future water supply resources;

(17) The provision of resource recovery services by a qualified vendor, the disposal of the solid waste delivered for disposal which cannot be processed by a resource recovery facility or the residual ash generated at a resource recovery facility, including hazardous waste and recovered metals and other materials for reuse, or the design, financing, construction, operation or maintenance of a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Division of Local Government Services in the Department of Community Affairs, and the Department of Environmental Protection pursuant to P.L.1985, c.38 (C.13:1E-136 et al.); and when the resource recovery facility is in conformance with a district solid waste

management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production; and "residual ash" means the bottom ash, fly ash, or any combination thereof, resulting from the combustion of solid waste at a resource recovery facility;

(18) The sale of electricity or thermal energy, or both, produced by a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Board of Public Utilities, and when the resource recovery facility is in conformance with a district solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

(19) The provision of wastewater treatment services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a wastewater treatment system, or any component part or parts thereof, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs and the Department of Environmental Protection pursuant to P.L.1985, c.72 (C.58:27-1 et al.), except that no such approvals shall be required for those contracts otherwise exempted pursuant to subsection (36) or (43) of this section. For the purposes of this subsection, "wastewater treatment services" means any services provided by a wastewater treatment system, and "wastewater treatment system" means equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation, or other treatment of wastewater or sewage sludge, or for the final disposal of residues resulting from the treatment of wastewater, including, but not limited to, pumping and ventilating stations, facilities, plants and works, connections, outfall sewers, interceptors, trunk lines, and other personal property and appurtenances necessary for their operation;

(20) The supplying of goods or services for the purpose of lighting public streets, for a term not to exceed five years;

(21) The provision of emergency medical services for a term not to exceed five years;

(22) Towing and storage contracts, awarded pursuant to paragraph u. of subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5) for any term not exceeding three years;

(23) Fuel for the purpose of generating electricity for a term not to exceed eight years;

(24) The purchase of electricity or administrative or dispatching services related to the transmission of such electricity, from a public utility company subject to the jurisdiction of the Board of Public Utilities, a similar regulatory body of another state, or a federal regulatory agency, or from a qualifying small power producing facility or qualifying cogeneration facility, as defined by 16 U.S.C.s.796, by a contracting unit engaged in the generation of electricity for retail sale, as of May 24,1991, for a term not to exceed 40 years;

(25) Basic life support services, for a period not to exceed five years. For the purposes of this subsection, "basic life support" means a basic level of prehospital care, which includes but need not be limited to patient stabilization, airway clearance, cardiopulmonary resuscitation, hemorrhage control, initial wound care and fracture stabilization;

(26) (Deleted by amendment, P.L.1999, c.440.)

(27) The provision of transportation services to elderly, disabled or indigent persons for any term of not more than three years. For the purposes of this subsection, "elderly persons" means persons who are 60 years of age or older. "Disabled persons" means persons of any age who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, are unable, without special facilities or special planning or design to utilize mass transportation facilities and services as effectively as persons who are not so affected. "Indigent persons" means persons of any age whose income does not exceed 100 percent of the poverty level, adjusted for family size, established and adjusted under section 673(2) of subtitle B, the "Community Services Block Grant Act," Pub.L.97-35 (42 U.S.C.s.9902 (2));

(28) The supplying of liquid oxygen or other chemicals, for a term not to exceed five years, when the contract includes the installation of tanks or other storage facilities by the supplier, on or near the premises of the contracting unit;

(29) The performance of patient care services by contracted medical staff at county hospitals, correction facilities and long term care facilities, for any term of not more than three years;

(30) The acquisition of an equitable interest in a water supply facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or a contract entered into pursuant to the "County and Municipal Water Supply Act," N.J.S.40A:31-1

et seq., if the contract is entered into no later than January 7, 1995, for any term of not more than forty years;

(31) The provision of water supply services or the financing, construction, operation or maintenance or any combination thereof, of a water supply facility or any component part or parts thereof, by a partnership or copartnership established pursuant to a contract authorized under section 2 of P.L.1993, c.381 (C.58:28-2), for a period not to exceed 40 years;

(32) Laundry service and the rental, supply and cleaning of uniforms for any term of not more than three years;

(33) The supplying of any product or the rendering of any service, including consulting services, by a cemetery management company for the maintenance and preservation of a municipal cemetery operating pursuant to the "New Jersey Cemetery Act," N.J.S.8A:1-1 et seq., for a term not exceeding 15 years;

(34) A contract between a public entity and a private firm pursuant to P.L.1995, c.101 (C.58:26-19 et al.) for the provision of water supply services may be entered into for any term which, when all optional extension periods are added, may not exceed 40 years;

(35) A contract for the purchase of a supply of water from a public utility company subject to the jurisdiction of the Board of Public Utilities in accordance with tariffs and schedules of charges made, charged or exacted or contracts filed with the Board of Public Utilities, for any term of not more than 40 years;

(36) A contract between a public entity and a private firm or public authority pursuant to P.L.1995, c.216 (C.58:27-19 et al.) for the provision of wastewater treatment services may be entered into for any term of not more than 40 years, including all optional extension periods;

(37) The operation and management of a facility under a license issued or permit approved by the Department of Environmental Protection, including a wastewater treatment system or a water supply or distribution facility, as the case may be, for any term of not more than ten years. For the purposes of this subsection, "wastewater treatment system" refers to facilities operated or maintained for the storage, collection, reduction, disposal, or other treatment of wastewater or sewage sludge, remediation of groundwater contamination, stormwater runoff, or the final disposal of residues resulting from the treatment of wastewater; and "water supply or distribution facility" refers to facilities operated or maintained for augmenting the natural water resources of the State, increasing the supply of water, conserving existing water resources, or distributing water to users;

(38) Municipal solid waste collection from facilities owned by a contracting unit, for any term of not more than three years;

(39) Fuel for heating purposes, for any term of not more than three years;

(40) Fuel or oil for use in motor vehicles for any term of not more than three years;

(41) Plowing and removal of snow and ice for any term of not more than three years;

(42) Purchases made under a contract awarded by the Director of the Division of Purchase and Property in the Department of the Treasury for use by counties, municipalities or other contracting units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a term not to exceed the term of that contract;

(43) A contract between the governing body of a city of the first class and a duly incorporated nonprofit association for the provision of water supply services as defined in subsection (16) of this section, or wastewater treatment services as defined in subsection (19) of this section, may be entered into for a period not to exceed 40 years.

Any contract for services other than professional services, the statutory length of which contract is for three years or less, may include provisions for no more than one two-year, or two one-year, extensions, subject to the following limitations: a. The contract shall be awarded by resolution of the governing body upon a finding by the governing body that the services are being performed in an effective and efficient manner; b. No such contract shall be extended so that it runs for more than a total of five consecutive years; c. Any price change included as part of an extension shall be based upon the price of the original contract as cumulatively adjusted pursuant to any previous adjustment or extension and shall not exceed the change in the index rate for the 12 months preceding the most recent quarterly calculation available at the time the contract is renewed; and d. The terms and conditions of the contract remain substantially the same.

All multiyear leases and contracts entered into pursuant to this section, including any two-year or one-year extensions, except contracts involving the supplying of electricity for the purpose of lighting public streets and contracts for thermal energy authorized pursuant to subsection (1) above, construction contracts authorized pursuant to subsection (9) above, contracts for the provision or performance of goods or services or the supplying of equipment to promote energy conservation authorized pursuant to subsection (12) above, contracts for water supply services or for a water supply facility, or any component part or parts thereof authorized pursuant to subsection (16), (30), (31), (34), (35), (37) or (43) above, contracts for resource recovery services or a resource recovery facility authorized pursuant to subsection (17) above, contracts for the sale of energy produced by a resource recovery facility authorized pursuant to subsection (18) above, contracts for wastewater treatment services or for a wastewater treatment system or any component part or parts thereof authorized pursuant to subsection (19), (36), (37) or (43) above, and

contracts for the purchase of electricity or administrative or dispatching services related to the transmission of such electricity authorized pursuant to subsection (24) above, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause.

The Division of Local Government Services in the Department of Community Affairs shall adopt and promulgate rules and regulations concerning the methods of accounting for all contracts that do not coincide with the fiscal year.

All contracts shall cease to have effect at the end of the contracted period and shall not be extended by any mechanism or provision, unless in conformance with the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), except that a contract may be extended by mutual agreement of the parties to the contract when a contracting unit has commenced rebidding prior to the time the contract expires or when the awarding of a contract is pending at the time the contract expires.

10. R.S.48:2-13 is amended to read as follows:

Powers of board; public utility defined; exemptions from jurisdiction.

48:2-13. a. The board shall have general supervision and regulation of and jurisdiction and control over all public utilities as defined in this section and their property, property rights, equipment, facilities and franchises so far as may be necessary for the purpose of carrying out the provisions of this Title.

The term "public utility" shall include every individual, copartnership, association, corporation or joint stock company, their lessees, trustees or receivers appointed by any court whatsoever, their successors, heirs or assigns, that now or hereafter may own, operate, manage or control within this State any railroad, street railway, traction railway, autobus, charter bus operation, special bus operation, canal, express, subway, pipeline, gas, electricity distribution, water, oil, sewer, solid waste collection, solid waste disposal, telephone or telegraph system, plant or equipment for public use, under privileges granted or hereafter to be granted by this State or by any political subdivision thereof.

b. Nothing contained in this Title shall extend the powers of the board to include any supervision and regulation of, or jurisdiction and control over any vehicles engaged in ridesharing arrangements with a maximum carrying capacity of not more than 15 passengers, including the driver, where the transportation of passengers is incidental to the purpose of the driver or any vehicles engaged in the transportation of passengers for hire in the manner and form commonly called taxicab service unless such service becomes or is held out to be regular service between stated termini; hotel buses used exclusively for the transportation of hotel patrons to or from local railroad

or other common carrier stations, including local airports, or bus employed solely for transporting school children and teachers, to and from school, or any autobus with a carrying capacity of not more than 10 passengers now or hereafter operated under municipal consent upon a route established wholly within the limits of a single municipality or with a carrying capacity of not more than 20 passengers operated under municipal consent upon a route established wholly within the limits of not more than four contiguous municipalities within any county of the fifth or sixth class, which route in either case does not in whole or in part parallel upon the same street the line of any street railway or traction railway or any other autobus route.

c. Except as provided in section 7 of P.L.1995, c.101 (C.58:26-25), the board shall have no regulatory authority over the parties to a contract negotiated between a public entity and a private firm pursuant to P.L.1995, c.101 (C.58:26-19 et al.) in connection with the performance of their respective obligations thereunder. Nothing contained in this title shall extend the powers of the board to include any supervision and regulation of, or jurisdiction and control over, any public-private contract for the provision of water supply services established pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

d. Unless otherwise specifically provided pursuant to P.L.1999, c.23 (C.48:3-49 et al.), all services necessary for the transmission and distribution of electricity and gas, including but not limited to safety, reliability, metering, meter reading and billing, shall remain the jurisdiction of the Board of Public Utilities. The board shall also maintain the necessary jurisdiction with regard to the production of electricity and gas to assure the reliability of electricity and gas supply to retail customers in the State as prescribed by the board or any other federal or multi-jurisdictional agency responsible for reliability and capacity in the State.

e. Notwithstanding the provisions of subsection a. of this section, the board shall have the authority to classify as regulated the sale of any thermal energy service by a cogenerator or district heating system, for the purpose of providing heating or cooling to a residential dwelling if, after notice and hearing, it determines that the customer does not have sufficient space on its property to install an alternative source of equivalent thermal energy, there is no contract governing the provision of thermal energy service for the relevant period of time, and that sufficient competition is no longer present, based upon consideration of such factors as: ease of market entry; presence of other competitors; and the availability of like or substitute services in the relevant geographic area. Upon such a classification, the board may determine such rates for the thermal energy service for the purpose of providing heating or cooling to a residential dwelling as it finds to be consistent with the prevailing cost of alternative sources of thermal energy in similar situations. The board, however, shall continue to monitor the thermal energy service to such residential

dwellings and, whenever the board finds that the thermal energy service has again become sufficiently competitive pursuant to the criteria listed above, the board shall cease to regulate the sale or production of the service. The board shall not have the authority to regulate the sale or production of steam or any other form of thermal energy, including hot and chilled water, to non-residential customers.

f. Nothing contained in this Title shall extend the powers of the board to include supervision and regulation of, or jurisdiction and control over, an entity engaged in the provision or use of sewage effluent for the purpose of providing a cooling medium to an end user or end users on a single site, which provision results in the conservation of potable water which would otherwise have been used for such purposes.

g. Except as provided herein, the board shall have no regulatory authority over the parties to a contract entered into between the governing body of a city of the first class and a duly incorporated nonprofit association in connection with the performance of their respective obligations thereunder when the governing body of a city of the first class shall determine by ordinance that it is in the public interest to contract with that duly incorporated nonprofit association for the provision of water supply services as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15), or for the provision of wastewater treatment services as defined in subsection (19) of section 15 of P.L.1971, c.198 (C.40A:11-15), or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15) or a wastewater treatment system as defined in subsection (19) of section 15 of P.L.1971, c.198 (C.40A:11-15), or any component part or parts thereof, including a water filtration system as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15), upon approval of the contract pursuant to the provisions of section 6 of P.L.2002, c.47 (C.58:28-7).

Notwithstanding any other provision of P.L.2002, c.47 whenever the governing body of a city of the first class enters into a contract with a duly incorporated nonprofit association for the provision of water supply services as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15), or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15), and that governing body operates water supply facilities as authorized pursuant to the provisions of N.J.S.40A:31-4, which supply water to customers within another local unit, the nonprofit association or governing body shall be subject to the jurisdiction, rate regulation and control of the Board of Public Utilities as provided in N.J.S.40A:31-23, to the extent the nonprofit association or governing body supplies water to customers within that other local unit.

11. N.J.S.40A:31-23 is amended to read as follows:

Nonimpairment of prior obligations for provision of water supply services, facilities.

40A:31-23 a. Nothing contained in this act shall in any way impair the obligations previously assumed by any other public or private agency for the provision of water supply services and facilities to the citizens and industries of this State, or for any other purpose authorized by any law repealed by N.J.S.40A:31-24.

b. In the event a municipal utilities authority has been established in a local unit pursuant to the provisions of the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), no local unit or units shall establish any facility within the territory of that local unit which is competitive with any water supply facility operated by that authority.

c. No water supply services shall be provided in accordance with this act to users in another local unit without the prior approval of the governing body of that other local unit.

d. (1) Subject to the terms of any agreement entered into by participating local units or between a supplying and receiving local unit or units and the provisions of this act, a local unit or local units owning and operating water supply facilities in accordance with the provisions of N.J.S.40A:31-4, which supply water to more than 1,000 billed customers within another local unit, shall be subject to the jurisdiction, regulation and control of the Board of Public Utilities in accordance with the provisions of Title 48 of the Revised Statutes. The provisions of this subsection shall not apply whenever water is supplied to customers in another local unit at bulk rates.

(2) Notwithstanding any provision of this subsection to the contrary, whenever the governing body of a city of the first class enters into a contract with a duly incorporated nonprofit association for the provision of water supply services as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15), or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15), and that governing body operates water supply facilities as authorized pursuant to the provisions of N.J.S.40A:31-4, which supply water to customers within another local unit, the nonprofit association or governing body shall be subject to the jurisdiction, rate regulation and control of the Board of Public Utilities to the extent the nonprofit association or governing body supplies water to customers within that other local unit. The provisions of this paragraph shall apply whenever water is supplied to customers in another local unit at bulk rates.

C.40A:11-5.2 Applicability of C.40A:11-1 et seq. to certain contracts by city of first class.

12. Notwithstanding the provisions of P.L.2002, c.47 (C.40A:12-17.1 et al.) to the contrary, any expenditure of funds by a duly incorporated nonprofit

association that has entered into a contract with the governing body of a city of the first class pursuant to sections 1 and 2 of P.L.2002, c.47 (C.40A:12-17.1 and 40A:11-5.1) for any capital improvements to, or construction of, water supply facilities or wastewater treatment systems shall be subject to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11 -1 et seq.) whenever the funds have been derived from the proceeds of obligations or other available public moneys of any public entity including, but not limited to, debt issued 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, or a city of the first class.

13. This act shall take effect immediately.

Approved August 2, 2002.

CHAPTER 48

AN ACT to amend "An Act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 2003 and regulating the disbursement thereof," approved July 1, 2002 (P.L.2002, c.38).

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

1. The following language provision is added in section 1 as follows:

34 DEPARTMENT OF EDUCATION
30 Educational, Cultural and Intellectual Development
34 Educational Support Services
STATE AID
36- 5120 Pupil Transportation

For any school district receiving amounts from the amount appropriated hereinabove for Pupil Transportation, and notwithstanding the provisions of N.J.S.18A:39-1 to the contrary, if the school district is located in a county of the third class or a county of the second class with a population of less than 235,000, according to the 1990 federal decennial census, transportation shall be provided to school pupils residing in this school district in going to and from any remote school other than a public school, not operated

for profit in whole or in part, located within the State not more than 30 miles from the residence of the pupil.

2. This act shall take effect immediately and apply retroactively to July 1, 2002.

Approved August 2, 2002.

CHAPTER 49

AN ACT establishing the Task Force on Workplace Violence.

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

1. a. There is established the Task Force on Workplace Violence. The task force shall consist of seven members as follows: the Attorney General, the Commissioners of Labor and Health and Senior Services and the Director of the Division of Workers' Compensation, or their designees, who shall serve ex-officio; and three public members who shall be appointed by the Governor, including one representative of the business community, one representative of organized labor and one advocate from the battered women's community. The task force shall organize upon the appointment of a majority of its authorized membership and shall elect a chairman from among the members. The members of the task force shall serve for the duration of the existence of the commission. Any vacancy shall be filled in the same manner as the original appointment, but only for the balance of the unexpired term. The task force members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties.

b. The task force shall study the frequency and consequences of, and most effective means to prevent, workplace violence. The task force shall, not later than 365days after the effective date of this act, issue a report to the Governor and the Legislature which shall include, but not be limited to: (1) a review of the incidence of workplace violence, based on data obtained from federal, State and local health, labor and law enforcement agencies; (2) an analysis of the types of businesses, employees and situations associated with or subject to the greatest danger of workplace violence; and (3) recommendations concerning laws, regulations or incentives necessary for increased security in workplaces and protection of employees, including any draft legislation the task force deems appropriate.

2. a. The task force shall be entitled to the assistance and services of the employees of any State board, bureau, commission or agency as it may require and as may be available to it for these purposes, and to employ stenographic and clerical assistants and incur traveling and other miscellaneous expenses as necessary, to perform its duties.

b. The Departments of Labor and Health and Senior Services shall assist the task force in the performance of its duties and provide the task force with studies, data or other materials in the possession of those departments.

c. The employees of any State agency or political subdivision of the State may serve at the request of the task force upon any advisory committee which the task force may create, and these employees may serve upon these committees without forfeiture of office or employment and with no loss or diminution in the compensation, status, rights and privileges which they otherwise enjoy.

3. For purposes of carrying out its duties and responsibilities under this act, the task force shall be authorized to administer oaths or affirmations, subpoena witnesses, compel their attendance, examine them under oath or affirmation, and require the production of any books, records, documents or other evidence it may deem relevant or material to its duties and responsibilities. The task force may meet and hold hearings at the place or places it designates, at which it may request the appearance of officials of any State agency or political subdivision of the State and may solicit the testimony of interested groups and the general public.

4. This act shall take effect immediately and shall expire upon the issuance of the task force's report.

Approved August 3, 2002.

CHAPTER 50

AN ACT concerning safety professionals and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

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

C.56:8-113 Short title.

1. This act shall be known and may be cited as the "Safety Professional Truth in Advertising Act."

C.56:8-114 Findings, declarations realtive to qualification of safety professionals.

2. The Legislature finds and declares that it is necessary to provide assurance to the public that individuals holding any safety certification have met certain qualifications.

C.56:8-115 Definitions relative to qualifications of safety professionals.

3. As used in this act:

"Safety profession" means the science and art concerned with the preservation of human and material resources through the systematic application of principles drawn from such disciplines as engineering, education, psychology, physiology, enforcement and management for anticipating, identifying and evaluating hazardous conditions and practices; developing hazard control designs, methods, procedures and programs; implementing, administering and advising others on hazard controls and hazard control programs; and measuring, auditing and evaluating the effectiveness of hazard controls and hazard control programs.

"Safety professional certification organization" means a professional organization of safety professionals which has been in existence for at least five years and which has been established to improve the practice and educational standards of the safety profession by certifying individuals who meet its education, experience and examination requirements. The organization shall be accredited by the National Commission of Certifying Agencies (NCCA) or the Council of Engineering and Scientific Specialty Boards (CESB), or a nationally recognized accrediting body which uses certification criteria equal to or greater than that of the NCCA or CESB.

C.56:8-116 Certification by safety professional certification organization required.

4. It shall be an unlawful practice for any person to advertise or hold himself out as possessing a professional safety certification from a safety professional certification organization unless that person is certified by the applicable safety professional certification organization.

5. This act shall take effect on the first day of the 25th monthfollowing enactment.

Approved August 3, 2002.

CHAPTER 51

AN ACT increasing the membership of certain county boards of taxation, and amending R.S.54:3-2.

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

1. R.S.54:3-2 is amended to read as follows:

Taxation board members.

54:3-2. Each board shall, as heretofore, be known as the county board of taxation, and be composed of three members, except as hereinafter provided, to be appointed by the Governor by and with the advice and consent of the Senate. Each member shall be a resident and citizen of the county in and for which he is appointed. Members shall be chosen because of their special qualifications, knowledge and experience in matters concerning the valuation and taxation of property, particularly of real property. At no time shall more than two of the members belong to the same political party. In counties having a population of more than 510,000 there shall be five members of whom no more than three shall belong to the same political party. For the purposes of this section, "population" means the State population according to the most recent federal decennial census. Each member shall, within 24 months of appointment, unless the member shall have served as a member of the county board of taxation continuously for at least 10 years prior to the effective date of P.L.1981, c.516, was reappointed to a five-year term prior to that date, and is currently serving that term, furnish proof that he has received certificates indicating satisfactory completion of training courses designated in section 4 of P.L.1967, c.44 (C.54:1-35.28) or that he possesses an assessor's certificate issued pursuant to P.L.1967, c.44, as supplemented. Each member serving on the effective date of P.L.1979, c.499, unless the member shall have served as a member continuously for at least 10 years prior to the effective date of P.L.1981, c.516, was reappointed to a five-year term prior to that date, and is currently serving that term, shall furnish such proof within 30 months of such effective date, if 30 months or more of his term are remaining thereafter.

If any member so required does not furnish such proof within said 24-month period, or 30-month period for any member serving on the effective date of P.L.1979, c.499, the county tax administrator shall immediately notify the president of the county board of taxation and the Director of the Division of Taxation. The director shall upon the receipt of such notification declare the position to be vacant, and shall notify the Governor of the existence of such vacancy. The Governor shall thereupon appoint, with the advice and consent of the Senate, a different citizen and resident of the relative county to fill such position for the unexpired term.

2. This act shall take effect immediately.

Approved August 3, 2002.

CHAPTER 52

AN ACT concerning United We Stand license plates and supplementing chapter 3 of Title 39 of the Revised Statutes.

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

C.39:3-27.131 "Fund" defined.

1. As used in this act, "fund" means the "Rewards for Justice License Plate Fund" created pursuant to section 4 of this act.

C.39:3-27.132 Issuance of United We Stand license plates..

2. The Director of the Division of Motor Vehicles shall, upon proper application therefor, issue United We Stand license plates for any motor vehicle owned or leased and registered in the State. In addition to the registration number and other markings or identification otherwise prescribed by law, the license plate shall display the words "United We Stand" in addition to an American flag. The colors red, white and blue shall be appropriately displayed on the license plate. Issuance of the United We Stand license plates in accordance with this section shall be subject to the provisions of chapter 3 of Title 39 of the Revised Statutes, except as hereinafter otherwise specifically provided.

C.39:3-27.133 Application for issuance of license plate, fee.

3. a. Application for issuance of a United We Stand license plate shall be made to the division on forms and in a manner as may be prescribed by the director. In order to be deemed complete, an application shall be accompanied by a fee of $50 payable to the division, which fee shall be in addition to all fees otherwise required by law for the registration of the motor vehicle.

b. The annual fee for the registration certificate of a motor vehicle that has been issued a United We Stand license plate pursuant to the provisions of this act shall include, in each year subsequent to the year of issuance, a fee in the amount of $10, which fee shall be in addition to all fees otherwise required by law for the renewal of the registration of the motor vehicle, and shall be collected by the division and deposited in the Rewards for Justice License Plate Fund created pursuant to section 4 of this act.

C.39:3-27.134 "Rewards for Justice License Plate Fund."

4. There is created in the Department of Transportation a special non-lapsing fund to be known as the "Rewards for Justice License Plate Fund." There shall be deposited in the fund the amounts collected from license plate fees pursuant to section 3 of this act, less the amounts necessary to reimburse

the division for administrative costs pursuant to section 5 of this act. Monies deposited in the fund shall be distributed, at the discretion of the Commissioner of Transportation, either into the Rewards for Justice Fund, established by a private nonprofit organization, all of which shall be contributed to the United States State Department's Rewards for Justice Program or directly to the Rewards for Justice Program. Prior to distribution, monies deposited in the fund shall be held in interest-bearing accounts in public depositories as defined pursuant to section 1 of P.L.1970, c.236 (C.17:9-41), and may be invested or reinvested in such securities as are approved by the State Treasurer. Interest or other income earned on monies deposited in the fund, and any monies which may be appropriated or otherwise become available for the purposes of the fund, shall be credited to and deposited in the fund for use as set forth in this act.

C.39:3-27.135 Contribution to offset initial costs.

5. The Rewards for Justice Fund shall contribute monies in an amount to be determined by the director, not to exceed $50,000, to be used to offset the initial costs incurred by the division pursuant to section 6 of this act. Any amount remaining after the payment of the initial costs shall be deposited in the fund.

C.39:3-27.136 Reimbursement to Rewards for Justice Fund, DMV.

6. a. Prior to the deposit of license plate fees collected pursuant to section 3 of this act into the fund, amounts thereof as are necessary shall be used to reimburse the Rewards for Justice Fund, up to the amount contributed by the Rewards for Justice Fund pursuant to section 5 of this act, and then to reimburse the division for all costs reasonably and actually incurred, as stipulated by the director, for:

(1) producing, issuing, renewing, and publicizing the availability of United We Stand license plates; and

(2) from the initial fees, any computer programming changes that may be necessary to implement the United We Stand license plate program established by this act.

b. The director shall annually certify to the commissioner the average cost per license plate incurred in the immediately preceding year by the division in producing, issuing, renewing, and publicizing the availability of United We Stand license plates. The annual certification of the average cost per license plate shall be approved by the Joint Budget Oversight Committee, or its successor.

c. In the event that the average cost per license plate as certified by the director and approved by the Joint Budget Oversight Committee, or its successor, is greater than the $50 application fee established in subsection

a. of section 3 of this act in two consecutive fiscal years, the director may discontinue the issuance of United We Stand license plates.

C.39:3-27.137 Notification to eligible motorists.

7. The director shall notify eligible motorists of the opportunity to obtain United We Stand license plates by including a notice with all motor vehicle registration renewals, and by posting appropriate posters or signs in all division facilities and offices. The notices, posters, and signs shall be designed by the director.

C.39:3-27.138 Memorandum of agreement.

8. The director and officials of the Rewards for Justice Fund shall enter into a memorandum of agreement setting forth the procedures to be followed by the division and the Rewards for Justice Fund in carrying out the provisions of this act.

C.39:3-27.139 Rules, regulations.

9. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the director may promulgate rules and regulations to effectuate the provisions of this act.

10. This act shall take effect on the first day of the fourth month after enactment, but the State Treasurer and the Director of the Division of Motor Vehicles may take such anticipatory acts in advance of that date as may be necessary for the timely implementation of this act.

Approved August 3, 2002.

CHAPTER 53

AN ACT concerning assaults and amending 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: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 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 school board or any school bus driver employed by an operator under contract to a 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 Youth and Family Services 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

(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 f. 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 f. 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.

(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 section.

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.

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

2. This act shall take effect immediately.

Approved August 3, 2002.

CHAPTER 54

AN ACT concerning the provision of a survivor benefit in the Judicial Retirement System and supplementing P.L.1973, c.140 (C.43:6A-1 et seq.).

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

C.43:6A-16.1 Options for payment of survivor benefits in Judicial Retirement System.

1. At the time of retirement, a member of the Judicial Retirement System, established pursuant to P.L.1973, c.140 (C.43:6A-1 et seq.), shall receive benefits in a retirement allowance payable throughout life, or the member may, on retirement, elect to receive the actuarial equivalent of the member's retirement allowance, in a lesser retirement allowance payable throughout life, with the provision that:

Option 1. If the member dies before the member has received in payments the present value of the retirement allowance as it was at the time of retirement, the balance shall be paid to a legal representative or to such person as the member shall nominate by written designation acknowledged and filed with the retirement system, either in a lump sum or by equal payments over a period of years at the option of the payee. If the member shall have designated a natural person as the payee, the payee may elect to receive such payments in the form of a life annuity.

Option 2. Upon the member's death, the member's retirement allowance shall be continued throughout the life of and paid to such person as the member shall nominate by written designation duly acknowledged and filed with the retirement system at the time of retirement.

Option 3. Upon the member's death, one-half of the member's retirement allowance shall be continued throughout the life of and paid to such person as the member shall nominate by written designation duly acknowledged and filed with the retirement system at the time of retirement.

Option 4. Some other benefit or benefits shall be paid either to the member or to whomever the member nominates, if such other benefit or benefits, together with the lesser retirement allowance, shall be certified by the actuary to be of equivalent actuarial value. In no case, however, shall the lesser retirement allowance be smaller than that provided under Option 2.

Option 5. Some other benefit, which is equivalent to the full amount, three-quarters, one-half or one-quarter of the member's retirement allowance, shall be paid to whomever the member nominates and if that nominee dies before the member, the member's retirement allowance shall increase to the maximum retirement allowance for the member's lifetime, provided that such other benefit together with the member's lesser and maximum retirement allowances shall be certified by the actuary to be of equivalent actuarial value.

If the total amount of benefits paid to a retirant who does not elect to receive benefits in the form of an optional settlement, or to the retirant and the designated beneficiary in the case of a retirant who does so elect, before the death of the retirant or the retirant and the beneficiary is less than the deductions

accumulated in the retirant's account at the time of retirement, including regular interest, the balance shall be paid in one lump sum to the retirant's designated beneficiary or estate in the manner provided in section 16 of P.L.1973, c.140 (C.43:6A-16).

Except in the case of members who have elected to receive (1) a deferred retirement allowance pursuant to section 11 of P.L.1973, c.140 (C.43:6A-11) or (2) early retirement allowances pursuant to section 10 of P.L.1973, c.140 (C.43:6A-10) after separation from service pursuant to section 11, if a member dies within 30 days after the date of retirement or the date of approval by the State House Commission, whichever is later, the member's retirement allowance shall not become effective and the member shall be considered an active member at the time of death. However, if the member dies after the date the application for retirement was filed with the system, the retirement shall become effective if:

a. The deceased member had designated a beneficiary under an optional settlement provided by this section; and

b. The surviving beneficiary requests in writing that the State House Commission make such a selection. Upon formal action by the commission approving that request, the request shall be irrevocable.

The commission may select an Option 3 settlement, on behalf of the beneficiary of a member who applied for and was eligible for retirement but who died prior to the effective date of the retirement allowance, if all of the above conditions, with the exception of a., are met.

Nothing in this act, P.L.2002, c.54 (C.43:6A-16.1 et al.), shall affect the payment of the survivor benefits under section 18 of P.L.1973, c. (C.43:6A-18).

C.43:6A-16.2 Form required when member chooses certain option; notification to spouse.

2. Whenever a member of the Judicial Retirement System elects a retirement allowance which is payable for the life of the member only and terminating at the member's death, without refund of any kind to the member's spouse, the member shall be required, before electing that benefit, to sign a form stating that the member has elected that benefit, that the member understands that it is payable during the member's lifetime only and that no benefits will be payable to the member's spouse after death, other than the survivor benefits provided by section 18 of P.L.1973, c.140 (C.43:6A-18) and any applicable life insurance benefits. The Division of Pensions and Benefits in the Department of the Treasury shall notify the member's spouse if the member identifies the spouse on the form. Notification shall be by certified mail to the spouse's address as provided on the form by the member. If the member has not provided an address for the spouse on the form, the division shall send the notice, by certified mail, to the spouse at the member's address. The notice shall advise the spouse that the retirement benefit chosen

by the member is payable during the member's lifetime only and that no benefits, other than the survivor benefits provided by section 18 of P.L.1973, c.140 (C.43:6A-18) and any applicable life insurance benefits, shall be payable to the beneficiary after the member's death.

3. A retired justice of the Supreme Court, judge of the Superior Court or judge of the Tax Court, on the effective date of this act, P.L.2002, c.54 (C.43:6A-16.1 et al.), may elect an optional settlement as authorized in section 1 of this act, applicable to the retirement allowance payable after the effective date of the optional settlement, if the retired justice or judge applies for an optional settlement in accordance with the procedures established by the Division of Pensions and Benefits within six months of the effective date of this act.

4. This act shall take effect on the 30th day after enactment.

Approved August 3, 2002.

CHAPTER 55

AN ACT concerning insurers that provide coverage for medical malpractice.

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

1. a. All insurers licensed to provide medical malpractice liability insurance pursuant to Title 17 of the Revised Statutes to physicians, podiatrists and nurses practicing in this State shall provide the information specified in this section to the Commissioner of Banking and Insurance within 90 days of the effective date of this act.

b. With respect to each physician, podiatrist or nurse whose policy was renewed on or after January 1, 2002 and is in effect on the effective date of this act, for which the premium increased 30% or more, upon renewal, or for which the insurer has notified the physician, podiatrist or nurse that the premium will increase 30% or more, upon the next renewal, an insurer shall provide the following information:

(1) the number of years in practice;

(2) the number of years in practice in New Jersey;

(3) the location of the physician's, podiatrist's or nurse's professional office practice site or sites, as applicable;

(4) the physician's, podiatrist's or nurse's area of professional specialty or practice;

(5) the number of medical malpractice court judgments and all medical malpractice arbitration awards in which a payment has been awarded to the complaining party within the most recent five years;

(6) the number of settlements of medical malpractice claims in which a payment has been made to the complaining party within the most recent five years;

(7) the dollar amount of all medical malpractice court judgments, medical malpractice arbitration awards and settlements of medical malpractice claims; and

(8) the amount and percentage of the increase in the physician's, podiatrist's or nurse's premium, and the reason for the increase in the premium.

c. An insurer shall provide the information as specified in subsection b. of this section for each physician, podiatrist and nurse who is insured by the insurer, but the insurer shall not include the name or other identifying information about the physician, podiatrist or nurse.

2. The Commissioner of Banking and Insurance shall summarize the information provided by the insurers and promptly report the information to the Senate Health, Human Services and Senior Citizens Committee, the Assembly Health and Human Services Committee and the Assembly Banking and Insurance Committee.

3. This act shall take effect immediately and shall expire on December 31, 2002.

Approved August 3, 2002.

CHAPTER 56

AN ACT concerning driving while intoxicated and amending R.S.39:5-3.

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

1. R.S.39:5-3 is amended to read as follows:

Appearance, arrest process; complaint; venue.

Appearance, arrest process; complaint; venue.

39:5-3. a. When a person has violated a provision of this subtitle, the judge may, within 30 days after the commission of the offense, issue process directed to a constable, police officer or the director for the appearance or arrest of the person so charged. In the case of a violation enumerated in subsection b. of this section, this period shall commence upon the filing of a complaint.

b. A complaint may be made to a judge for a violation of R.S.39:3-12, R.S.39:3-34, R.S.39:3-37, R.S.39:4-129 or R.S.39:10-24 at any time within one year after the commission of the offense; for a violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), section 5 of P.L.1990, c.103 (C.39:3-10.13), section 16 of P.L.1990, c.103 (C.39:3-10.24), section 3 of P.L.1952, c.157 (C.12:7-46), or section 9 of P.L.1986, c.39 (C.12:7-57)at any time within 90 daysafter the commission of the offense; and for a violation of R.S.39:3-40, or section 1 of P.L.1942, c.192 (C.39:4-128.1), at any time within 90 days after the commission of the offense.

c. All proceedings shall be brought before a judge having jurisdiction in the municipality in which it is alleged that the violation occurred, but when a violation occurs on a street through which the boundary line of two or more municipalities runs or crosses, then the proceeding may be brought before the judge having jurisdiction in any one of the municipalities divided by said boundary line, and in the event there shall be no judge or should no judge having such jurisdiction be available for the acceptance of bail and disposition of the case, or should the judges having such jurisdiction be disqualified because of personal interest in the proceedings, or for any other legal cause, said proceeding shall be brought before a judge having jurisdiction in the nearest municipality to the one in which it is alleged such a violation occurred.

2. This act shall take effect immediately.

Approved August 3, 2002.

CHAPTER 57

AN ACT concerning lobsters and amending R.S.23:5-9.

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

1. R.S.23:5-9 is amended to read as follows:

Lobster restrictions.

23:5-9. a. (Deleted by amendment, P.L.2002, c.57).

b. (Deleted by amendment, P.L.2002, c.57).

c. (Deleted by amendment, P.L.2002, c.57).

d. (Deleted by amendment, P.L.2002, c.57).

e. (1) The Department of Environmental Protection shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations providing for the taking and management of the lobster of the genus and species Homarus americanus in the State.

(2) The Commissioner of Environmental Protection shall regulate the lobster fishery in accordance with State policy as set forth in section 2 of P.L.1979, c.199 (C.23:2B-2).

(3) The department shall prepare and issue an annual report on the taking, management, and status of lobster in the State. Copies of the report shall be transmitted to the chairpersons of the Senate Environment Committee and the Assembly Agriculture and Natural Resources Committee, or their successors as designated by the President of the Senate and the Speaker of the General Assembly, respectively, and shall be made available to the public upon request.

2. This act shall take effect immediately.

Approved August 3, 2002.

CHAPTER 58

AN ACT requiring hepatitis B vaccinations for students in high school and at institutions of higher education and supplementing Title 18A of the New Jersey Statutes.

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

C.18A:61D-8 Findings, declarations relative to hepatitis B vaccinations.

1. The Legislature finds and declares that:

a. Hepatitis B is a serious viral disease that attacks the liver and can cause lifelong infection, cirrhosis of the liver, liver cancer, liver failure and even death; after tobacco, hepatitis B is the world's leading known cause of cancer;

b. Hepatitis B virus is spread through blood and other body fluids and has been shown in some instances to remain infectious on environmental surfaces for at least a month at room temperature; in some settings, the virus can be up to 100 times more contagious than the virus that causes AIDS;

c. Individuals are at greater risk of hepatitis B virus infection who: have multiple sex partners; use injection drugs; have household contact with an individual who has lifelong hepatitis B infection; and travel to areas of the world where hepatitis B is common;

d. In 1999, an estimated 80,000 individuals in the United States were infected with the hepatitis B virus, and one out of 20 individuals in the United States will be infected with the virus at some time in their lives; approximately 30% of individuals who are infected show no signs or symptoms and can unknowingly pass the virus to others;

e. The highest rate of hepatitis B disease occurs in individuals 20 to 49 years of age; in 1998, 205 hepatitis B cases were reported in New Jersey, with 60% of those occurring in individuals 25 to 44 years of age;

f. Hepatitis B vaccine, which has been available since 1982, prevents hepatitis B disease and its serious consequences; the federal Centers for Disease Control and Prevention recommends routine vaccination of individuals zero to 18 years of age for hepatitis B;

g. As of September 2001, the New Jersey Department of Health and Senior Services requires hepatitis B immunization prior to school entry for all children in the State, with a sixth grade catch-up dose for those not already immunized; and

h. Since the hepatitis B immunization requirement for school entry in the State was recently adopted and the highest rates of hepatitis B infection in the nation and State are occurring in individuals between 20 and 50 years of age, it is appropriate for the State to require every high school student,and each new student enrolling on a full-time basis in a program leading to an academic degree at an institution of higher education in the State,to be vaccinated for hepatitis B.

C.18A:61D-9 Hepatitis B vaccination required for certain students at institutions of higher education.

2. a. Beginning with the 2008-09 school year, a new student enrolling in a program leading to an academic degree at a public or private institution of higher education in this State, who registers for 12 or more credit hours of course study per semester or term, shall be vaccinated for hepatitis B within nine months of attendance as a condition of continued attendance at that institution, except as provided in section 4 of this act.

b. A student shall present evidence of the vaccination required pursuant to this section to the institution in a manner prescribed by the institution.

c. The Department of Health and Senior Services shall require each public or private institution of higher education in this State to offer the vaccination required pursuant to this section to its students through the institution's student health services program or through a contractual agreement with a community health care provider.

d. The Commissioner of Health and Senior 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 purposes of subsections a., b. and c. of this section and sections 3 and 4 of this act.

C.18A:40-21.1 Hepatitis B vaccination required for public, private school students in grades nine through twelve.

3. The Commissioner of Health and Senior Services shall require the immunization of a child for hepatitis B as a condition of enrollment in grades nine through 12.

b. Beginning with the 2003-2004 school year, a principal, director or other person in charge of a public or private school in this State shall not knowingly admit or retain in grades nine through 12 a child whose parent or guardian has not submitted acceptable evidence of the child's immunization for hepatitis B prior to or during enrollment in ninth grade, as provided by regulation of the Commissioner of Health and Senior Services.

c. The Commissioner of Health and Senior 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 purposes of this section.

C.18A:61D-10 Exemption from vaccination.

4. A student shall not be required to receive a vaccination pursuant to section 2 or 3 of this act based upon one of the following:

a. a written statement submitted to the secondary school or institution of higher education, as applicable, by a licensed physician indicating that the vaccine is medically contraindicated for a specific period of time and the reasons for the medical contraindication, based upon valid medical reasons as determined by regulation of the Commissioner of Health and Senior Services, which shall exempt the student from the vaccination for the stated period of time; or

b. a written statement submitted to the secondary school or institution of higher education, as applicable, by the student, or the student's parent or guardian if the student is a minor, explaining how the administration of the vaccine conflicts with the bona fide religious tenets or practices of the student, or the parent or guardian, as appropriate; except that a general philosophical or moral objection to the vaccination shall not be sufficient for an exemption on religious grounds.

5. This act shall take effect immediately.

Approved August 3, 2002.

CHAPTER 59

AN ACT authorizing the appointment of two deputy municipal clerks in certain municipalities and amending N.J.S.11A:3-5 and N.J.S.40A:9-135.

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

1. N.J.S.11A:3-5 is amended to read as follows:

Political subdivision unclassified service.

11A:3-5. Political subdivision unclassified service. The political subdivision unclassified service shall not be subject to the provisions of this title unless otherwise specified and shall include the following:

a. Elected officials;

b. One secretary and one confidential assistant to each mayor;

c. Members of boards and commissions authorized by law;

d. Heads of institutions;

e. Physicians, surgeons and dentists;

f. Attorneys of a county, municipality or school district operating under this title;

g. Teaching staff, as defined in N.J.S.18A:1-1, in the public schools and county superintendents and members and business managers of boards of education;

h. Principal executive officers;

i. One secretary, clerk or executive director to each department, board and commission authorized by law to make the appointment;

j. One secretary or clerk to each county constitutional officer, principal executive officer, and judge;

k. One deputy or first assistant to a principal executive officer who is authorized by statute to act for and in place of the principal executive officer;

l. No more than 12 county department heads and the heads of divisions within such departments; provided that the total number of unclassified positions created by the county administrative code pursuant to this subsection shall not exceed 20;

m. One secretary or confidential assistant to each unclassified department or division head established in subsection l.;

n. Employees of county park commissions, appointed pursuant to R.S.40:37-96 through R.S.40:37-174, in counties of the second class;

o. Directors of free public libraries in cities of the first class having a population of more than 300,000;

p. One secretary to the municipal council in cities of the first class having a population of less than 300,000;

q. One secretary and one confidential aide for each member of the board of freeholders other than the director, and one secretary and two confidential aides for the freeholder director, of any county of the second class with a population of at least 470,000 which has not adopted the provisions of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.) and one secretary or confidential aide for each member of the board of freeholders of any other county which has not adopted the provisions of the "Optional County Charter Law";

r. In school districts organized pursuant to N.J.S.18A:17-1 et seq., the executive controller, public information officer and the executive directors of board affairs, personnel, budget, purchasing, physical facilities, data processing, financial affairs, and internal audit;

s. The executive director, assistant executive director, director of staff operations, director of administration, director of redevelopment and the urban initiatives coordinator of a local housing authority;

t. The sheriff's investigators of any county appointed pursuant to P.L.1987, c.113 (C.40A:9-117a);

u. Any title as provided by statute or as the board may determine in accordance with criteria established by rule;

v. One confidential aide for each county clerk, in addition to the titles included under subsection j. of this section; and

w. Two deputy municipal clerks in cities of the first class having a population of not less than 240,000 persons or more than 250,000 persons according to the 2000 federal decennial census.

2. N.J.S.40A:9-135 is amended to read as follows:

Deputy municipal clerk.

40A:9-135. a. The governing body of any municipality, by ordinance, may create the office of deputy municipal clerk and provide for appointments thereto, his compensation, term thereof and the powers, duties and functions of such office. During the absence or disability of the municipal clerk, the deputy municipal clerk shall have all the powers of the municipal clerk and shall perform the functions and duties of such office.

b. Notwithstanding the provisions of subsection a. of this section, the governing body of a city of the first class having a population of not less than 240,000 persons or more than 250,000 persons according to the 2000 federal decennial census, may appoint two persons to serve as deputy municipal clerks and provide for appointments thereto, the compensation, term thereof and the powers, duties and functions of those offices. These appointees shall serve

in the unclassified service as provided for in N.J.S.11A:3-5. The governing body of the municipality shall appoint one of the deputy municipal clerks to serve as acting municipal clerk during the absence or disability of the municipal clerk, and that person shall have all the powers of the municipal clerk and shall perform the functions and duties of that office.

3. This act shall take effect immediately.

Approved August 3, 2002.

CHAPTER 60

AN ACT concerning defrauding the administration of a drug test and supplementing chapter 36 of Title 2C of the New Jersey Statutes.

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

C.2C:36-10 Definition of "defraud the administration of a drug test;" crime, grading.

1. a. As used in this act, "defraud the administration of a drug test" means to submit a substance that purports to be from a person other than its actual source, or purports to have been excreted or collected at a time other than when it was actually excreted or collected, or to otherwise engage in conduct intended to produce a false or misleading outcome of a test for the presence of a chemical, drug or controlled dangerous substance, or a metabolite of a drug or controlled dangerous substance, in the human body. It shall specifically include, but shall not be limited to, the furnishing of urine with the purpose that the urine be submitted for urinalysis as a true specimen of a person.

b. Any person who offers for sale or rental, or who manufactures, sells, transfers, or gives to any person, any instrument, tool, device or substance adapted, designed or commonly used to defraud the administration of a drug test, is guilty of a crime of the third degree.

c. Any person who knowingly defrauds the administration of a drug test that is administered as a condition of employment or continued employment as a law enforcement officer, corrections officer, school bus driver, operator of a motorbus, employee of a rail passenger service, firefighter, provider of emergency first-aid or medical services, or any other occupation that requires the administration of a drug test as a condition of employment or continued employment by law, rule or regulation of the State or a local agency, public authority, or the federal government, is guilty of a crime of the third degree.

d. Any person who knowingly defrauds the administration of a drug test that is administered as a condition of monitoring a person on bail, in custody or on parole, probation or pretrial intervention, or any other form of supervision administered in connection with a criminal offense or juvenile delinquency matter, is guilty of a crime of the third degree.

e. Any person who knowingly possesses any instrument, product, tool, device or substance adapted, designed or commonly used to defraud the administration of a drug test is guilty of a crime of the fourth degree.

f. Any person who knowingly defrauds the administration of a drug test which is administered as a condition of any employment or continued employment not specified in subsection c. of this section is guilty of a crime of the fourth degree.

2. This act shall take effect immediately.

Approved August 3, 2002.

CHAPTER 61

AN ACT concerning the salaries of acting county prosecutors and supplementing Title 2A of the New Jersey Statutes.

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

1. Any person serving as an acting county prosecutor on the effective date of this act shall receive the annual salary set forth in N.J.S.2A:158-10 as an annual salary, and the applicable annual salary amount shall be retroactive to the date that person began serving as acting county prosecutor.

2. This act shall take effect immediately

Approved August 3, 2002.

CHAPTER 62

AN ACT concerning electric public utilities and supplementing Title 48 of the Revised Statutes.

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

C.48:2-29.44 Findings, declarations relative to electric public utility service.

1. The Legislature finds and declares that:

a. During periods of excessive heat, the health of individuals with disabilities, senior citizens, and others can be severely compromised if those individuals do not have adequate ventilation or air conditioning;

b. Each summer, some at-risk individuals die from dehydration during periods of sustained heat, and others have had their health severely compromised; and

c. In view of the severity of the impact of sustained heat on the physical well-being of at-risk individuals, it is the public policy of this State to ensure that these individuals, their financial circumstances notwithstanding, are not deprived of electrical power during periods when the amelioration of the effects of high heat and humidity is essential to their health and welfare.

The Legislature therefore determines that it is necessary for the Board of Public Utilities to develop and administer a program that ensures that the individuals most at risk will not experience an interruption in their electrical supply as a result of the suspension of service by an electric public utility.

C.48:2-29.45 Provision of continued electrical service during periods of excessive heat.

2. Notwithstanding any law, rule, order or regulation to the contrary, the board shall provide for the continuation of electrical service during periods of excessive heat, as determined by the board, for those residential customers who would be eligible for protection under the Winter Termination Program as pursuant to N.J.A.C.14:3-7.12A, notwithstanding that the individual would otherwise be subject to the suspension of service; provided, however, that nothing in this act shall in any manner relieve the individual of any financial obligation to the electric public utility providing the service.

C.48:2-29.46 Rules, regulations.

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

4. This act shall take effect immediately.

Approved August 6, 2002.

CHAPTER 63

AN ACT concerning the transfer of student records and amending P.L.1986, c.160 and P.L.1995, c.395.

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

1. Section 1 of P.L.1986, c.160 (C.18A:36-19a) is amended to read as follows:

C.18A:36-19a Student records.

1. The chief school administrator or the administrator's designee of any local school district that enrolls a new student shall request, in writing, the student's records from the school district of last attendance within two weeks from the date that the student enrolls in the new school district. The school district of last attendance shall provide to the receiving district all information in the student's record related to disciplinary actions taken against the student by the district and notify the receiving district if it has obtained any information pursuant to section 1 of P.L.1982, c.79 (C.2A:4A-60). Written consent of the parent or adult student shall not be required as a condition of transfer of this information; however, written notice of the transfer shall be provided to the parent or adult student. Additionally, the school district shall obtain proper identification of any new student such as a certified copy of the student's certificate of birth.

2. Section 4 of P.L.1995, c.395 (C.18A:36-25.1) is amended to read as follows:

C.18A:36-25.1 Certified copy of birth certificate required for enrollment in school, records.

4. a. When a child is enrolled in a school district for the first time, the superintendent shall require the child's parent or legal guardian to provide a certified copy of the child's birth certificate or other proof of the child's identity, within 30 days of enrollment. If the child's parent or legal guardian refuses to comply with the requirement in this section, the superintendent shall notify the parent or guardian, in writing, that the matter will be referred to a law enforcement agency if the proof of identity is not provided within 10 days of the notice.

b. When a child transfers from one school district to another, the receiving school district shall obtain the child's school record from the district from which the child has transferred, within 14 days of enrollment. The school district of last attendance shall provide to the receiving district all information in the child's record related to disciplinary actions taken against the child by the district and notify the receiving district if it has obtained any information pursuant to section 1 of P.L.1982, c.79 (C.2A:4A-60). Written consent of the parent or adult pupil shall not be required as a condition of transfer of this information; however, written notice of the transfer shall be provided to the parent or adult pupil. If the record has been marked pursuant to section 2 of P.L.1995, c.395

(C.52:17B-9.8b), the transferring school district shall forward the record to the receiving school district and immediately notify the Missing Persons Unit in the Department of Law and Public Safety established pursuant to section 2 of P.L.1983, c.467 (C.52:17B-9.7).

3. This act shall take effect immediately.

Approved August 6, 2002.

CHAPTER 64

AN ACT concerning urban enterprise zones and amending P.L.1983, c.303 (C.52:27H-60 et seq.).

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

1. Section 29 of P.L.1983, c.303 (C.52:27H-88) is amended to read as follows:

C.52:27H-88 Enterprise zone assistance fund.

29. a. There is created an enterprise zone assistance fund to be held by the State Treasurer, which shall be the repository for all moneys required to be deposited therein under section 21 of P.L.1983, c.303 (C.52:27H-80) or moneys appropriated annually to the fund. All moneys deposited in the fund shall be held and disbursed in the amounts necessary to fulfill the purposes of this section and subject to the requirements hereinafter prescribed. The State Treasurer may invest and reinvest any moneys in the fund, or any portion thereof, in legal obligations of the United States or of the State or of any political subdivision thereof. Any income from, interest on, or increment to moneys so invested or reinvested shall be included in the fund.

The State Treasurer shall maintain separate accounts for each enterprise zone designated under this act, and one in the authority's name for the administration of the Urban Enterprise Zone program. The State Treasurer shall credit to each account an amount of the moneys deposited in the fund equal to the amount of revenues collected from the taxation of retail sales made in the zone and appropriated to the enterprise zone assistance fund, or that amount of moneys appropriated to the fund and required to be credited to the enterprise zone account of the qualifying municipality pursuant to section 21 of P.L.1983, c.303 (C.52:27H-80).

The State Treasurer shall promulgate the rules and regulations necessary to govern the administration of the fund for the purposes of this section.

b. The enterprise zone assistance fund shall be used for the purpose of assisting qualifying municipalities in which enterprise zones are designated in undertaking public improvements, economic development projects and in upgrading eligible municipal services in designated enterprise zones.

c. The governing body of a qualifying municipality in which an enterprise zone is designated and the zone development corporation created or designated by the municipality for that enterprise zone may, by resolution jointly adopted after public hearing, propose to undertake a project for the public improvement of the enterprise zone or to increase eligible municipal services in the enterprise zone, and to fund that project or increase in eligible municipal services from moneys deposited in the enterprise zone assistance fund and credited to the account maintained by the State Treasurer for the enterprise zone.

The proposal so adopted shall set forth a plan for the project or for the increase in eligible municipal services and shall include:

(1) A description of the proposed project or of the municipal services to be increased;

(2) An estimate of the total project costs, or of the total costs of increasing the municipal services, and an estimate of the amounts of funding necessary annually from the enterprise zone account;

(3) A statement of any other revenue sources to be used to finance the project or to fund the increase in eligible municipal services;

(4) A statement of the time necessary to complete the project, or of the time during which the increased municipal services are to be maintained;

(5) A statement of the manner in which the proposed project or increase in municipal services furthers the municipality's policy and intentions for addressing the economic and social conditions existing in the area of the enterprise zone as set forth in the zone development plan approved by the authority; and

(6) A description of the financial and programmatic controls and reporting mechanisms to be used to guarantee that the funds will be spent in accordance with the plan and that the project or increased municipal service will accomplish its purpose.

As used in this section, "project" means an activity funded by the zone assistance fund through the qualified municipality and implemented by the zone development corporation, including the purchasing, leasing, condemning, or otherwise acquiring of land or other property, or an interest therein, in the enterprise zone or as necessary for a right-of-way or other easement to or from the enterprise zone; the relocating and moving of persons or businesses displaced by the acquisition of land or property; the rehabilitation and redevelopment of land or property, including demolition, clearance, removal, relocation,

renovation, alteration, construction, reconstruction, installation or repair of a land or a building, street, highway, alley, utility, service or other structure or improvement which will lead to increased economic activity within the zone; the acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements, except buildings and facilities for the general conduct of government and schools; the establishment of revolving loan or grant programs for qualified businesses in the zone to encourage private investment and job creation, matching grant programs for the establishment or operation of pedestrian malls, special improvement districts and tax increment districts, or other appropriate entity; marketing, advertising and special event activities that will lead to increased economic activity or encourage private investment and job creation in the zone, but not including the expenditures therefor which are required to be reported pursuant to "The New Jersey Campaign Contributions and Expenditures Reporting Act," P.L.1973, c.83 (C.19:44A-1 et seq.); and the costs associated therewith including the costs of an administrative appraisal, economic and environmental analyses, environmental remediation, engineering, planning, design, architectural, surveying or other professional or managerial services

As used in this section, "eligible municipal services" means the hiring of additional policemen or firemen assigned duties in the enterprise zone, or the purchasing or leasing of additional police or fire vehicles, equipment or apparatus to be used for the provision of augmented or upgraded public safety services in the enterprise zone and its immediate vicinities.

d. Upon adoption by the governing body of the qualifying municipality and by the zone development corporation, the proposal shall be sent to the authority for its evaluation and approval. The authority shall approve the proposal if it shall find:

(1) In the case of a project, that the proposed project furthers the policy and intentions of the zone development plan approved by the authority, and that the estimated annual payments for the project from the enterprise zone account to which the proposal pertains are not likely to result in a deficit in that account;

(2) In the case of an increase in eligible municipal services, that the proposal furthers the policy and intentions of the zone development plan approved by the authority; that the qualifying municipality has furnished satisfactory assurances that the additional policemen or firemen to be hired, or the additional vehicles, equipment or apparatus to be purchased or leased, shall be used to augment or upgrade public safety in the enterprise zone, and shall not be used in other areas of the municipality; that the qualifying municipality shall annually appropriate for the increased eligible municipal services an amount equal to 20% of the amount of annual payments for the eligible municipal services from the enterprise zone account and shall not request for the increased eligible

municipal services an amount equal to more than 35% of the amount of annual payments into the enterprise zone account, unless the municipality and the authority have entered into an agreement or agreements to the contrary prior to July 1, 1992; and that the estimated annual payments for the eligible municipal services from the enterprise zone account to which the proposal pertains are not likely to result in a deficit in that account.

e. If the authority shall approve the proposal, it shall annually, upon its receipt of a written statement from the governing body of the qualifying municipality and the zone development corporation, certify to the State Treasurer the amount to be paid in that year from the enterprise zone account in the enterprise zone assistance fund with respect to each project or increase in eligible municipal services approved. The authority may at any time revoke its approval of a project or an increase in eligible municipal services if it finds that the annual payments made from the enterprise zone assistance fund are not being used as required by this section.

f. Upon certification by the authority of the annual amount to be paid to a qualifying zone with respect to any project or increase in eligible municipal services, the State Treasurer shall pay in each year to the qualifying municipality from the amounts deposited in the enterprise zone assistance fund the amount so certified, within the limits of the amounts credited to the enterprise zone account of the qualifying municipality.

g. An amount not to exceed one-third of the amount deposited in the account created in the name of the authority in the enterprise zone assistance fund shall be used by the authority for the coordination and administration of the program throughout the State, including but not limited to costs for personnel, operating expenses and marketing. The balance of the remaining amount shall be distributed to qualifying municipalities in proportion to each municipality's contribution to the enterprise zone assistance fund for the coordination and administration of the program within the municipality, including but not limited to costs for personnel, operating expenses and marketing.

2. This act shall take effect immediately.

Approved August 14, 2002.

CHAPTER 65

AN ACT concerning casino gambling and proceeds thereof and amending and supplementing various parts of the statutory law.

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

1. N.J.S.2C:21-5 is amended to read as follows:

Bad checks.

2C:21-5. A person who issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee, commits an offense as provided for in subsection c. of this section. For the purposes of this section as well as in any prosecution for theft committed by means of a bad check, an issuer is presumed to know that the check or money order (other than a post-dated check or order) would not be paid, if:

a. The issuer had no account with the drawee at the time the check or order was issued; or

b. Payment was refused by the drawee for lack of funds, or due to a closed account, after a deposit by the payee into a bank for collection or after presentation to the drawee within 46 days after issue, and the issuer failed to make good within 10 days after receiving notice of that refusal or after notice has been sent to the issuer's last known address. Notice of refusal may be given to the issuer orally or in writing in any reasonable manner by any person.

c. An offense under this section is:

(1) a crime of the second degree if the check or money order is $75,000.00 or more;

(2) a crime of the third degree if the check or money order is $1,000.00 or more but is less than $75,000.00;

(3) a crime of the fourth degree if the check or money order is $200.00 or more but is less than $1,000.00;

(4) a disorderly persons offense if the check or money order is less than $200.00.

C.5:12-5.2 "Cash equivalent value."

2. "Cash equivalent value" – The monetary value that a casino licensee shall assign to a jackpot or payout that consists of merchandise or any thing of value other than cash, tokens, chips or plaques. The commission shall promulgate rules defining "cash equivalent value" in order to assure fairness, uniformity and comparability of valuation of jackpots and payoffs that include merchandise or any thing of value.

3. Section 24 of P.L.1977, c.110 (C.5:12-24) is amended to read as follows:

C.5:12-24 "Gross revenue."

24. "Gross Revenue"--The total of all sums, including checks received by a casino licensee pursuant to section 101 of this act, whether collected or

not, actually received by a casino licensee from gaming operations, less only the total of all sums paid out as winnings to patrons and a deduction for uncollectible gaming receivables not to exceed the lesser of a reasonable provision for uncollectible patron checks received from gaming operations or 4% of the total of all sums including checks, whether collected or not, less the amount paid out as winnings to patrons; provided, however, that the cash equivalent value of any merchandise or thing of value included in a jackpot or payout shall not be included in the total of all sums paid out as winnings to patrons for purposes of determining gross revenue. "Gross Revenue" shall not include any amount received by a casino from casino simulcasting pursuant to the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-191 et al.).

For the purposes of this section, any check which is invalid and unenforceable pursuant to subsection f. of section 101 of P.L.1977, c.110 (C.5:12-101) shall be treated as cash received by the casino licensee from gaming operations.

4. Section 26 of P.L.1977, c. 110 (C.5:12-26) is amended to read as follows:

C.5:12-26 "Holding company."

26. "Holding company" --Any corporation, association, firm, partnership, trust or other form of business organization not a natural person which, directly or indirectly, owns, has the power or right to control, or has the power to vote any significant part of the outstanding voting securities of a corporation or other form of business organization which holds or applies for a casino license. For the purpose of this section, in addition to any other reasonable meaning of the words used, a "holding company" indirectly has, holds or owns any such power, right or security if it does so through any interest in a subsidiary or successive subsidiaries, however many such subsidiaries may intervene between the holding company and the casino licensee or applicant.

5. Section 27 of P.L.1977, c.110 (C.5:12-27) is amended to read as follows:

C.5:12-27 "Hotel" or "approved hotel."

27. "Hotel" or "approved hotel" -- A single building, or two or more buildings which are physically connected in a manner deemed appropriate by the commission and which are operated as one casino-hotel facility under the provisions of the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.), located within the limits of the city of Atlantic City as said limits were defined as of November 2, 1976, and containing not fewer than the number of sleeping units required by section 83 of P.L.1977, c.110 (C.5:12-83), each of which sleeping units shall: a. be at least 325 square feet measured to the center of perimeter walls, including bathroom and closet space and excluding hallways,

balconies and lounges; b. contain private bathroom facilities; and c. be held available and used regularly for the lodging of tourists and convention guests.

6. Section 28 of P.L.1977, c.110 (C.5:12-28) is amended to read as follows:

C.5:12-28 "Intermediary company."

28. "Intermediary company" --Any corporation, association, firm, partnership, trust or any other form of business organization other than a natural person which:

a. Is a holding company with respect to a corporation or other form of business organization which holds or applies for a casino license, and

b. Is a subsidiary with respect to any holding company.

7. Section 36 of P.L.1977, c.110 (C.5:12-36) is amended to read as follows:

C.5:12-36 "Party."

36. "Party" --The commission, the division, or any licensee, registrant, or applicant, or any person appearing of record for any licensee, registrant, or applicant in any proceeding before the commission or in any proceeding for judicial review of any action, decision or order of the commission.

8. Section 44 of P.L.1977, c.110 (C.5:12-44) is amended to read as follows:

C.5:12-44 "Security."

44. "Security" --Any instrument evidencing a direct or indirect beneficial ownership or creditor interest in a corporation or other form of business organization, including but not limited to, stock, common and preferred; bonds; mortgages; debentures; security agreements; notes; warrants; options and rights.

9. Section 45 of P.L.1977, c.110 (C.5:12-45) is amended to read as follows:

C.5:12-45 "Slot machine."

45. "Slot machine"--Any mechanical, electrical or other device, contrivance or machine which, upon insertion of a coin, token or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash or tokens to be exchanged for cash, or to receive merchandise or any thing of value whatsoever,

whether the payoff is made automatically from the machine or in any other manner whatsoever, except that the cash equivalent value of any merchandise or other thing of value shall not be included in determining the payout percentage of any slot machine.

10. Section 69 of P.L.1977, c.110 (C.5:12-69) is amended to read as follows:

C.5:12-69 Regulations.

69. Regulations. a. The commission shall be authorized to adopt, amend, or repeal such regulations, consistent with the policy and objectives of this act, as amended, as it may deem necessary to protect the public interest in carrying out the provisions of this act.

b. Such regulations shall be adopted, amended, and repealed in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

c. Any interested person may, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), file a petition with the commission requesting the adoption, amendment or repeal of a regulation.

d. The commission may, in emergency circumstances, summarily adopt, amend or repeal any regulation pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. Notwithstanding any other provision of this act or the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the commission may, after notice provided in accordance with this subsection, authorize the temporary adoption, amendment or repeal of any rule concerning the conduct of gaming or simulcast wagering, or the use or design of gaming or simulcast wagering equipment, or the internal procedures and administrative and accounting controls required by section 99 of P.L.1977, c.110 (C.5:12-99) for a period not to exceed 270 days for the purpose of determining whether such rules should be adopted on a permanent basis in accordance with the requirements of this section. Any temporary rulemaking authorized by this subsection shall be subject to such terms and conditions as the commission may deem appropriate. Notice of any temporary rulemaking action taken by the commission pursuant to this subsection shall be published in the New Jersey Register, and provided to the newspapers designated by the commission pursuant to subsection d. of section 3 of P.L.1975, c.231 (C.10:4-8), at least seven days prior to the implementation of the temporary rules. Nothing herein shall be deemed to require the publication of the text of any temporary rule adopted by the commission or notice of any modification of any temporary rulemaking initiated in accordance with this subsection. The text of any

temporary rule adopted by the commission shall be available in each casino or simulcasting facility participating in the temporary rulemaking and shall be available upon request from the commission.

11. Section 70 of P.L.1977, c.110 (C.5:12-70) is amended to read as follows:

C.5:12-70 Required regulations.

70. Required Regulations. The commission shall, without limitation on the powers conferred in the preceding section, include within its regulations the following specific provisions in accordance with the provisions of this act:

a. Prescribing the methods and forms of application which any applicant shall follow and complete prior to consideration of his application by the commission;

b. Prescribing the methods, procedures and form for delivery of information concerning any person's family, habits, character, associates, criminal record, business activities and financial affairs;

c. Prescribing procedures for the fingerprinting of an applicant, employee of a licensee, or registrant, or other methods of identification which may be necessary in the judgment of the commission to accomplish effective enforcement of restrictions on access to the casino floor, the simulcasting facility, and other restricted areas of the casino hotel complex;

d. Prescribing the manner and procedure of all hearings conducted by the commission or any hearing examiner, including special rules of evidence applicable thereto and notices thereof;

e. Prescribing the manner and method of collection of payments of taxes, fees, and penalties;

f. Defining and limiting the areas of operation, the rules of authorized games, odds, and devices permitted, and the method of operation of such games and devices;

g. Regulating the practice and procedures for negotiable transactions involving patrons, including limitations on the circumstances and amounts of such transactions, and the establishment of forms and procedures for negotiable instrument transactions, redemptions, and consolidations;

h. Prescribing grounds and procedures for the revocation or suspension of operating certificates and licenses;

i. Governing the manufacture, distribution, sale, and servicing of gaming devices and equipment;

j. Prescribing for gaming operations the procedures, forms and methods of management controls, including employee and supervisory tables of organization and responsibility, and minimum security standards, including security personnel structure, alarm and other electrical or visual security

measures; provided, however, that the commission shall grant an applicant for a casino license or a casino licensee broad discretion concerning the organization and responsibilities of management personnel who are not directly involved in the supervision of gaming or simulcast wagering operations;

k. Prescribing the qualifications of, and the conditions pursuant to which, engineers, accountants, and others shall be permitted to practice before the commission or to submit materials on behalf of any applicant or licensee; provided, however, that no member of the Legislature, nor any firm with which said member is associated, shall be permitted to appear or practice or act in any capacity whatsoever before the commission or division regarding any matter whatsoever, nor shall any member of the family of the Governor or of a member of the Legislature be permitted to so practice or appear in any capacity whatsoever before the commission or division regarding any matter whatsoever;

l. Prescribing minimum procedures for the exercise of effective control over the internal fiscal affairs of a licensee, including provisions for the safeguarding of assets and revenues, the recording of cash and evidence of indebtedness, and the maintenance of reliable records, accounts, and reports of transactions, operations and events, including reports to the commission;

m. Providing for a minimum uniform standard of accountancy methods, procedures and forms; a uniform code of accounts and accounting classifications; and such other standard operating procedures, including those controls listed in section 99a. hereof, as may be necessary to assure consistency, comparability, and effective disclosure of all financial information, including calculations of percentages of profit by games, tables, gaming devices and slot machines;

n. Requiring quarterly financial reports and the form thereof, and an annual audit prepared by a certified public accountant licensed to do business in this State, attesting to the financial condition of a licensee and disclosing whether the accounts, records and control procedures examined are maintained by the licensee as required by this act and the regulations promulgated hereunder;

o. Governing the gaming-related advertising of casino licensees, their employees and agents, with the view toward assuring that such advertisements are in no way deceptive; provided, however, that such regulations shall require the words "Bet with your head, not over it," or some comparable language approved by the commission, to appear on all billboards, signs, and other on-site advertising of a casino operation and shall require the words "If you or someone you know has a gambling problem and wants help, call 1-800 GAMBLER," or some comparable language approved by the commission, which language shall include the words "gambling problem" and "call 1-800 GAMBLER,"

to appear legibly on all print, billboard, and sign advertising of a casino operation; and

p. (Deleted by amendment, P.L.1991, c.182).

q. Concerning the distribution and consumption of alcoholic beverages on the premises of the licensee, which regulations shall be insofar as possible consistent with Title 33 of the Revised Statutes, and shall deviate only insofar as necessary because of the unique character of the hotel casino premises and operations;

r. (Deleted by amendment, P.L.1991, c.182).

12. Section 1 of P.L.2001, c.39 (C.5:12-71.2) is amended to read as follows:

C.5:12-71.2 List of persons self-excluded from gaming activities.

1. a. The commission shall provide by regulation for the establishment of a list of persons self-excluded from gaming activities at all licensed casinos and simulcasting facilities. Any person may request placement on the list of self-excluded persons by acknowledging in a manner to be established by the commission that the person is a problem gambler and by agreeing that, during any period of voluntary exclusion, the person may not collect any winnings or recover any losses resulting from any gaming activity at such casinos and facilities.

b. The regulations of the commission shall establish procedures for placements on, and removals from, the list of self-excluded persons. Such regulations shall establish procedures for the transmittal to licensed casinos and simulcasting facilities of identifying information concerning self-excluded persons, and shall require licensed casinos and simulcasting facilities to establish procedures designed, at a minimum, to remove self-excluded persons from targeted mailings or other forms of advertising or promotions and deny self-excluded persons access to credit, complementaries, check cashing privileges club programs, and other similar benefits.

c. A licensed casino or simulcasting facility or employee thereof shall not be liable to any self-excluded person or to any other party in any judicial proceeding for any harm, monetary or otherwise, which may arise as a result of:

(1) the failure of a licensed casino or simulcasting facility to withhold gaming privileges from, or restore gaming privileges to, a self-excluded person; or

(2) otherwise permitting a self-excluded person to engage in gaming activity in such licensed casino or simulcasting facility while on the list of self-excluded persons.

d. Notwithstanding the provisions of P.L.1977, c.110 (C.5:12-1 et seq.) or any other law to the contrary, the commission's list of self-excluded persons

shall not be open to public inspection. Nothing herein, however, shall be construed to prohibit a casino licensee from disclosing the identity of persons self-excluded pursuant to this section to affiliated gaming entities in this State or other jurisdictions for the limited purpose of assisting in the proper administration of responsible gaming programs operated by such gaming affiliated entities.

e. A licensed casino or simulcasting facility or employee thereof shall not be liable to any self-excluded person or to any other party in any judicial proceeding for any harm, monetary or otherwise, which may arise as a result of disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of the identity of any self-excluded person.

13. 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) The commission may, in its discretion, issue a statement of compliance to an applicant for any license or for qualification status under this act at any time the commission is satisfied that the applicant has established by clear and convincing evidence that one or more particular eligibility criteria have been satisfied by an applicant. 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 commission. Before the commission refers any such petition to the division for investigation, the commission may require the applicant to establish to the satisfaction of the commission 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 commission 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 the commission finds that this reasonable likelihood exists, and if the commission is satisfied, after an investigation by the division, that the qualifications of

the person have been established by clear and convincing evidence, the commission may, in its discretion, 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 to the commission 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 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 Chief Executive Officer, Chief Operating Officer and Chief Financial Officer, or the functional equivalent thereof; each director; each person who directly or indirectly holds any beneficial interest or ownership in the applicant, to the extent such person would be required to qualify under section 85 of P.L.1977, c.110 (C.5:12-85) if the applicant were a holding company or intermediary company of a casino licensee; and any other person whom the commission may consider appropriate for approval or qualification, would, but for residence, individually be qualified for approval as a casino key employee pursuant to the provisions of section 89 of P.L.1977, c.110 (C.5:12-89).

b. Any statement of compliance issued under P.L.1977, c.110 (C.5:12-1 et seq.) shall specify:

(1) the particular eligibility criterion satisfied by the applicant or person;

(2) the date as of which such satisfaction was determined by the commission;

(3) the continuing obligation of the applicant or person to file any information required by the commission or 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. A statement of compliance certifying satisfaction of all of the requirements of subsection e. of section 84 of this act with respect to a specific casino hotel proposal submitted by an eligible applicant may be accompanied by a written commitment from the commission that a casino license shall be reserved for a period not to exceed 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish and shall be issued to such eligible applicant with respect to such proposal provided that such applicant (1) complies in all respects with the provisions

of this act, (2) qualifies for a casino license within a period not to exceed 30 months of the date of such commitment or within such additional time period as the commission may, upon a showing of good cause therefor, establish, and (3) complies with such other conditions as the commission shall impose. The commission may revoke such reservation at any time it finds that the applicant is disqualified from receiving or holding a casino license or has failed to comply with any conditions imposed by the commission. Such reservation shall be automatically revoked if the applicant does not qualify for a casino license within the period of such commitment. No license other than a casino license shall be reserved by the commission.

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 by the commission; or

(3) the commission finds 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, unless the recipient also has received a commitment for the reservation of a casino license, in which case the statement of compliance shall expire on the same date as the commitment.

f. Any statement of compliance issued by the commission prior to the effective date of this amendatory and supplementary act, P.L.2002, c.65, shall expire in accordance with the provisions of subsection e. of this section as if the statement had been issued on such effective date, unless the statement is otherwise extended, withdrawn or revoked prior to such date in accordance with the provisions of this section.

14. Section 83 of P.L.1977, c.110 (C.5:12-83) is amended to read as follows:

C.5:12-83 Approved hotel.

83. a. An approved hotel for purposes of this act shall be a hotel providing facilities in accordance with this section. Nothing in this section shall be construed to limit the authority of the commission to determine the suitability of facilities as provided in this act, and nothing in this section shall be construed to require a casino to be smaller than the maximum size herein provided.

b. (Deleted by amendment, P.L.2002, c.65).

c. A casino hotel shall include an approved hotel containing at least 500 qualifying sleeping units, as defined in section 27 of the "Casino Control Act," P.L.1977, c.110 (C.5:12-27), and a casino, the total square footage of which shall not exceed 60,000 square feet, except that for each additional 100 qualifying sleeping units above 500, the maximum amount of the casino space may be increased by 10,000 square feet, up to a maximum of 200,000 square feet of casino space. For the purpose of increasing casino space, an agreement approved by the commission for the addition of qualifying sleeping units within two years after the commencement of gaming operations in the additional casino space shall be deemed an addition of those sleeping units, but if the agreement is not fulfilled due to conditions within the control of the casino licensee, the casino licensee shall close the additional casino space or any portion thereof as directed by the commission.

d. Once a hotel is initially approved, the commission shall thereafter rely on the certification of the casino licensee with regard to the number of qualifying sleeping units and shall permit replacement, rehabilitation, renovation and alteration of any part of the approved hotel even if the replacement, rehabilitation, renovation, or alteration will mean that the casino licensee does not temporarily meet the requirements of subsection c. so long as the licensee certifies that the replacement, rehabilitation, renovation, or alteration shall be completed within one year or such other reasonable period of time as the commission may approve.

e. (Deleted by amendment, P.L.1987, c.352).

f. (Deleted by amendment, P.L.1991, c.182).

g. (Deleted by amendment, P.L.1991, c.182).

h. (Deleted by amendment, P.L.1991, c.182).

i. The commission shall not impose any criteria or requirements regarding the contents of the approved hotel in addition to the criteria and requirements expressly specified in the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.); provided, however, that the commission shall be authorized to require each casino licensee to establish and maintain an approved hotel which is in all respects a superior, first-class facility of exceptional quality which will help restore Atlantic City as a resort, tourist and convention destination.

15. Section 85 of P.L.1977, c.110 (C.5:12-85) is amended to read as follows:

C.5:12-85 Additional requirements.

85. Additional Requirements. a. In addition to other information required by this act, a corporation applying for a casino license shall provide the following information:

(1) The organization, financial structure and nature of all businesses operated by the corporation; the names and personal employment and criminal histories of all officers, directors and principal employees of the corporation; the names of all holding, intermediary and subsidiary companies of the corporation; and the organization, financial structure and nature of all businesses operated by such of its holding, intermediary and subsidiary companies as the commission may require, including names and personal employment and criminal histories of such officers, directors and principal employees of such corporations and companies as the commission may require;

(2) The rights and privileges acquired by the holders of different classes of authorized securities of such corporations and companies as the commission may require, including the names, addresses and amounts held by all holders of such securities;

(3) The terms upon which securities have been or are to be offered;

(4) The terms and conditions of all outstanding loans, mortgages, trust deeds, pledges or any other indebtedness or security devices utilized by the corporation;

(5) The extent of the equity security holding in the corporation of all officers, directors and underwriters, and their remuneration in the form of salary, wages, fees or otherwise;

(6) Names of persons other than directors and officers who occupy positions specified by the commission or whose compensation exceeds an amount determined by the commission, and the amount of their compensation;

(7) A description of all bonus and profit-sharing arrangements;

(8) Copies of all management and service contracts; and

(9) A listing of stock options existing or to be created.

b. If a corporation or other form of business organization applying for a casino license is, or if a corporation or other form of business organization holding a casino license is to become, a subsidiary, each holding company and each intermediary company with respect thereto must, as a condition of the said subsidiary acquiring or retaining such license, as the case may be:

(1) Qualify to do business in the State of New Jersey; and

(2) If it is a corporation, register with the commission and furnish the commission with all the information required of a corporate licensee as specified in subsection a. (1), (2) and (3) of this section and such other information as the commission may require; or

(3) If it is not a corporation, register with the commission and furnish the commission with such information as the commission may prescribe.

c. No corporation shall be eligible to hold a casino license unless each officer; each director; each person who directly or indirectly holds any beneficial interest or ownership of the securities issued by the corporation; any person who in the opinion of the commission has the ability to control the corporation

or elect a majority of the board of directors of that corporation, other than a banking or other licensed lending institution which makes a loan or holds a mortgage or other lien acquired in the ordinary course of business; each principal employee; and any lender, underwriter, agent, employee of the corporation, or other person whom the commission may consider appropriate for approval or qualification would, but for residence, individually be qualified for approval as a casino key employee pursuant to the provisions of this act.

d. No corporation or other form of business organization which is a subsidiary shall be eligible to receive or hold a casino license unless each holding and intermediary company with respect thereto:

(1) If it is a corporation, shall comply with the provisions of subsection c. of this section as if said holding or intermediary company were itself applying for a casino license; provided, however, that the commission with the concurrence of the director may waive compliance with the provisions of subsection c. hereof on the part of a holding company as to any officer, director, lender, underwriter, agent or employee thereof, or person directly or indirectly holding a beneficial interest or ownership of the securities of such corporation, where the commission and the director are satisfied that such officer, director, lender, underwriter, agent or employee is not significantly involved in the activities of the corporate licensee, and in the case of security holders, does not have the ability to control the holding company or elect one or more directors thereof; or

(2) If it is not a corporation, shall comply with the provisions of subsection e. of this section as if said company were itself applying for a casino license; provided, however, that the commission with the concurrence of the director may waive compliance with the provisions of subsection e. of this section on the part of a noncorporate business organization which is a holding company as to any person who directly or indirectly holds any beneficial interest or ownership in such company, when the commission and the director are satisfied that such person does not have the ability to control the company.

e. Any noncorporate applicant for a casino license shall provide the information required in subsection a. of this section in such form as may be required by the commission. No such applicant shall be eligible to hold a casino license unless each person who directly or indirectly holds any beneficial interest or ownership in the applicant, or who in the opinion of the commission has the ability to control the applicant, or whom the commission may consider appropriate for approval or qualification, would, but for residence, individually be qualified for approval as a casino key employee pursuant to the provisions of this act.

f. Notwithstanding the provisions of subsections c. and d. of this section, and in the absence of a prima facie showing by the director that there is any cause to believe that the institutional investor may be found unqualified, an

institutional investor holding either (1) under 10% of the equity securities of a casino licensee's holding or intermediary companies, or (2) debt securities of a casino licensee's holding or intermediary companies, or another subsidiary company of a casino licensee's holding or intermediary companies which is related in any way to the financing of the casino licensee, where the securities represent a percentage of the outstanding debt of the company not exceeding 20%, or a percentage of any issue of the outstanding debt of the company not exceeding 50%, shall be granted a waiver of qualification if such securities are those of a publicly traded corporation and its holdings of such securities were purchased for investment purposes only and upon request by the commission it files with the commission a certified statement to the effect that it has no intention of influencing or affecting the affairs of the issuer, the casino licensee or its holding or intermediary companies; provided, however, that it shall be permitted to vote on matters put to the vote of the outstanding security holders. The commission may grant a waiver of qualification to an institutional investor holding a higher percentage of such securities upon a showing of good cause and if the conditions specified above are met. Any institutional investor granted a waiver under this subsection which subsequently determines to influence or affect the affairs of the issuer shall provide not less than 30 days' notice of such intent and shall file with the commission an application for qualification before taking any action that may influence or affect the affairs of the issuer; provided, however, that it shall be permitted to vote on matters put to the vote of the outstanding security holders. If an institutional investor changes its investment intent, or if the commission finds reasonable cause to believe that the institutional investor may be found unqualified, no action other than divestiture shall be taken by such investor with respect to its security holdings until there has been compliance with the provisions of P.L.1987, c.409 (C.5:12-95.12 et seq.), including the execution of a trust agreement. The casino licensee and its relevant holding, intermediary or subsidiary company shall immediately notify the commission and the division of any information about, or actions of, an institutional investor holding its equity or debt securities where such information or action may impact upon the eligibility of such institutional investor for a waiver pursuant to this subsection.

g. If at any time the commission finds that an institutional investor holding any security of a holding or intermediary company of a casino licensee, or, where relevant, of another subsidiary company of a holding or intermediary company of a casino licensee which is related in any way to the financing of the casino licensee, fails to comply with the terms of subsection f. of this section, or if at any time the commission finds that, by reason of the extent or nature of its holdings, an institutional investor is in a position to exercise such a substantial impact upon the controlling interests of a licensee that

qualification of the institutional investor is necessary to protect the public interest, the commission may, in accordance with the provisions of subsections a. through e. of this section or subsections d. and e. of section 105 of P.L.1977, c.110 (C.5:12-105), take any necessary action to protect the public interest, including requiring such an institutional investor to be qualified pursuant to the provisions of the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.).

16. Section 91 of P.L.1977, c.110 (C.5:12-91) is amended to read as follows:

C.5:12-91 Registration of casino service employees.

91. Registration of Casino Service Employees.

a. No person may commence employment as a casino service employee unless the person has been registered with the commission, which registration shall be in accordance with subsection f. of this section.

b. Any applicant for casino service employee registration shall produce such information as the commission may require. Subsequent to the registration of a casino service employee, the commission may revoke, suspend, limit, or otherwise restrict the registration upon a finding that the registrant is disqualified on the basis of the criteria contained in section 86 of P.L.1977, c.110 (C.5:12-86).

c. The commission may, by regulation, require that all applicants for casino service employee registration be residents of this State for a period not to exceed three months immediately prior to such registration, but application may be made prior to the expiration of the required period of residency. The commission shall waive the required residency period for an applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.

d. Notwithstanding the provisions of subsection b. of this section, no casino service employee registration shall be revoked on the basis of a conviction of any of the offenses enumerated in this act as disqualification criteria or the commission of any act or acts which would constitute any offense under subsection c. of section 86 of P.L.1977, c.110 (C.5:12-86), as specified in subsection g. of that section, provided that the registrant has affirmatively demonstrated the registrant's rehabilitation. In determining whether the registrant has affirmatively demonstrated the registrant's rehabilitation the commission shall consider the following factors:

(1) The nature and duties of the registrant's position;

(2) The nature and seriousness of the offense or conduct;

(3) The circumstances under which the offense or conduct occurred;

(4) The date of the offense or conduct;

(5) The age of the registrant when the offense or conduct was committed;

(6) Whether the offense or conduct was an isolated or repeated incident;

(7) Any social conditions which may have contributed to the offense or conduct;

(8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the registrant under their supervision.

e. The commission may waive any disqualification criterion for a casino service employee consistent with the public policy of this act and upon a finding that the interests of justice so require.

f. Upon petition by the holder of a casino license, casino service employee registration shall be granted to each applicant for such registration named therein, provided that the petition certifies that each such applicant has filed a completed application for casino service employee registration as required by the commission.

All casino hotel employee registrations shall expire 120 days after the effective date of this amendatory and supplementary act, P.L.2002, c.65. Any holder of a casino hotel employee registration may until that date convert that registration to a casino service employee registration without fee.

17. Section 92 of P.L.1977, c.110 (C.5:12-92) is amended to read as follows:

C.5:12-92 Licensing and registration of casino service industries.

92. Licensing and Registration of Casino Service Industries.

a. (1) All casino service industries 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, schools teaching gaming and either playing or dealing techniques, and casino security services, shall be licensed in accordance with the provisions of this act prior to conducting any business whatsoever with a casino applicant or licensee, its employees or agents, and in the case of a school, prior to enrollment of any students or offering of any courses to the public whether for compensation or not; provided, however, that upon a showing of good cause by a casino applicant or licensee for each business transaction, the commission may permit an applicant for a casino service industry license to conduct business transactions with such casino applicant or licensee prior to the licensure of that service industry applicant under this subsection.

(2) In addition to the requirements of paragraph (1) of this subsection, any casino service industry intending to manufacture, sell, distribute, test or repair slot machines within New Jersey, other than antique slot machines as

defined in N.J.S.2C:37-7, shall be licensed in accordance with the provisions of this act prior to engaging in any such activities; provided, however, that upon a showing of good cause by a casino applicant or licensee for each business transaction, the commission may permit an applicant for a casino service industry license to conduct business transactions with the casino applicant or licensee prior to the licensure of that service industry applicant under this subsection; and provided further, however, that upon a showing of good cause by an applicant required to be licensed as a casino service industry pursuant to this paragraph, the commission may permit the service industry 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 service industry applicant under this subsection.

b. Each casino service industry in subsection a. of this section, as well as its owners; management and supervisory personnel; and principal employees if such principal employees have responsibility for services to a casino licensee, must qualify under the standards, except residency, established for qualification of a casino key employee under this act.

c. All casino service industries not included in subsection a. of this section shall be licensed in accordance with rules of the commission prior to commencement or continuation of any business with a casino applicant or licensee or its employees or agents. Such casino service industries, whether or not directly related to gaming operations, shall include junket enterprises; suppliers of alcoholic beverages, food and nonalcoholic beverages; 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); garbage handlers; vending machine providers; linen suppliers; maintenance companies; shopkeepers located within the approved hotels; limousine services; construction companies; and gaming schools contracting with casino applicants or licensees or their employees or agents. The commission may exempt any person or field of commerce from the licensing requirements of this subsection if the person or field of commerce demonstrates (1) that it is regulated by a public agency or that it will provide goods or services in insubstantial or insignificant amounts or quantities, and (2) that licensing is not deemed necessary in order to protect the public interest or to accomplish the policies established by this act.

Upon granting an exemption or at any time thereafter, the commission may limit or place such restrictions thereupon as it may deem necessary in the public interest, and shall require the exempted person to cooperate with the commission and the division and, upon request, to provide information in the same manner as required of a casino service industry licensed pursuant to this subsection; provided, however, that no exemption be granted unless

the casino service industry complies with the requirements of sections 134 and 135 of this act.

d. Licensure pursuant to subsection c. of this section of any casino service industry may be denied to any applicant disqualified in accordance with the criteria contained in section 86 of this act.

e. No casino service industry license shall be issued pursuant to subsection a. or subsection c. 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. A casino service industry licensed pursuant to subsection a. or subsection c. of this section shall require proof, from a subcontractor to a casino service industry contract with a casino applicant or casino licensee, of valid business registration with the Division of Revenue; verification information shall be forwarded by the casino service industry to the Division of Taxation in the Department of the Treasury. No subcontract to a casino service industry contract with a casino applicant or casino licensee shall be entered into by any casino service contractor unless the subcontractor first provides proof of valid business registration.

18. Section 93 of P.L.1977, c.110 (C.5:12-93) is amended to read as follows:

C.5:12-93 Registration of labor organizations.

93. Registration of Labor Organizations.

a. Each labor organization, union or affiliate seeking to represent employees who are employed in a casino hotel, casino or casino simulcasting facility by a casino licensee shall register with the commission biennially, and shall disclose such information to the commission as the commission may require, including the names of all affiliated organizations, pension and welfare systems and all officers and agents of such organizations and systems; provided, however, that no labor organization, union, or affiliate shall be required to furnish such information to the extent such information is included in a report filed by any labor organization, union, or affiliate with the Secretary of Labor pursuant to 29 U.S.C.s.431 et seq. or s. 1001 et seq. if a copy of such report, or of the portion thereof containing such information, is furnished to the commission pursuant to the aforesaid federal provisions. The commission may in its discretion exempt any labor organization, union, or affiliate from the registration requirements of this subsection where the commission finds that such organization, union or affiliate is not the certified bargaining representative of any employee who is employed in a casino hotel, casino or casino simulcasting facility by a casino licensee, is not involved actively,

directly or substantially in the control or direction of the representation of any such employee, and is not seeking to do so.

b. No person may act as an officer, agent or principal employee of a labor organization, union or affiliate registered or required to be registered pursuant to this section if the person has been found disqualified by the commission in accordance with the criteria contained in section 86 of that act. The commission may, for purposes of this subsection, waive any disqualification criterion consistent with the public policy of this act and upon a finding that the interests of justice so require.

c. Neither a labor organization, union or affiliate nor its officers and agents not otherwise individually licensed or registered under this act and employed by a casino licensee may hold any financial interest whatsoever in the casino hotel, casino, casino simulcasting facility or casino licensee whose employees they represent.

d. Any person, including any labor organization, union or affiliate, who shall violate, aid and abet the violation, or conspire or attempt to violate this section is guilty of a crime of the fourth degree.

e. The commission or the division may maintain a civil action and proceed in a summary manner, without posting bond, against any person, including any labor organization, union or affiliate, to compel compliance with this section, or to prevent any violations, the aiding and abetting thereof, or any attempt or conspiracy to violate this section.

f. In addition to any other remedies provided in this section, a labor organization, union or affiliate registered or required to be registered pursuant to this section may be prohibited by the commission from receiving any dues from any employee licensed or registered under that act and employed by a casino licensee or its agent, if any officer, agent or principal employee of the labor organization, union or affiliate has been found disqualified and if such disqualification has not been waived by the commission in accordance with subsection b. of this section. The commission or the division may proceed in the manner provided by subsection e. of this section to enforce an order of the commission prohibiting the receipt of dues.

g. Nothing contained in this section shall limit the power of the commission to proceed in accordance with subsection c. of section 107 of P.L.1977, c.110 (C.5:12-107).

19. Section 95 of P.L.1977, c.110 (C.5:12-95) is amended to read as follows:

C.5:12-95 Renewal of licenses and registrations.

95. Renewal of Licenses and Registrations. Subject to the power of the commission to deny, revoke or suspend any license or registration, any license

other than a casino license or any registration may be renewed upon proper application for renewal and the payment of fees in accordance with the rules of the commission, but in no event later than the date of expiration of the current license or registration.

Notwithstanding the foregoing, in order to facilitate the efficient operation of the commission and the division, the commission shall have the authority, with the concurrence of the director of the division, to extend the period of any license other than a casino license, but in no event shall the expiration date be extended for more than two years.

20. Section 97 of P.L.1977, c.110 (C.5:12-97) is amended to read as follows:

C.5:12-97 Hours of operation.

97. Hours of Operation. a. Each casino licensed pursuant to this act shall be permitted to operate 24 hours a day unless otherwise directed by the commission in accordance with its authority under P.L.1977, c.110 (C.5:12-1 et seq.).

b. A casino licensee shall file with the commission a schedule of hours prior to the issuance of an initial operation certificate. If the casino licensee proposes any change in scheduled hours, such change may not be effected until such licensee files a notice of the new schedule of hours with the commission. Such filing must be made 30 days prior to the effective date of the proposed change in hours.

c. Nothing herein shall be construed to limit a casino licensee in opening its casino later than, or closing its casino earlier than, the times stated in its schedule of operating hours; provided, however, that any such alterations in its hours shall comply with the provisions of subsection a. of this section and with regulations of the commission pertaining to such alterations.

21. Section 99 of P.L.1977, c.110 (C.5:12-99) is amended to read as follows:

C.5:12-99 Internal controls.

99. Internal Controls.

a. Each applicant for a casino license shall submit to the commission a description of its initial system of internal procedures and administrative and accounting controls for gaming and simulcast wagering operations accompanied by a certification by its Chief Legal Officer or equivalent that the submitted procedures conform to the requirements of this act, P.L.1977, c.110 (C.5:12-1 et seq.), and the regulations promulgated thereunder, and a certification by its Chief Financial Officer or equivalent that the submitted procedures provide adequate and effective controls, establish a consistent

overall system of internal procedures and administrative and accounting controls and conform to generally accepted accounting principles. Each applicant shall make its initial submission at least 30 days before such operations are to commence unless otherwise directed by the commission. Except as otherwise provided in subsection b. of this section, a casino licensee, upon submission to the commission of a narrative description of a change in its system of internal procedures and controls and the two certifications described above, may, following the 15th day after submission, implement the change. Each initial internal control submission shall contain a narrative description of the internal control system to be utilized by the casino, including, but not limited to:

(1) Accounting controls, including the standardization of forms and definition of terms to be utilized in the gaming and simulcast wagering operations;

(2) Procedures, forms, and, where appropriate, formulas covering the calculation of hold percentages; revenue drop; expense and overhead schedules; complimentary services, except as provided in paragraph (3) of subsection m. of section 102 of P.L.1977, c.110 (C.5:12-102); junkets; and cash equivalent transactions;

(3) Job descriptions and the system of personnel and chain-of-command, establishing a diversity of responsibility among employees engaged in casino or simulcasting facility operations and identifying primary and secondary supervisory positions for areas of responsibility, which areas shall not be so extensive as to be impractical for an individual to monitor; salary structure; and personnel practices;

(4) Procedures within the cashier's cage and simulcast facility for the receipt, storage and disbursal of chips, cash, and other cash equivalents used in gaming and simulcast wagering; the cashing of checks; the redemption of chips and other cash equivalents used in gaming and simulcast wagering; the pay-off of jackpots and simulcast wagers; and the recording of transactions pertaining to gaming and simulcast wagering operations;

(5) Procedures for the collection and security of moneys at the gaming tables and in the simulcasting facility;

(6) Procedures for the transfer and recordation of chips between the gaming tables and the cashier's cage and the transfer and recordation of moneys within the simulcasting facility;

(7) Procedures for the transfer of moneys from the gaming tables to the counting process and the transfer of moneys within the simulcasting facility for the counting process;

(8) Procedures and security for the counting and recordation of revenue;

(9) Procedures for the security, storage and recordation of cash, chips and other cash equivalents utilized in the gaming and simulcast wagering operations;

(10) Procedures for the transfer of moneys or chips from and to the slot machines;

(11) Procedures and standards for the opening and security of slot machines;

(12) Procedures for the payment and recordation of slot machine jackpots;

(13) Procedures for the cashing and recordation of checks exchanged by casino and simulcasting facility patrons;

(14) Procedures governing the utilization of the private security force within the casino and simulcasting facility;

(15) Procedures and security standards for the handling and storage of gaming apparatus including cards, dice, machines, wheels and all other gaming equipment;

(16) Procedures and rules governing the conduct of particular games and simulcast wagering and the responsibility of casino personnel in respect thereto; and

(17) Procedures for separately recording all transactions pursuant to section 101 of this act involving the Governor, any State officer or employee, or any special State officer or employee, any member of the Judiciary, any member of the Legislature, any officer of a municipality or county in which casino gaming is authorized, or any gaming related casino employee, and for the quarterly filing with the Attorney General of a list reporting all such transactions.

b. The commission shall review a submission made pursuant to subsection a. to determine whether it conforms to the requirements of this act and to the regulations promulgated thereunder and provides adequate and effective controls for the operations of the particular casino hotel submitting it. If during its review, the commission preliminarily determines that a procedure in the submission contains a substantial and material insufficiency likely to have a direct and materially adverse impact on the integrity of gaming or simulcast wagering operations or the control of gross revenue, the chairman, by written notice to the casino licensee, shall: (1) specify the precise nature of the insufficiency and, when possible, an acceptable alternative procedure, (2) schedule a hearing before the full commission no later than 15 days after the date of such written notice to plenarily and finally determine whether the procedure in question contains the described insufficiency, and (3) direct that the internal controls in issue not yet implemented not be implemented until approved by the commission. Upon receipt of the notice, the casino licensee shall proceed to the scheduled hearing before the full commission and may submit a revised procedure addressing the concerns specified in the notice.

c. Notwithstanding the provisions of subsections a. and b. hereof, the commission shall, by regulation, permit changes to those internal controls required by subsection a. hereof that cannot have a material impact upon the integrity of gaming or simulcast wagering operations or the control and reporting

of gross revenue, including those internal controls described in paragraph (3) of subsection a. hereof, to be implemented by a casino licensee immediately upon the preparation and internal filing of such internal controls.

d. Each casino licensee and applicant shall submit a narrative description of its system of internal procedures and administrative and accounting controls for the recording and reporting of all business transactions and agreements governed by sections 92 and 104 of P.L.1977, c.110 (C.5:12-92 and 5:12-104, as amended) no later than five days after those operations commence or after any change in those procedures or controls takes effect.

22. Section 100 of P.L.1977, c.110 (C.5:12-100) is amended to read as follows:

C.5:12-100 Games and gaming equipment.

100. Games and Gaming Equipment.

a. This act shall not be construed to permit any gaming except the conduct of authorized games in a casino room in accordance with this act and the regulations promulgated hereunder 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 commission 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 commission regulations at any location in a casino hotel approved by the commission for such activity.

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 commission. 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 in restricted casino areas specifically designated for that purpose by the casino licensee with the approval of the commission. No gaming equipment shall be possessed, maintained, exhibited, brought into or removed from a casino room 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 commission, is under the exclusive control of a casino licensee or his employees, 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 commission.

Notwithstanding any other provision of this section, equipment which supports a multi-casino progressive slot system and links and interconnects slot machines of two or more casino licensees but is inaccessible to patrons, such as computers, may, with the approval of the commission, be possessed, maintained and operated by a casino licensee either in a restricted area on the premises of a casino hotel or in a secure facility specifically designed for that purpose off the premises of a casino hotel but within the city limits of the City of Atlantic City.

Notwithstanding the foregoing, a person may, with the prior approval of the commission and under such terms and conditions as may be required by the commission, possess, maintain or exhibit gaming equipment in any other area of the casino hotel; provided such equipment is used for nongaming purposes.

c. Each casino hotel shall contain a count room and such other secure facilities as may be required by the commission for the counting and storage of cash, coins, tokens and checks received in the conduct of gaming and for the inspection, counting and storage of dice, cards, chips and other representatives of value. All drop boxes and other devices wherein cash, coins, or tokens are deposited at the gaming tables or in slot machines, and all areas wherein such boxes and devices are kept while in use, shall be equipped with two locking devices, one key to which shall be under the exclusive control of the commission and the other under the exclusive control of the casino licensee, and said drop boxes and other devices shall not be brought into or removed from a casino room or simulcasting facility, or locked or unlocked, except at such times, in such places, and according to such procedures as the commission may require.

d. All chips used in gaming shall be of such size and uniform color by denomination as the commission shall require by regulation.

e. All gaming shall be conducted according to rules promulgated by the commission. All wagers and pay-offs of winning wagers shall be made according to rules promulgated by the commission, 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 commission regarding games and the conduct of gaming, pay-offs of winning wagers, an approximation of the odds of winning for each wager, and such other advice to the player as the commission shall require. Each casino licensee shall prominently post within a casino room and simulcasting facility, as appropriate, according to regulations of the commission such information about gaming rules, pay-offs of winning wagers, the odds of winning for each wager, and such other advice to the player as the commission shall require.

g. Each gaming table shall be equipped with a sign indicating the permissible minimum and maximum wagers pertaining thereto. It shall be unlawful for a casino licensee to require any wager to be greater than the stated minimum or less than the stated maximum; provided, however, that any wager actually made by a patron and not rejected by a casino licensee prior to the commencement of play shall be treated as a valid wager.

h. (1) No slot machine shall be used to conduct gaming unless it is identical in all electrical, mechanical and other aspects to a model thereof which has been specifically tested by the division and licensed for use by the commission. The division may, in its discretion, and for the purpose of expediting the approval process, refer testing to any testing laboratory with a plenary license as a casino service industry pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92). The division shall give priority to the testing of slot machines which a casino licensee has certified it will use in its casino in this State. The commission 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 commission of the settings.

(2) The commission 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 commission 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.

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 or complimentary vouchers distributed by the casino licensee, or, if authorized by regulation of the commission, 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 commission.

n. It shall be unlawful for any casino key employee or any person who is required to hold a casino key employee license as a condition of employment or qualification to wager in any casino or simulcasting facility in this State, or any casino employee, other than a junket representative, bartender, waiter, waitress, or other casino employee who, in the judgment of the commission, is not directly involved with the conduct of gaming operations, to wager in a 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 the same casino licensee. Any casino employee, other than a junket representative, bartender, waiter, waitress, or other casino employee who, in the judgment of the commission, is not directly involved with the conduct of gaming operations, must wait at least 30 days following the date that the employee either leaves employment with a casino licensee or is terminated from employment with a casino licensee before the employee may gamble in a casino or simulcasting facility in the casino hotel in which the employee was formerly employed or in any other casino or simulcasting facility in this State which is owned or operated by the same 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, 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 commission may 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.

23. Section 101 of P.L.1977, c.110 (C.5:12-101) is amended to read as follows:

C.5:12-101 Credit.

101. Credit. a. Except as otherwise provided in this section, no casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, shall:

(1) Cash any check, make any loan, or otherwise provide or allow to any person any credit or advance of anything of value or which represents value to enable any person to take part in gaming 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 commission.

b. No casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, may accept a check, other than a recognized traveler's check or other cash equivalent from any person to enable such person to take part in gaming 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 commission 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 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 under this act, or any other person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, shall transfer, convey, or give, with or without consideration, a check cashed in conformity with the requirements of this section to any person other than:

(1) The drawer of the check upon redemption or consolidation in accordance with subsection c. of this section;

(2) A bank for collection or payment of the check;

(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 one licensed as a casino key employee or as a casino employee may engage in efforts to collect upon checks that have been returned by banks without full and final payment, except that an attorney-at-law representing a casino licensee may bring action for such collection.

f. Notwithstanding the provisions of any law to the contrary, checks cashed in conformity with the requirements of this act shall be valid instruments, enforceable at law in the courts of this State. Any check cashed, transferred, conveyed or given in violation of this act shall be invalid and unenforceable for the purposes of collection but shall be included in the calculation of gross revenue pursuant to section 24 of P.L.1977, c.110 (C.5:12-24).

g. Notwithstanding the provisions of subsection b. of this section to the contrary, a casino licensee may accept a check from a person to enable the person to take part in gaming 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 drawn by a casino licensee pursuant to the provisions of subsection k. of section 100 of P.L.1977, c.110 (C.5:12-100) or upon a withdrawal of funds from an account established in accordance with the provisions of subsection b. of this section or is drawn by a casino licensee as payment for winnings from an authorized game or simulcast wagers;

(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 an annuity jackpot trust as payment for winnings from an annuity jackpot; or

(e) The check is issued by an affiliate of a casino licensee that holds a gaming license in any jurisdiction;

(2) The check is identifiable in a manner approved by the commission as a check issued for a purpose listed in paragraph (1) of this subsection;

(3) The check is dated, but not postdated;

(4) The check is presented to the cashier or the cashier's representative by the original payee and its validity is verified by the drawer in the case of a check drawn pursuant to subparagraph (a) of paragraph (1) of this subsection, or the check is verified in accordance with regulations promulgated by the commission in the case of a check issued pursuant to subparagraph (b), (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 commission, 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 an approved 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 commission.

i. Checks cashed pursuant to the provisions of subsection h. of this section which are subsequently uncollectible may not be deducted from the total of

all sums received in calculating gross revenue pursuant to section 24 of P.L.1977, c.110 (C.5:12-24).

j. A person may request the commission to put that person's name on a list of persons to whom the extension of credit by a casino as provided in this section would be prohibited by submitting to the commission the person's name, address, and date of birth. The person does not need to provide a reason for this request. The commission shall provide this list to the credit department of each casino; neither the commission nor the credit department of a casino shall divulge the names on this list to any person or entity other than those provided for in this subsection. If such a person wishes to have that person's name removed from the list, the person shall submit this request to the commission, which shall so inform the credit departments of casinos no later than three days after the submission of the request.

k. Notwithstanding the provisions of paragraph (4) of subsection b. of this section to the contrary, a casino licensee may, prior to the completion of the verifications that are otherwise required by the rules of the commission for a casino licensee to issue credit, accept a check from a person to enable such person to take part in gaming or simulcast wagering as a player, or may give cash or cash equivalents in exchange for such check, provided that:

(1) the casino licensee records in the credit file of the person:

(a) the efforts that were made to complete the required verifications and the reasons why the verifications could not be completed; and

(b) a description of the criteria that were relied upon in determining to issue credit to the person prior to the completion of the required verifications;

(2) the check otherwise complies with the requirements of subsection b. of this section and is processed by the casino licensee in accordance with all other provisions of this section and the regulations of the commission; and

(3) any check accepted by a casino licensee pursuant to the provisions of this subsection:

(a) is clearly marked as such in a manner approved by the commission; and

(b) may not be deducted from the total of all sums received in calculating gross revenue pursuant to section 24 of P.L.1977, c.110 (C.5:12-24), even if such check should subsequently prove uncollectible or the casino licensee completes all of the required verifications prior to its deposit or presentment.

24. 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 employee in accordance with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.); provided, however, that said licensee need not be a resident of this State. Any person who holds a current and valid casino employee license may act as a junket representative while employed by a casino licensee or an affiliate. 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 which, and junket representatives not employed by a casino licensee or an applicant for a casino license or by a junket enterprise who, are engaged in activities governed by this section shall be subject to the provisions of subsection c. of section 92 and subsection b. of section 104 of P.L.1977, c.110 (C.5:12-92 and 5:12-104) with regard to those activities, unless otherwise directed by the commission pursuant to subsection k. of this section. Such of the owners, management and supervisory personnel, and other principal employees of a junket enterprise as the commission may consider appropriate for qualification shall qualify under the standards, except for residency, established for qualification of a casino key employee under P.L.1977, c.110 (C.5:12-1 et seq.).

d. Prior to the issuance of any license required by this section, an applicant for licensure shall submit to the jurisdiction of the State of New Jersey and shall demonstrate to the satisfaction of the commission that he is amenable to service of process within this State. Failure to establish or maintain compliance with the requirements of this subsection shall constitute sufficient cause for the denial, suspension or revocation of any license issued pursuant to this section.

e. Upon petition by the holder of a casino license, an applicant for junket representative licensure may be issued a temporary license by the commission, 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 commission orders the termination upon the suspension, limitation, conditioning, denial or revocation of the licensure of the junket representative or junket enterprise, in accordance with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.). Failure to expressly include such a condition in the agreement shall not constitute a defense in any action brought to terminate the agreement.

g. A casino licensee shall be responsible for the conduct of any junket representative or junket enterprise associated with it and for the terms and conditions of any junket engaged in on its premises, regardless of the fact that the junket may involve persons not employed by such a casino licensee.

h. A casino licensee shall be responsible for any violation or deviation from the terms of a junket. Notwithstanding any other provisions of this act, the commission may, after hearings in accordance with this act, order restitution to junket participants, assess penalties for such violations or deviations, prohibit future junkets by the casino licensee, junket enterprise or junket representative, and order such further relief as it deems appropriate.

i. The commission shall, by regulation, prescribe methods, procedures and forms for the delivery and retention of information concerning the conduct of junkets by casino licensees. Without limitation of the foregoing, each casino licensee, in accordance with the rules of the commission, shall:

(1) Maintain on file a report describing the operation of any junket engaged in on its premises;

(2) (Deleted by amendment, P.L.1995, c.18).

(3) Submit to the commission and 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 commission, file a report with the division with respect to each list of junket patrons or potential junket patrons purchased directly or indirectly by the casino licensee, junket representative or enterprise.

k. The commission shall have the authority to determine, either by regulation, or upon petition by the holder of a casino license, that a type of arrangement otherwise included within the definition of "junket" established by section 29 of P.L.1977, c.110 (C.5:12-29) shall not require compliance with any or all of the requirements of this section. The commission shall seek the opinion of the division prior to granting any exemption. In granting exemptions, the commission shall consider such factors as the nature, volume and significance of the particular type of arrangement, and whether the exemption would be consistent with the public policies established by this act. In applying the provisions of this subsection, the commission may condition, limit, or restrict any exemption as the commission may deem appropriate.

l. No junket enterprise or junket representative or person acting as a junket representative may:

(1) Engage in efforts to collect upon checks that have been returned by banks without full and final payment;

(2) Exercise approval authority with regard to the authorization or issuance of credit pursuant to section 101 of P.L.1977, c.110 (C.5:12-101);

(3) Act on behalf of or under any arrangement with a casino licensee or a gaming patron with regard to the redemption, consolidation, or substitution of the gaming patron's checks awaiting deposit pursuant to subsection c. of section 101 of P.L.1977, c.110 (C.5:12-101);

(4) Individually receive or retain any fee from a patron for the privilege of participating in a junket;

(5) Pay for any services, including transportation, or other items of value provided to, or for the benefit of, any patron participating in a junket.

m. No casino licensee shall offer or provide any complimentary services, gifts, cash or other items of value to any person unless:

(1) The complimentary consists of room, food, beverage or entertainment expenses provided directly to the patron and his guests by the licensee or indirectly to the patron and his guests on behalf of a licensee by a third party; or

(2) The complimentary consists of documented transportation expenses provided directly to the patron and his guests by the licensee or indirectly to the patron and his guests on behalf of a licensee by a third party, provided that the licensee complies with regulations promulgated by the commission to ensure that a patron's and his guests' documented transportation expenses are paid for or reimbursed only once; or

(3) The complimentary consists of coins, tokens, cash or other complimentary items or services provided through a bus coupon or other complimentary distribution program which, notwithstanding the requirements of section 99 of P.L.1977, c.110 (C.5:12-99), shall be filed with the commission upon the implementation of the program or maintained pursuant to commission regulation.

Notwithstanding the foregoing, a casino licensee may offer and provide complimentary cash or noncash gifts which are not otherwise included in paragraphs (1) through (3) of this subsection to any person, provided that any such gifts in excess of $2,000.00 per trip, or such greater amount as the commission may establish by regulation, are supported by documentation regarding the reason the gift was provided to the patron and his guests, including where applicable, a patron's player rating, which documentation shall be maintained by the casino licensee. For the purposes of this paragraph, all gifts presented to a patron and the patron's guests directly by the licensee or indirectly on behalf of the licensee by a third party within any five-day period shall be considered to have been made during a single trip.

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 commission based upon such account and covering all complimentary services offered or engaged in by the licensee during the immediately preceding quarter. Such reports shall include identification of the regulated complimentary services and their respective costs, the number of persons by category of service who received the same, and such other information as the commission may require.

n. As used in this subsection, "person" means any State officer or employee subject to financial disclosure by law or executive order and any other State officer or employee with responsibility for matters affecting casino activity; any special State officer or employee with responsibility for matters affecting casino activity; the Governor; any member of the Legislature or full-time member of the Judiciary; any full-time professional employee of the Office of the Governor, or the Legislature; members of the Casino Reinvestment Development Authority; the head of a principal department; the assistant or deputy heads of a principal department, including all assistant and deputy commissioners; the head of any division of a principal department; any member of the governing body, or the municipal judge or the municipal attorney of a municipality wherein a casino is located; any member of or attorney for the planning board or zoning board of adjustment of a municipality wherein a casino is located, or any professional planner or consultant regularly employed or retained by such planning board or zoning board of adjustment.

No casino applicant or licensee shall provide directly or indirectly to any person any complimentary service or discount which is other than such service

or discount that is offered to members of the general public in like circumstance.

o. Any person who, on the effective date of this 1992 amendatory act, P.L.1992, c.9, holds a current and valid plenary junket representative license, a junket representative license with a sole owner-operator endorsement, or a junket enterprise license authorizing the conduct of junket activities, shall be considered licensed in accordance with the provisions of this section and subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92) for the remaining term of his current license.

25. Section 103 of P.L.1977, c.110 (C.5:12-103) is amended to read as follows:

C.5:12-103 Alcoholic beverages in casino hotel facilities.

103. Alcoholic Beverages in Casino Hotel Facilities.

a. Notwithstanding any law to the contrary, the authority to grant any license for, or to permit or prohibit the presence of, alcoholic beverages in, on, or about any premises licensed as part of a casino hotel shall exclusively be vested in the commission.

b. Unless otherwise stated, and except where inconsistent with the purpose or intent of this act or the common understanding of usage thereof, definitions contained in Title 33 of the Revised Statutes shall apply to this section. Any definition contained therein shall apply to the same word in any form.

c. Notwithstanding any provision of Title 33 of the Revised Statutes, the rules, regulations and bulletins promulgated by the director of the Division of Alcoholic Beverage Control, or any provision promulgated by any local authority, the authority to issue, renew, transfer, revoke or suspend a Casino Hotel Alcoholic Beverage License or any portion, location, privilege or condition thereof; to fine or penalize a Casino Hotel Alcoholic Beverage Licensee; to enforce all statutes, laws, rulings, or regulations relating to such license; and to collect license fees and establish application standards therefor, shall be, consistent with this act, exclusively vested in the commission or the division.

d. Except as otherwise provided in this section, the provisions of Title 33 of the Revised Statutes and the rules, regulations and bulletins promulgated by the Director of the Division of Alcoholic Beverage Control shall apply to a Casino Hotel and Casino Hotel Alcoholic Beverage Licensee licensed under this act.

e. Notwithstanding any provision to the contrary, the commission may promulgate any regulations and special rulings and findings as may be necessary for the proper enforcement, regulation, and control of alcoholic beverages in casino hotels when the commission finds that the uniqueness of casino operations and the public interest require that such regulations, rulings, and findings are appropriate. Regulations of the commission may include but are

not limited to: designation and duties of enforcement personnel; all forms necessary or convenient in the administration of this section; inspections, investigations, searches, seizures; licensing and disciplinary standards; requirements and standards for any hearings or disciplinary or other proceedings that may be required from time to time; the assessment of fines or penalties for violations; hours of sale; sales in original containers; sales on credit; out-of-door sales; limitations on sales; gifts and promotional materials; locations or places for sale; control of signs and other displays; identification of licensees and their employees; employment of aliens and minors; storage, transportation and sanitary requirements; records to be kept by the Casino Hotel Alcoholic Beverage Licensees and availability thereof; practices unduly designed to increase consumption of alcoholic beverages; and such other matters whatsoever as are or may become necessary and consistent with the administration of this act.

f. (1) It shall be unlawful for any person, including any casino licensee or any of its lessees, agents or employees, to expose for sale, solicit or promote the sale of, possess with intent to sell, sell, give, dispense, or otherwise transfer or dispose of alcoholic beverages in, on or about any portion of the premises of a casino hotel, unless said person possesses a Casino Hotel Alcoholic Beverage License. Nothing herein or in any other law to the contrary, however, shall prohibit a casino beverage server in the course of his or her employment from inquiring of a casino patron whether such patron desires a beverage, whether or not such inquiry is phrased in terms of any word which may connote that the beverage is an alcoholic beverage.

(2) It shall be unlawful for any person issued a Casino Hotel Alcoholic Beverage License to expose, possess, sell, give, dispense, transfer, or otherwise dispose of alcoholic beverages, other than within the terms and conditions of the Casino Hotel Alcoholic Beverage License issued, the provisions of Title 33 of the Revised Statutes, the rules and regulations promulgated by the Director of the Division of Alcoholic Beverage Control, and, when applicable, the regulations promulgated pursuant to this act.

g. In issuing a Casino Hotel Alcoholic Beverage License the commission shall describe the scope of the particular license and the restrictions and limitations thereon as it deems necessary and reasonable. The commission may, in a single Casino Hotel Alcoholic Beverage License, permit the holder of such a license to perform any or all of the following activities, subject to applicable laws, rules and regulations:

(1) To sell any alcoholic beverage by the glass or other open receptacle including, but not limited to, an original container, for on-premise consumption within a casino or simulcasting facility; provided, however, that no alcoholic beverage shall be sold or given for consumption; delivered or otherwise brought to a patron; or consumed at a gaming table unless so requested by the patron.

(2) To sell any alcoholic beverage by the glass or other open receptacle for on-premise consumption within a casino hotel, but not in a casino or simulcasting facility, or from a fixed location outside a building or structure containing a casino but on a casino hotel premises.

(3) To sell any alcoholic beverage in original containers for consumption outside the licensed area from an enclosed package room not in a casino or simulcasting facility.

(4) To sell any alcoholic beverage by the glass or other open receptacle or in original containers from a room service location within an enclosed room not in a casino or simulcasting facility; provided, however, that any sale of alcoholic beverages is delivered only to a guest room or to any other room in the casino hotel authorized by the commission, other than any room authorized by the commission pursuant to paragraph (1), (3), or (5) of this subsection.

(5) To possess or to store alcoholic beverages in original containers intended but not actually exposed for sale at a fixed location on a casino hotel premises, not in a casino or simulcasting facility; and to transfer or deliver such alcoholic beverages only to a location approved pursuant to this section; provided, however, that no access to or from a storage location shall be permitted except during the normal course of business by employees or agents of the licensee, or by licensed employees or agents of wholesalers or distributors licensed pursuant to Title 33 of the Revised Statutes and any applicable rules and regulations; and provided further, however, that no provision of this section shall be construed to prohibit a Casino Hotel Alcoholic Beverage Licensee from obtaining an off-site storage license from the Division of Alcoholic Beverage Control.

h. (1) No Casino Hotel Alcoholic Beverage License which authorizes the sale of alcoholic beverages within a casino pursuant to subsection g.(1) of this section shall issue to any applicant who does not hold a casino license issued pursuant to this act.

(2) No Casino Hotel Alcoholic Beverage License which authorizes the possession, sale or storage of alcoholic beverages pursuant to subsection g.(2), (3), (4), or (5) of this section shall issue to any applicant who would not qualify under the standards for licensure of a casino service industry pursuant to subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92).

(3) No Casino Hotel Alcoholic Beverage License which authorizes the possession or storage of alcoholic beverages pursuant to subsection g. of this section shall issue to any applicant who does not hold a Casino Hotel Alcoholic Beverage License, permitting any activity pursuant to subsection g.(1), (2), (3), or (4) of this section.

i. The commission may revoke, suspend, refuse to renew or refuse to transfer any Casino Hotel Alcoholic Beverage License, or fine or penalize

any Casino Hotel Alcoholic Beverage Licensee for violations of any provision of Title 33 of the Revised Statutes, the rules and regulations promulgated by the Director of the Division of Alcoholic Beverage Control, and the regulations promulgated by the commission.

j. Jurisdiction over all alcoholic beverage licenses previously issued with respect to the casino hotel facility is hereby vested in the commission, which in its discretion may by regulation provide for the conversion thereof into a Casino Hotel Alcoholic Beverage License as provided in this section.

26. 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 commission 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 commission prior to its effective date. Such agreements may be reviewed by the commission 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 commission 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 subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92) 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 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 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 Casino Control Commission 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 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 shall not be subject to the provisions of this subsection.

(9) Existing agreements or any renewals thereof relating to the operation of multi-casino progressive slot machine systems between one or more casino licensees and a casino service industry licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) and provided such agreements are approved by the commission.

b. Each casino applicant or licensee shall maintain, in accordance with the rules of the commission, 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 commission 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 this act. If the commission disapproves such an agreement or the owners, officers, employees, or directors of any enterprise involved therein, the commission 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 this subsection, 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 commission regulations, or the disapproved agreement is not terminated, the commission 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 commission 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.

27. Section 113 of P.L.1977, c.110 (C.5:12-113) is amended to read as follows:

C.5:12-113 Swindling and cheating; penalties.

113. Swindling and Cheating; Penalties.

a. A person is guilty of swindling and cheating if the person purposely or knowingly by any trick or sleight of hand performance or by a fraud or fraudulent scheme, cards, dice or device, for himself or herself or for another, wins or attempts to win money or property or a representative of either or reduces a losing wager or attempts to reduce a losing wager in connection to casino gaming.

b. Consolidation of offenses. Conduct denominated swindling and cheating in this section constitutes a single offense, but each episode or transaction may be the subject of a separate prosecution and conviction. A charge of swindling and cheating may be supported by evidence that it was committed in any manner that would be swindling and cheating under this section, notwithstanding the specification of a different manner in the indictment or accusation, subject only to the power of the court to ensure a fair trial by granting a bill of particulars, discovery, continuance, or other appropriate relief when the conduct of the defense would be prejudiced by a lack of fair notice or by surprise.

c. Grading of swindling and cheating offenses.

(1) Swindling and cheating constitutes a crime of the second degree if the amount involved is $75,000 or more.

(2) Swindling and cheating constitutes a crime of the third degree if the amount involved exceeds $500.

(3) Swindling and cheating constitutes a crime of the fourth degree if the amount involved is at least $200 but not more than $500.

(4) Swindling and cheating constitutes a disorderly persons offense if the amount involved is less than $200.

(5) The amount involved in swindling and cheating shall be determined by the trier of fact. Amounts involved in acts of swindling and cheating committed pursuant to one scheme or course of conduct, whether from the same person or several persons, may be aggregated in determining the grade of the offense.

28. Section 46 of P.L.1991, c.182 (C.5:12-113.1) is amended to read as follows:

C.5:12-113.1 Use of certain devices in playing games, grading of offense; forfeiture of devices.

46. a. A person commits a third degree offense if, in playing a game in a licensed casino or simulcasting facility, the person uses, or assists another in the use of, a computerized, electronic, electrical or mechanical device which is designed, constructed, or programmed specifically for use in obtaining an advantage at playing any game in a licensed casino or simulcasting facility, unless the advantage obtained can be assessed a monetary value or loss of $75,000 or greater in which case the offense is a crime of the second degree.

b. Any computerized, electronic, electrical or mechanical device used in violation of subsection a. of this section shall be considered prima facie contraband and shall be subject to the provisions of N.J.S. 2C:64-2. A device used by any person in violation of this section shall be subject to forfeiture pursuant to the provisions of N.J.S.2C:64-1 et seq.

c. Each casino licensee shall post notice of this prohibition and the penalties of this section in a manner determined by the commission.

29. Section 118 of P.L.1977, c.110 (C.5:12-118) is amended to read as follows:

C.5:12-118 Regulations requiring exclusion or rejection of certain persons from licensed casinos; unlawful entry by person whose name has been placed on list; penalty.

118. Regulations Requiring Exclusion or Rejection of Certain Persons from Licensed Casinos; Unlawful Entry by Person Whose Name Has Been Placed on List; Penalty. Any person whose name is on the list of persons promulgated by the commission pursuant to the provisions of section 71 of this act, P.L.1977, c.110 (C.5:12-71), who knowingly enters the premises of a licensed casino is guilty of a crime of the fourth degree.

30. Section 119 of P.L.1977, c.110 (C.5:12-119) is amended to read as follows:

C.5:12-119 Gaming by certain persons prohibited; penalties; defenses.

119. Gaming by Certain Persons Prohibited; Penalties; Defenses.

a. No person under the age at which a person is authorized to purchase and consume alcoholic beverages shall enter, or wager in, a licensed casino or simulcasting facility; provided, however, that such a person may enter a casino or simulcasting facility by way of passage to another room, and provided further, however, that any such person who is licensed or registered under the provisions of the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.), may enter a casino or simulcasting facility in the regular course of the person's permitted activities.

Any person who violates this subsection shall be guilty of a disorderly persons offense and shall be fined not less than $500 and not more than $1,000. In addition, the court shall suspend or postpone the person's license to operate a motor vehicle for six months.

Upon the conviction of any person under this section, the court shall forward a report to the Division of Motor Vehicles stating the first and last day of the suspension or postponement period imposed by the court pursuant to this section. If a person at the time of the imposition of a sentence is less than 17 years of age, the period of license postponement, including a suspension or postponement of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period of six months after the person reaches the age of 17 years.

If a person at the time of the imposition of a sentence has a valid driver's license issued by this State, the court shall immediately collect the license and forward it to the division along with the report. If for any reason the license

cannot be collected, the court shall include in the report the complete name, address, date of birth, eye color, and sex of the person as well as the first and last date of the license suspension period imposed by the court.

The court shall inform the person orally and in writing that if the person is convicted of operating a motor vehicle during the period of license suspension or postponement, the person shall be subject to the penalties set forth in R.S.39:3-40. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of R.S.39:3-40.

If the person convicted under this section is not a New Jersey resident, the court shall suspend or postpone, as appropriate given the age at the time of sentencing, the non-resident driving privilege of the person and submit to the division the required report. The court shall not collect the license of a non-resident convicted under this section. Upon receipt of a report by the court, the division shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

b. Any licensee or employee of a casino who allows a person under the age at which a person is authorized to purchase and consume alcoholic beverages to remain in or wager in a casino or simulcasting facility is guilty of a disorderly persons offense; except that the establishment of all of the following facts by a licensee or employee allowing any such underage person to remain shall constitute a defense to any prosecution therefor:

(1) That the underage person falsely represented in writing that he or she was at or over the age at which a person is authorized to purchase and consume alcoholic beverages;

(2) That the appearance of the underage person was such that an ordinary prudent person would believe him or her to be at or over the age at which a person is authorized to purchase and consume alcoholic beverages; and

(3) That the admission was made in good faith, relying upon such written representation and appearance, and in the reasonable belief that the underage person was actually at or over the age at which a person is authorized to purchase and consume alcoholic beverages.

c. A person who knowingly allows or permits another person who is under his or her lawful care, custody, or control and who is under the age at which a person is authorized to purchase and consume alcoholic beverages to wager or attempt to wager in a licensed casino or simulcasting facility in violation of subsection a. of this section is guilty of a disorderly persons offense.

C.5:12-141.1 Fees to recoup costs of the division or commission.

31. Fees to Recoup Costs of the Division or Commission. The commission may, by regulation, establish fees to recoup the costs of services, equipment

or other expenses that are rendered, utilized or incurred by the division or commission, including any unusual or out of pocket expenses directly related thereto, in response to requests arising under P.L.1977, c. 110 (C. 5:12-1 et seq.) that are unrelated to the investigation or consideration of the issuance or renewal of a registration or license.

32. Section 3 of P.L.1984, c.218 (C.5:12-144.1) is amended to read as follows:

C.5:12-144.1 Imposition of investment alternative tax.

3. a. (1) Commencing with the first annual tax return of a licensee for any calendar year beginning after December 31, 1983, there is imposed an investment alternative tax on the gross revenues as defined in section 24 of P.L.1977, c.110 (C.5:12-24) of the licensee in the amount of 2.5% of those gross revenues. The tax imposed with respect to each calendar year shall be due and payable on the last day of April next following the end of the calendar year. The State Treasurer shall have a lien against the property constituting the casino of a licensee for the amount of any tax not paid when due. No tax shall be imposed, however, on the gross revenues received by a licensee during the first 12 months of the operation of any casino that commences operation after January 1, 1984, but prior to the effective date of this act, P.L.1996, c.118 (C.5:12-173.3a et al.).

(2) A licensee shall pay to the State Treasurer on or before the 15th day of the first, fourth, seventh, and 10th months of each year as partial payment of the investment alternative tax imposed pursuant to paragraph (1) of this subsection an amount equal to 1.25% of the estimated gross revenues for the three-month period immediately preceding the first day of those months. The moneys received shall be placed in an escrow account and shall be held until the licensee directs that the moneys be transferred to the Casino Reinvestment Development Authority for the purchase of bonds issued by or offered through the Casino Reinvestment Development Authority or pursuant to a contract for such a purchase, be made available to the licensee for a direct investment approved by the authority, or be transferred to the Casino Revenue Fund as partial payment of the investment alternative tax imposed pursuant to paragraph (1) of this subsection. Any interest derived from the moneys in the escrow account shall be paid or made available to the Casino Revenue Fund. If a licensee fails to pay the amount due or underpays by an unjustifiable amount, the Casino Control Commission shall impose a fine of 5% of the amount due or of the underpayment, as the case may be, for each month or portion thereof the licensee is in default of payment, up to 25% of the amount in default. Any fine imposed shall be paid to the Casino Reinvestment Development

Authority and shall be used for the purposes of this 1984 amendatory and supplementary act.

b. Each licensee shall be entitled to an investment tax credit against the tax imposed by subsection a. of this section, provided the licensee shall pay over the moneys required pursuant to section 5 of P.L.1993, c.159 (C.5:12-173.5): (1) for the first 10 years of a licensee's tax obligation, in an amount equal to twice the purchase price of bonds issued by the Casino Reinvestment Development Authority pursuant to sections 14 and 15 of this 1984 amendatory and supplementary act, purchased by the licensee, or twice the amount of the investments authorized in lieu thereof, and (2) for the remainder of a licensee's tax obligation, in an amount equal to twice the purchase price of bonds issued by the Casino Reinvestment Development Authority pursuant to sections 14 and 15 of this 1984 amendatory and supplementary act, purchased by the licensee, or twice the amount of the investments authorized in lieu thereof, and twice the amount of investments made by a licensee in other approved eligible investments made pursuant to section 25 of this act. The Casino Reinvestment Development Authority shall have the power to enter into a contract or contracts with a licensee pursuant to which the Casino Reinvestment Development Authority agrees to issue and sell bonds to the licensee, and the licensee agrees to purchase the bonds issued by or offered through the Casino Reinvestment Development Authority, in annual purchase price amounts as will constitute a credit against at least 50% of the tax to become due in any future year or years. The contract may contain those terms and conditions relating to the terms of the bonds and to the issuance and sale of the bonds to the licensee as the Casino Reinvestment Development Authority shall deem necessary or desirable. The contract shall not be deemed to be in violation of section 104 of P.L.1977, c.110 (C.5:12-104). After the first 10 years of a licensee's investment alternative tax obligation, a licensee will have the option of entering into a contract with the Casino Reinvestment Development Authority to have its tax credit comprised of direct investments in approved eligible projects. These direct investments shall not comprise more than 50% of a licensee's eligible tax credit in any one year.

The entering of a contract pursuant to this section shall be sufficient to entitle a licensee to an investment tax credit for the appropriate tax year.

c. A contract entered into between a licensee and the Casino Reinvestment Development Authority may provide for a deferral of payment for and delivery of bonds required to be purchased and for a deferral from making approved eligible investments in any year, but no deferral shall occur more than two years consecutively. A deferral of payment for any bonds required to be purchased by a licensee and a deferral from making approved eligible investments may be granted by the Casino Reinvestment Development Authority only upon a determination by the Casino Control Commission that

purchase of these bonds or making approved eligible investments would cause extreme financial hardship to the licensee and a determination by the Casino Reinvestment Development Authority that the deferral of the payment would not violate any covenant or agreement or impair any financial obligation of the Casino Reinvestment Development Authority. The contract may establish a late payment charge to be paid in the event of deferral or other late payment at a rate as shall be agreed to by the Casino Reinvestment Development Authority. If a deferral of purchase or investment is granted, the licensee shall be deemed to have made the purchase or investment at the time required by the contract, except that if the purchase is not made at the time to which the purchase or investment was deferred, then the licensee shall be deemed not to have made the purchase or investment. The Casino Control Commission shall adopt regulations establishing a uniform definition of extreme financial hardship applicable to all these contracts. If a licensee petitions the Casino Reinvestment Development Authority for a deferral, the Casino Reinvestment Development Authority shall give notice of that petition to the Casino Control Commission and to the Division of Gaming Enforcement within three days of the filing of the petition. The Casino Control Commission shall render a decision within 60 days of notice as to whether the licensee has established extreme financial hardship, after consultation with the Division of Gaming Enforcement. The Casino Reinvestment Development Authority shall render a decision as to the availability of the deferral within 10 days of the receipt by it of the decision of the Casino Control Commission and shall notify the Division of Gaming Enforcement and the Casino Control Commission of that decision. If a deferral is granted, the Casino Reinvestment Development Authority may determine whether the purchases or investments shall be made in a lump sum, made over a period of years, or whether the period of obligation shall be extended an additional period of time equivalent to the period of time deferred.

d. The license of any licensee which has defaulted in its obligation to make any purchase of bonds or investment in any approved eligible project under a contract entered into pursuant to subsection b. of this section for a period of 90 days may be suspended by the Casino Control Commission until that purchase is made or deferred in accordance with subsection b. of this section, or a fine or other penalty may be imposed upon the licensee by the commission. If the Casino Control Commission elects not to suspend the license of a licensee after the licensee has first defaulted in its obligation but instead imposes some lesser penalty and the licensee continues to be in default of its obligation after a period of 30 additional days and after any additional 30-day period, the commission may impose another fine or penalty upon the licensee, which may include suspension of that licensee's license. The fine shall be 5% of the amount of the obligation owed for each month or portion

thereof a licensee is in default, up to 25% of that obligation; shall be paid to the Casino Reinvestment Development Authority; and shall be used for the purposes of this 1984 amendatory and supplementary act.

e. A contract entered into by a licensee and the Casino Reinvestment Development Authority pursuant to subsection b. of this section may provide that after the first 10 years of a licensee's investment alternative tax obligation imposed by subsection a. of this section, the Casino Reinvestment Development Authority may repurchase bonds previously sold to the licensee, which were issued after the 10th year of a licensee's investment alternative tax obligation, by the Casino Reinvestment Development Authority, if the Casino Reinvestment Development Authority determines that the repurchase will not violate any agreement or covenant or impair any financial obligation of the Casino Reinvestment Development Authority and that the licensee will reinvest the proceeds of the resale in an eligible project approved by the Casino Reinvestment Development Authority.

f. (1) During the 35 years a licensee is obligated to pay an investment alternative tax pursuant to subsection k. of this section, the total of (a) the proceeds of all bonds purchased by a licensee from or through the Casino Reinvestment Development Authority and (b) all approved investments in eligible projects by a licensee shall be devoted to the financing of projects in the following areas and amounts:

Areas	Yrs. 1-3	Yrs. 4-5	Yrs. 6-10	Yrs. 11-15	Yrs. 16-20	Yrs. 21-25	Yrs. 26-30	Yrs. 31-35
a) Atlantic City	100%	90%	80%	50%	30%	20%		
b) South Jersey		8%	12%	28%	43%	45%		25%
c) North Jersey		2%	8%	22%	27%	35%	35%	50%
d) Atlantic City through the Atlantic City Fund							65%	25%

except that, with respect to the obligations for calendar years 1994 through 1998, the amount allocated for the financing of projects in North Jersey from each casino licensee's obligation shall be the amount allocated for calendar year 1993, and the difference between that amount and the amount to be allocated to North Jersey, on the basis of the above schedule, from each casino licensee's obligations for calendar years 1994 through 1998 shall be paid into or credited to the Atlantic City Fund established by section 44 of P.L.1995, c.18 (C.5:12-161.1) and be devoted to the financing of projects in Atlantic City through that fund. For the purposes of this paragraph, "South Jersey" means the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean, and Salem; and "North Jersey" means the remaining 12 counties of the State. For the purposes of this 1984 amendatory and

supplementary act, bond "proceeds" means all funds received from the sale of bonds and any funds generated or derived therefrom.

In the financing of projects outside Atlantic City, the Casino Reinvestment Development Authority shall give priority to the revitalization of the urban areas of this State in the ways specified in section 12 of this 1984 amendatory and supplementary act. Those areas shall include, but not be limited to, all municipalities qualifying for aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.).

Within nine months from the effective date of this 1984 amendatory and supplementary act, the Casino Reinvestment Development Authority shall determine the allocation of projected available moneys to municipalities in South Jersey for the first seven years of their receipt of funds, giving priority to the revitalization of the urban areas of the region. Municipalities receiving such an allocation shall present to the Casino Reinvestment Development Authority for its approval comprehensive plans or projects for which the allocations shall be used. Any such comprehensive plan or project may be submitted to the Casino Reinvestment Development Authority for a determination of eligibility at any time prior to the year for which the funds are allocated, and the Casino Reinvestment Development Authority shall make a determination of eligibility of the plan or project within a reasonable amount of time. If the Casino Reinvestment Development Authority makes a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, for any municipality whose total cost exceeds the amount allocated to that municipality for the first seven years of the receipt of funds by South Jersey municipalities, the Casino Reinvestment Development Authority shall make available sufficient funds in subsequent years necessary to complete those plans or projects, or to complete that portion of the plan or project originally agreed to be funded through the Casino Reinvestment Development Authority, from funds received by the Casino Reinvestment Development Authority in the years following the seventh year of the receipt of funds by South Jersey municipalities. If the comprehensive plan or project is determined by the Casino Reinvestment Development Authority not to be an eligible plan or project, the municipality may submit any other comprehensive plan or project for a determination of eligibility. If, however, the municipality fails to receive a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, sufficient to exhaust the total allocation to that municipality for any year prior to April 30 of the following year for which the allocation was made, the allocation to that municipality for that year shall cease, and the Casino Reinvestment Development Authority may apply those excess funds to any other comprehensive plan or project in any other municipality in the region whose comprehensive plan or project has received

a positive determination of eligibility by the Casino Reinvestment Development Authority.

Within 36 months from the effective date of this 1984 amendatory and supplementary act, the Casino Reinvestment Development Authority shall determine the allocation of projected available moneys to municipalities in North Jersey for the first five years of their receipt of funds, giving priority to the revitalization of the urban areas of the region. Municipalities receiving such an allocation shall present to the Casino Reinvestment Development Authority for its approval comprehensive plans or projects for which the allocations shall be used. Any such comprehensive plan or project may be submitted to the Casino Reinvestment Development Authority for a determination of eligibility at any time prior to the year for which the funds are allocated, and the Casino Reinvestment Development Authority shall make a determination of eligibility of the plan or project within a reasonable amount of time. If the Casino Reinvestment Development Authority makes a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, for any municipality whose total cost exceeds the amount allocated to that municipality for the first five years of the receipt of funds by North Jersey municipalities, the Casino Reinvestment Development Authority shall make available sufficient funds in subsequent years necessary to complete those plans or projects, or to complete that portion of the plan or project originally agreed to be funded through the Casino Reinvestment Development Authority, from funds received by the Casino Reinvestment Development Authority in the years following the fifth year of the receipt of funds by North Jersey municipalities. If the comprehensive plan or project is determined by the Casino Reinvestment Development Authority not to be an eligible plan or project, the municipality may submit any other comprehensive plan or project for a determination of eligibility. If, however, the municipality fails to receive a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, sufficient to exhaust the total allocation to that municipality for any year prior to April 30 of the following year for which the allocation was made, the allocation to that municipality for that year shall cease, and the Casino Reinvestment Development Authority may apply those excess funds to any other comprehensive plan or project in any other municipality in the region whose comprehensive plan or project has received a positive determination of eligibility by the Casino Reinvestment Development Authority.

(2) Commencing with the first year in which a licensee incurs a tax obligation pursuant to this section, and for the period of two years thereafter, 100% of the proceeds of all bonds purchased by a licensee from the Casino Reinvestment Development Authority which are devoted to the financing

of projects in the city of Atlantic City pursuant to paragraph (1) of this subsection shall be used exclusively to finance the rehabilitation, development, or construction of, or to provide mortgage financing of, housing facilities in the city of Atlantic City for persons or families of low through middle income, as defined in this subsection. For the purposes of this subsection, the "rehabilitation, development, or construction of housing facilities" shall include expenses attributable to site preparation, infrastructure needs and housing-related community facilities and services, including supporting commercial development. Commencing with the fourth year in which a licensee incurs a tax obligation pursuant to this subsection, 50% of the proceeds of all bonds purchased by a licensee from the Casino Reinvestment Development Authority which are devoted to the financing of projects in the city of Atlantic City shall be used exclusively to finance the rehabilitation, development, or construction of housing facilities in the city of Atlantic City for persons or families of low through middle income. Commencing with the 11th year in which a licensee incurs a tax obligation pursuant to this section, 50% of the annual aggregate of the proceeds of bonds purchased by a licensee from the Casino Reinvestment Development Authority which are devoted to the financing of projects in the city of Atlantic City and investments in approved eligible projects commenced by a licensee in the city of Atlantic City shall be used exclusively to finance the rehabilitation, development, or construction of, or to provide mortgage financing of, housing facilities in the city of Atlantic City for persons or families of low through middle income.

(3) The Legislature finds that it is necessary to provide for a balanced community and develop a comprehensive housing program. The Casino Reinvestment Development Authority shall determine the need for housing in the city of Atlantic City, in consultation with the city of Atlantic City and specifically its zoning and planning boards. This shall include determining the types and classes of housing to be constructed and the number of units of each type and class of housing to be built. The Casino Reinvestment Development Authority shall give priority to the housing needs of the persons and their families residing in the city of Atlantic City in 1983 and continuing such residency through the effective date of this 1984 amendatory and supplementary act. The actual percentage of the proceeds of bonds and investments in approved eligible projects commenced by a licensee in the city of Atlantic City, which shall be used exclusively to finance the rehabilitation, development, or construction of, or to provide mortgage financing of, housing facilities in the city of Atlantic City for persons or families of low through middle income, shall be based upon the authority's determination of the need for housing in the city of Atlantic City conducted pursuant to this subsection. Once the housing needs of the persons residing in the city of Atlantic City in 1983 and continuing such residency through the effective

date of this 1984 amendatory and supplementary act have been met, as determined by the Casino Reinvestment Development Authority pursuant to this subsection, any required percentages for such housing in the city of Atlantic City may, in its sole discretion, be waived by the Casino Reinvestment Development Authority. To aid the Casino Reinvestment Development Authority in making these determinations, the Casino Reinvestment Development Authority shall review the proposal for a housing redevelopment program and strategy for the city of Atlantic City approved and adopted by the Casino Control Commission and shall give priority to same and any other plan or project which is consistent with the standards of this subsection and is acceptable to the Casino Reinvestment Development Authority, pursuant to section 25 of this 1984 amendatory and supplementary act. The Casino Reinvestment Development Authority may determine whether the funds used to finance housing facilities in the city of Atlantic City for persons or families of low, moderate, median range, and middle income are derived from the proceeds of bonds purchased by a licensee from the Casino Reinvestment Development Authority to be devoted to the financing of projects in the city of Atlantic City, investments in approved eligible projects commenced by a licensee in the city of Atlantic City, or a combination of both. Any investment made by a licensee in excess of 100% of its eligible investment tax credit during the first three years and in excess of 50% thereafter in either the purchase of bonds or direct investments in approved eligible projects for low, moderate, median range, and middle income family housing facilities in the city of Atlantic City may be carried forward and credited against the licensee's obligation to make a 100% investment during the first three years and 50% thereafter in low, moderate, median range, and middle income family housing in any future year, with the approval of the Casino Reinvestment Development Authority. For the purposes of this act, "low income families" means families whose income does not exceed 50% of the median income of the area, with adjustments for smaller and larger families. "Moderate income families" means families whose income does not exceed 80% and is not less than 50% of the median income for the area, with adjustments for smaller and larger families. "Median range income families" means families whose income does not exceed 120% and is not less than 80% of the median income for the area, with adjustments for smaller and larger families. "Middle income families" means families whose income does not exceed 150% and not less than 120% of the median income for the area, with adjustments for smaller and larger families. "Median income" means an income defined as median within the Standard Metropolitan Statistical Area for Atlantic City by the United States Department of Housing and Urban Development.

In order to achieve a balanced community, the authority shall ensure that the development of housing for families of low and moderate income shall

proceed at the same time as housing for families of median range and middle income, until such time as there is no longer a need for such facilities in the city of Atlantic City, as determined by the Casino Reinvestment Development Authority.

(4) Notwithstanding any other law or section to the contrary, particularly this subsection regarding the waiver of the required percentages for housing in the city of Atlantic City, subsection I. of section 14, and sections 26, 27, 28, 29, and 31 of this 1984 amendatory and supplementary act, nothing shall be implemented or waived by the Casino Reinvestment Development Authority which would reduce, impair, or prevent the fulfillment of the priorities established and contained in this subsection of this 1984 amendatory and supplementary act.

g. If a person is a licensee with regard to more than one approved hotel pursuant to section 82 of P.L.1977, c.110 (C.5:12-82), the person shall separately account for the gross revenues, the investment alternative tax obligations, and the investments for a tax credit against the investment alternative tax for each approved hotel, and the tax obligations of the licensee under this section shall be determined separately for each approved hotel. The licensee may apportion investments between its approved hotels; provided that no amount of investment shall be credited more than once. If a licensee receives the prior approval of the Casino Reinvestment Development Authority, the licensee may make eligible investments in excess of the investments necessary to receive a tax credit against the investment alternative tax for a given calendar year, and the licensee may carry forward this excess investment and have it credited to its next investment alternative tax obligation. If the Casino Reinvestment Development Authority approves of such excess investment and approves the carry forward of this excess investment, and a licensee elects to purchase bonds of the Casino Reinvestment Development Authority or makes direct investments in approved eligible projects in excess of the investments necessary to receive a tax credit against the investment alternative tax for its current obligation, the licensee shall be entitled to a reduction of the amount of investments necessary in future years, which amount shall be determined annually by the Casino Reinvestment Development Authority, taking into account a current market discount rate from the date of the purchase or investment to the date the purchase or investment would have been required to be made.

h. Each casino licensee shall prepare and file, in a form prescribed by the Casino Reinvestment Development Authority, an annual return reporting that financial information as shall be deemed necessary by the Casino Reinvestment Development Authority to carry out the provisions of this act. This return shall be filed with the Casino Reinvestment Development Authority and the Casino Control Commission on or before April 30 following the

calendar year on which the return is based. The Casino Control Commission shall verify to the Casino Reinvestment Development Authority the information contained in the report, to the fullest extent possible. Nothing in this subsection shall be deemed to affect the due dates for making any investment or paying any tax under this section.

i. Any purchase by a licensee of bonds issued by or offered through the Casino Reinvestment Development Authority pursuant to sections 14 and 15 of this act and subsection b. of this section and all approved eligible investments made by a licensee pursuant to section 25 of this act and subsection b. of this section are to be considered investments and not taxes owed or grants to the State or any political subdivision thereof. As such, a licensee shall have the possibility of the return of principal and a return on the capital invested as with other investments. Investors in the bonds issued by or offered through the Casino Reinvestment Development Authority shall be provided with an opinion from a recognized financial rating agency or a financial advisory firm with national standing that each loan of bond proceeds by the Casino Reinvestment Development Authority has the minimum characteristics of an investment, in that a degree of assurance exists that interest and principal payments can be made and other terms of the proposed investment be maintained over the period of the investment, and that the loan of the bond proceeds would qualify for a bond rating of "C" or better. If an opinion cannot be obtained from a recognized financial rating agency or a financial advisory firm with national standing, an opinion shall be obtained from an expert financial analyst with national standing, selected and hired by the Casino Reinvestment Development Authority. In order to achieve a balanced portfolio, assure the viability of the authority and the projects, facilities and programs undertaken pursuant to this 1984 amendatory and supplementary act, no more than 25% of the total investments made by or through the Casino Reinvestment Development Authority with the proceeds of bonds generated in each year shall be investments which would qualify for a bond rating of "C," unless all holders of obligations in each year agree to waive the 25% limit for that year. Nothing herein shall be interpreted as limiting the Casino Reinvestment Development Authority from taking any steps it deems appropriate to protect the characteristics of its investment in projects or any other investments from not being real investments with a prospect for the return of principal and a return on the capital invested. Anything contained in this section shall not be considered a guarantee by the State or any political subdivision thereof of any return of principal or interest, but any purchase by a licensee of bonds or approved eligible investments made by a licensee pursuant to this act shall be at the risk of the licensee. A licensee or the licensees purchasing an issue of bonds issued by the Casino Reinvestment Development Authority in any given year may arrange, at their option, for those bonds or the investments,

made by or through the Casino Reinvestment Development Authority with the proceeds of those bonds, to be insured. The cost of any such insurance purchased by a licensee or licensees shall be paid by the licensee or licensees desiring such insurance.

j. The Casino Reinvestment Development Authority shall promulgate rules and regulations deemed necessary to carry out the purposes of this section.

k. The obligation of a licensee to pay an investment alternative tax pursuant to subsection a. of this section, including a casino licensee subject to the provisions of section 13 of P.L.2001, c.221 (C.5:12-173.21), shall end for each licensed facility operated by the licensee 35 years after any investment alternative tax obligation is first incurred in connection with each licensed facility operated by the licensee, unless extended in connection with a deferral granted by the Casino Reinvestment Development Authority pursuant to subsection c. of this section.

33. Section 4 of P.L.2001, c.221 (C.5:12-173.12) is amended to read as follows:

C.5:12-173.12 Urban revitalization incentive program.

4. a. There is established the incentive program that shall be administered by the authority. The purpose of the incentive program is to facilitate the development of entertainment-retail districts for the city of Atlantic City and to promote revitalization of other urban areas in the State. The provisions of section 30 of P.L.1984, c.218 (C.5:12-178) shall not apply to the incentive program established pursuant to this section. In order to implement the incentive program, the authority is authorized to accept applications from casino licensees on or before September 1, 2001 for approval of a district project and to designate by resolution up to six districts on or before September 30, 2001 and to enter into project grant agreements with casino licensees to develop district projects within each district or to approve a district project sponsored by the authority. The authority may disburse district project grants in accordance with sections 7 and 8 of P.L.2001, c.221 (C.5:12-173.15 and 5:12-173.16) to casino licensees with approved district projects or to the authority for an authority sponsored district project under the incentive program, if the authority determines that:

(1) construction of the district project will commence no later than June 30, 2002 or as otherwise provided pursuant to the project grant agreement with the authority, or pursuant to the district project plan approved by the authority for an authority sponsored district project;

(2) a proposed district project plan submitted pursuant to section 10 of P.L.2001, c.221 (C.5:12-173.18) is economically sound and will assist in the overall development of the city of Atlantic City and will benefit the people of New Jersey by increasing employment opportunities and strengthening New Jersey's economy;

(3) the disbursement of grants to a casino licensee is a material factor in the licensee's decision to go forward with a district project; and

(4) the casino licensee has agreed to invest a minimum of $20 million in its investment alternative tax obligations under section 3 of P.L.1984, c.218 (C.5:12-144.1), such obligation to be made in $10 million increments to one or more entertainment-retail projects, or housing and community development projects, approved by the authority and the department, in an urban area outside of Atlantic City, and designated by the commissioner as eligible for, and in need of the project, pursuant to section 11 of P.L.2001, c.221 (C.5:12-173.19).

b. Notwithstanding any provision to the contrary in P.L.2001, c.221 (C.5:12-173.9 et al.), the authority and the commissioner jointly may, in their discretion, also designate two entertainment-retail projects, one in North Jersey and one in South Jersey, as eligible for funds under the incentive program.

c. If construction of a designated district project does not commence within the time required pursuant to this section, the authority may remove that designation and, in accordance with procedures adopted by the authority by resolution, accept applications for and designate another district project of another casino licensee notwithstanding the application time requirements of this section.

d. The authority may amend its designation of a district project to increase the area of the district project by up to 50% with the agreement of the casino licensee.

34. Section 7 of P.L.2001, c.221 (C.5:12-173.15) is amended to read as follows:

C.5:12-173.15 Project fund created.

7. a. There is created a dedicated, nonlapsing project fund to be held by the State Treasurer, which shall be the repository for all moneys required to be deposited therein under section 5 of P.L.2001, c.221 (C.5:12-173.13) and any moneys appropriated or otherwise made available to the project fund.

b. All moneys deposited in the project fund shall be held and disbursed, subject to the requirements of section 11 of P.L.2001, c.221 (C.5:12-173.19), in the form of district project grants as follows:

(1) an amount from the project fund equivalent to the total revenues received pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) from the taxation of construction materials used for building a district project approved by the authority pursuant to a project grant agreement, or for building a district project sponsored by the authority, shall be rebated in the form of a one-time grant to the authority for disbursement to the casino licensee with an approved district project or to the authority for an authority sponsored district project;

(2) an amount from the project fund equivalent to the total revenues received pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) from the taxation of retail sales of tangible property and services originating from and delivered from business locations in a district project approved by the authority pursuant to a project grant agreement or from business locations in a district project sponsored by the authority, shall be rebated in the form of annual grants to the authority for disbursement to the casino licensee with an approved district project, or to the authority for an authority sponsored district project, with each annual grant not to exceed $2.5 million per district project and payable annually for 20 years from the date of completion of the district project, or until such time as the combined total of grants disbursed under this section and under section 8 of P.L.2001, c.221 (C.5:12-173.16) equals the approved cost of the district project, as determined by the authority, whichever is earlier;

(3) the balance of the revenues in the project fund shall be deposited in the General Fund if the authority, in consultation with the State Treasurer, determines that the revenues are no longer needed for the purposes of the project fund or for the uses prescribed in P.L.2001, c.221 (C.5:12-173.9 et al.).

c. The State Treasurer may invest and reinvest any moneys in the project fund, or any portion thereof, in legal obligations of the United States or of the State or any political subdivision thereof. Any income from, interest on, or increment to moneys so invested or reinvested shall be included in the project fund.

35. Section 11 of P.L.2001, c.221 (C.5:12-173.19) is amended to read as follows:

C.5:12-173.19 Proposal for entertainment-retail project, community and housing development project.

11. a. A casino licensee shall submit a proposal to the authority and to the department for an entertainment- retail project or community and housing development project in an urban area outside of Atlantic City, consistent with the requirements of paragraph (4) of subsection a. of section 4 of P.L.2001, c.221 (C.5:12-173.12), that will further the development and revitalization of an urban area designated by the department as eligible for, and in need of, the proposed project. The department shall evaluate the proposal and determine whether the proposed project meets the department's project criteria, and the authority shall evaluate the proposal and determine whether the proposed project meets the authority's project criteria for approval of urban development projects outside of the city of Atlantic City under the incentive program. The authority and the commissioner jointly may, in their discretion, also designate two entertainment-retail projects, one in North Jersey and one in South Jersey, as eligible for funds under the incentive program. Investment by a casino

licensee of a minimum of $20 million of its investment alternative tax obligation under section 3 of P.L.1984, c.218 (C.5:12-144.1) in a North Jersey investment fund established for the purpose of furthering the development and revitalization of one or more urban areas designated by the commissioner shall satisfy the requirements of this section and section 4 of P.L.2001, c.221 (C.5:12-173.12).

b. The commissioner and the authority are authorized to approve the proposed project submitted under subsection a. of this section if the commissioner and the authority determine that the project meets the criteria established by the department and the authority, respectively. Upon approval by the commissioner, the State Treasurer shall annually, upon receipt of a written statement from the department certifying the satisfactory status of the project, rebate the district project grants to the authority for disbursement to casino licensees under the incentive program.

c. The authority and the commissioner shall give preference to those proposed projects that best leverage non-authority funds for the total construction project cost.

36. Section 13 of P.L.2001, c.221 (C.5:12-173.21) is amended to read as follows:

C.5:12-173.21 Termination of investment alternative tax for licensed facility.

13. a. Notwithstanding the provisions of any other law to the contrary, if a district project of a casino licensee is approved by the authority under the incentive program established by section 4 of P.L.2001, c.221 (C.5:12-173.12), the investment alternative tax imposed by subsection a. of section 3 of P.L.1984, c.218 (C.5:12-144.1), and any credits which may by law be applied against that tax, shall end for the casino licensee's licensed facility, as determined by the authority, 35 years after any investment alternative tax obligation is first incurred in connection with the licensed facility operated by the licensee.

b. If a district project of a casino licensee is approved by the authority under the incentive program established by section 4 of P.L.2001, c.221 (C.5:12-173.12), then during the last five years of a casino licensee's investment alternative tax obligations, the total of the proceeds of all bonds purchased by a licensee from or through the authority and all approved investments in eligible projects by a licensee shall not be devoted as set forth in subsection f.(1) of section 3 of P.L.1984, c.218 (C.5:12-144.1) and instead shall be devoted to the financing of projects in the following areas and amounts: a) 25% for the city of Atlantic City; b) 25% for South Jersey; and c) 50% for North Jersey.

37. This act shall take effect immediately.

Approved August 14, 2002.

CHAPTER 66

AN ACT designating the main office building of the Department of Transportation in the township of Ewing as the "David J. Goldberg Transportation Building," and supplementing Title 27 of the Revised Statutes.

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

1. The Legislature finds and declares:

a. The State Department of Transportation has its main office building in the township of Ewing in the county of Mercer wherein are located the offices of the Commissioner of Transportation and the professional staff of the department.

b. It is appropriate that the main office building of the Department of Transportation should bear the name of the person who served as New Jersey's first Commissioner of Transportation when the Legislature created the Department of Transportation in 1966 and who subsequently held numerous other leading positions in the area of transportation in this State.

c. David J. Goldberg, Esq., who died on June 17, 2001 at the age of 70, in addition to serving as the first Commissioner of Transportation from 1966-1970, also served as chairman of the New Jersey Turnpike Authority from 1990-1994, and chairman and a member of the Delaware River Joint Toll Bridge Commission, the Delaware River Port Authority, the Delaware Valley Regional Planning Commission and the Tri-State Transportation Commission, having been originally appointed as counsel to Governor Richard J. Hughes in 1964.

d. In the course of carrying out his many duties on behalf of the State of New Jersey, Mr. Goldberg, a graduate of Rutgers University and of the University of Pennsylvania School of Law, and a member of the law firm of Drinker, Biddle and Shanley of Princeton, displayed a keen grasp of both the legal and policy issues which came before him and provided wise and prudent counsel to the various bodies and organizations he served.

e. By his long and dedicated career of public service, Mr. David J. Goldberg provides a fitting example of commitment to the public weal.

C.27:1A-2.1 "David J. Goldberg Transportation Building" designated.

2. The main office building of the Department of Transportation in the township of Ewing in the county of Mercer is designated as the "David J. Goldberg Transportation Building."

3. This act shall take effect immediately.

Approved August 14, 2002.

CHAPTER 67

AN ACT concerning operators engaged in repair or removal of inoperable vehicles and supplementing Title 56 of the Revised Statutes.

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

C.56:13-1 Definitions relative to operators engaged in repair or removal of inoperable vehicles.

1. As used in this act:

"Charge card" means a credit card on an account for which no periodic rate is used to compute a finance charge.

"Credit card" means any card, plate, coupon book, or other single credit device that may be used from time to time to obtain credit.

"Operator" means a person who engages in the business of transporting inoperable motor vehicles from public or private property to a site where repairs may be made and who may also perform vehicle repairs.

C.56:13-2 Operator's compliance with motorist's reasonable repair or transport request.

2. An operator who either responds to a call for assistance from a motorist with an inoperable vehicle or who offers to transport or repair the vehicle of such a motorist shall comply with any reasonable request of the motorist either to repair the vehicle or to transport it to a site where the repair may be made.

C.56:13-3 Transport, repair; payment, rights of operator, motorist.

3. If the operator cannot repair the inoperable vehicle to the satisfaction of the motorist he shall, with the motorist's consent, transport the vehicle to the operator's place of business or to another mutually agreed upon location. The vehicle, once repaired, may be retained in the possession of the operator or other repairer, as the case may be, pending payment, pursuant to N.J.S.2A:44-20 et seq. The operator, if other than the repairer, shall be eligible for reimbursement for transporting the vehicle to the repair site. If the estimated cost of repairs exceeds $50, the motorist shall be given a written estimate of the repair costs.

C.56:13-4 Acceptability of payment; forms.

4. a. For services rendered, the operator shall accept in payment either cash or a valid major credit card or charge card subject to the provisions of subsection b. of this section.

b. If after examining the card, the operator is unable to determine to his satisfaction the credit worthiness or financial responsibility of the motorist, the operator may request additional identification, as determined by the Director of the Division of Consumer Affairs, before proceeding with repairs or towing. Unless the motorist is unable to produce such identification, or the operator

has a bona fide reason to believe the card or other identification is fictitious, altered, stolen, expired or revoked or not valid for any other cause or is clearly offered with intent to defraud the issuer, the charge card or credit card shall be deemed an acceptable form of payment in lieu of cash if the operator ordinarily accepts the card at his place of business. Nothing in this act shall preclude payment by a motorist in the form of check or money order, if this form of payment is acceptable to the operator.

C.56:13-5 Violation, fine.

5. A violation of this act shall be punishable by a fine of $500. The second and any subsequent offense shall be punishable by a fine not to exceed $1,000.

C.56:13-6 Rules, regulations.

6. The Director of the Division of Consumer Affairs shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate the purposes of this act.

7. This act shall take effect on the first day of the fifth month after enactment.

Approved August 14, 2002.

CHAPTER 68

AN ACT clarifying eligibility for designation as an urban enterprise zone and amending P.L.2001, c.347.

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

1. Section 12 of P.L.2001, c.347 (C.52:27H-66.7) is amended to read as follows:

C.52:27H-66.7 Designation of three additional zones.

12. The three additional zones, authorized pursuant to P.L.2001, c.347 (C.52:27H-66.2 et al.), shall be designated within 90 days of the date of the submittal of an application and zone development plan, provided that the joint zone shall be designated within 90 days of the date of the submittal of a joint application and a joint zone development plan by the adjoining municipalities. The authority shall accept applications within 90 days of the effective date of P.L.2001, c.347 (C.52:27H-66.2 et al.). Notwithstanding the provisions

of P.L.1983, c.303 (C.52:27H-60 et seq.) to the contrary, the additional enterprise zones to be designated by the authority pursuant to the criteria for priority consideration set forth in this section shall be entitled to an exemption to the extent of 50% of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.). The following criteria shall be utilized in according priority consideration for designation of the three additional enterprise zones authorized pursuant to P.L.2001, c.347 (C.52:27H-66.2 et al.):

a. (1) The joint zone shall be located in four municipalities which are adjacent to each other, one of which has a population greater than 5,000 and less than 5,500 according to the latest federal decennial census, one of which has a population greater than 4,500 and less than 5,000 according to the latest federal decennial census, one of which has a population greater than 3,000 and less than 4,000 according to the latest federal decennial census, and one of which has a population greater than 400 and less than 500 according to the latest federal decennial census; and

(2) The joint zone shall be located in a county of the sixth class according to the latest federal decennial census.

b. (1) The second zone shall be located in a municipality with a population greater than 60,000 and less than 65,000 according to the latest federal decennial census in a county of the first class with a population greater than 600,000 and less than 620,000 according to the latest federal decennial census; and

(2) The second zone shall be located in a municipality which is contiguous to at least one qualifying municipality which has a designated enterprise zone and which is in a county of the first class.

c. The third zone shall be located within a municipality that

(1) borders on another municipality having an urban enterprise zone;

(2) has a population greater than 20,000 and a population density greater than 7,500 persons per square mile according to the latest federal decennial census; and

(3) has a per capita retail sales rate that is less than $2,500, as reported by the U.S. Bureau of the Census, 1992 Census of Retail.

2. This act shall take effect immediately and shall be applicable to zones designated on or after January 6, 2002.

Approved August 14, 2002.

CHAPTER 69

AN ACT concerning environmental infrastructure projects, and amending P.L.1985, c.334 and P.L.1997, c.224.

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

1. Section 6 of P.L.1985, c.334 (C.58:11B-6) is amended to read as follows:

C.58:11B-6 Issuance of bonds, notes, other obligations.

6. a. Except as may be otherwise expressly provided in the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), the trust may from time to time issue its bonds, notes or other obligations in any principal amounts as in the judgment of the trust shall be necessary to provide sufficient funds for any of its corporate purposes, including the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds, notes or other obligations issued by it, whether the bonds, notes or other obligations or the interest or redemption premiums thereon to be funded or refunded have or have not become due, the establishment or increase of reserves or other funds to secure or to pay the bonds, notes or other obligations or interest thereon and all other costs or expenses of the trust incident to and necessary to carry out its corporate purposes and powers.

b. Whether or not the bonds, notes or other obligations of the trust are of a form and character as to be negotiable instruments under the terms of Title 12A of the New Jersey Statutes, the bonds, notes and other obligations are made negotiable instruments within the meaning of and for the purposes of Title 12A of the New Jersey Statutes, subject only to the provisions of the bonds, notes and other obligations for registration.

c. Bonds, notes or other obligations of the trust shall be authorized by a resolution or resolutions of the trust and may be issued in one or more series and shall bear any date or dates, mature at any time or times, bear interest at any rate or rates of interest per annum, be in any denomination or denominations, be in any form, either coupon, registered or book entry, carry any conversion or registration privileges, have any rank or priority, be executed in any manner, be payable in any coin or currency of the United States which at the time of payment is legal tender for the payment of public and private debts, at any place or places within or without the State, and be subject to any terms of redemption by the trust or the holders thereof, with or without premium, as the resolution or resolutions may provide. A resolution of the trust authorizing the issuance of bonds, notes or other obligations may provide that the bonds, notes or other obligations be secured by a trust indenture between the trust and a trustee, vesting in the trustee any property, rights, powers and duties in trust consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) as the trust may determine.

d. Bonds, notes or other obligations of the trust may be sold at any price or prices and in any manner as the trust may determine. Each bond, note or

other obligation shall mature and be paid not later than 20 years from the effective date thereof, or the certified useful life of the project or projects to be financed by the bonds, whichever is less.

All bonds of the trust shall be sold at such price or prices and in such manner as the trust shall determine, after notice of sale, a summary of which shall be published at least once in at least three newspapers published in the State of New Jersey and at least once in a publication carrying municipal bond notices and devoted primarily to financial news published in New Jersey or the city of New York, the first summary notice to be at least five days prior to the day of bidding. The notice of sale may contain a provision to the effect that any or all bids made in pursuance thereof may be rejected. In the event of such rejection or of failure to receive any acceptable bid, the trust, at any time within 60 days from the date of such advertised sale, may sell such bonds at private sale upon terms not less favorable to the State than the terms offered by any rejected bid. The trust may sell all or part of the bonds of any series as issued to any State fund or to the federal government or any agency thereof, at private sale, without advertisement.

e. Bonds, notes or other obligations of the trust may be issued under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) without obtaining the consent of any department, division, board, bureau or agency of the State, and without any other proceedings or the happening of any other conditions or things, other than those consents, proceedings, conditions or things which are specifically required by P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.).

f. Bonds, notes or other obligations of the trust issued under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) shall not be a debt or liability of the State or of any political subdivision thereof other than the trust and shall not create or constitute any indebtedness, liability or obligation of the State or any political subdivision, but all these bonds, notes and other obligations, unless funded or refunded by bonds, notes or other obligations, shall be payable solely from revenues or funds pledged or available for their payment as authorized in P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.). Each bond, note and obligation shall contain on its face a statement to the effect that the trust is obligated to pay the principal thereof or the interest thereon only from its revenues, receipts or funds pledged or available for their payment as authorized in P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), and that neither the State, nor any political subdivision thereof, is obligated to pay the principal or interest and that neither the faith and credit nor the taxing power of the State, or any political subdivision thereof, is pledged

to the payment of the principal of or the interest on the bonds, notes or other obligations.

g. The aggregate principal amount of bonds, notes or other obligations, including subordinated indebtedness of the trust, shall not exceed $1,600,000,000. In computing the foregoing limitations there shall be excluded all the bonds, notes or other obligations, including subordinated indebtedness of the trust, which shall be issued for refunding purposes, whenever the refunding shall be determined to result in a savings.

(1) Upon the decision by the trust to issue refunding bonds, and prior to the sale of those bonds, the trust shall transmit to the Joint Budget Oversight Committee, or its successor, a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the trust relied when making the decision to issue refunding bonds. The report shall also disclose the intent of the trust to issue and sell the refunding bonds at public or private sale and the reasons therefor.

(2) The Joint Budget Oversight Committee or its successor shall have the authority to approve or disapprove the sales of refunding bonds as included in each report submitted in accordance with paragraph (1) of this subsection. The committee shall notify the trust in writing of the approval or disapproval as expeditiously as possible.

(3) No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Budget Oversight Committee or its successor as set forth in paragraphs (1) and (2) of this subsection.

(4) Within 30 days after the sale of the refunding bonds, the trust shall notify the committee of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, the actual amount of debt service savings to be realized as a result of the sale of refunding bonds, and the intended use of the proceeds from the sale of those bonds.

(5) The committee shall review all information and reports submitted in accordance with this subsection and may, on its own initiative, make observations to the trust, or to the Legislature, or both, as it deems appropriate.

h. Each issue of bonds, notes or other obligations of the trust may, if it is determined by the trust, be general obligations thereof payable out of any revenues, receipts or funds of the trust, or special obligations thereof payable out of particular revenues, receipts or funds, subject only to any agreements with the holders of bonds, notes or other obligations, and may be secured by one or more of the following:

(1) Pledge of revenues and other receipts to be derived from the payment of the interest on and principal of notes, bonds or other obligations issued to the trust by one or more local government units, and any other payment made to the trust pursuant to agreements with any local government units,

or a pledge or assignment of any notes, bonds or other obligations of any local government unit and the rights and interest of the trust therein;

(2) Pledge of rentals, receipts and other revenues to be derived from leases or other contractual arrangements with any person or entity, public or private, including one or more local government units, or a pledge or assignment of those leases or other contractual arrangements and the rights and interest of the trust therein;

(3) Pledge of all moneys, funds, accounts, securities and other funds, including the proceeds of the bonds, notes or other obligations;

(4) Pledge of the receipts to be derived from the payments of State aid, payable to the trust pursuant to section 12 of P.L.1985, c.334 (C.58:11B-12);

(5) A mortgage on all or any part of the property, real or personal, of the trust then owned or thereafter to be acquired, or a pledge or assignment of mortgages made to the trust by any person or entity, public or private, including one or more local government units and the rights and interest of the trust therein.

i. The trust shall not issue any bonds, notes or other obligations, or otherwise incur any additional indebtedness, on or after November 5, 2025.

j. (Deleted by amendment, P.L.1996, c.88).

2. Section 20 of P.L.1985, c.334 (C.58:11B-20) is amended to read as follows:

C.58:11B-20 Project priority list.

20. a. The Commissioner of Environmental Protection shall for each fiscal year develop a priority system for wastewater treatment systems and shall establish the ranking criteria and funding policies for the projects therefor. The commissioner shall set forth a project priority list for funding by the trust for each fiscal year and shall include the aggregate amount of funds of the trust to be authorized for these purposes. The project priority list may include any stormwater management or combined sewer overflow abatement project identified in the stormwater management and combined sewer overflow abatement project priority list adopted by the commissioner pursuant to section 28 of P.L.1989, c.181.

The project priority list, which shall include for each wastewater treatment system the date each project is scheduled to be certified as ready for funding, shall be in conformance with applicable provisions of the "Federal Water Pollution Control Act Amendments of 1972," Pub.L. 92-500 (33 U.S.C. s.1251 et al.), and any amendatory or supplementary acts thereto, and State law. The project priority list shall include a description of each project and its purpose, impact, cost, and construction schedule, and an explanation of the manner in which priorities were established. The priority system and project priority list for the ensuing fiscal year shall be submitted to the Legislature on or before

January 15 of each year 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. On or before May 15 of each year, the trust shall submit the project priority list to be introduced in each House in the form of legislative appropriations bills, which shall be referred to the Senate Environment Committee and the General Assembly Environment and Solid Waste Committee, or their successors, for their respective consideration.

b. The Senate Environment Committee and the General Assembly Environment and Solid Waste Committee shall, either individually or jointly, consider the legislation containing the project priority list, and shall report the legislation, together with any modifications, out of committee for consideration by each House of the Legislature. On or before July 1 of each year, the Legislature shall approve an appropriations act containing the project priority list, including any amendatory or supplementary provisions thereto, which act shall include the authorization of an aggregate amount of funds of the trust to be expended for loans and guarantees for the specific projects, including the individual amounts therefor, on the list.

c. The trust shall not expend any money for a loan or guarantee during a fiscal year for any wastewater treatment system project unless the expenditure is authorized pursuant to an appropriations act as provided in the provisions of this section, or as otherwise set forth in an appropriations act.

3. Section 24 of P.L.1997, c.224 (C.58:11B-20.1) is amended to read as follows:

C.58:11B-20.1 Priority system for water supply projects; policies.

24. a. The Commissioner of Environmental Protection shall for each fiscal year develop a priority system for water supply projects and shall establish the ranking criteria and funding policies therefor. The commissioner shall set forth a project priority list for funding by the trust for each fiscal year and shall include the aggregate amount of funds of the trust to be authorized for these purposes. The commissioner may include a water supply project on the project priority list if it meets the eligibility requirements for funding pursuant to the federal "Safe Drinking Water Act Amendments of 1996," Pub.L.104-182. The project priority list shall include a description of each project and an explanation of the manner in which priorities were established. The priority system and project priority list for the ensuing fiscal year shall be submitted to the Legislature on or before January 15 of each year 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. On or before May 15 of each year, the trust shall submit the project priority

list to be introduced in each House in the form of legislative appropriations bills, which shall be referred to the Senate Environment Committee and the General Assembly Environment and Solid Waste Committee, or their successors, for their respective consideration.

b. The Senate Environment Committee and the General Assembly Environment and Solid Waste Committee shall, either individually or jointly, consider the legislation containing the project priority list, and shall report the legislation, together with any modifications, out of committee for consideration by each House of the Legislature. On or before July 1 of each year, the Legislature shall approve an appropriations act containing the project priority list, including any amendatory or supplementary provisions thereto, which act shall include the authorization of an aggregate amount of funds of the trust to be expended for loans and guarantees for the specific water supply projects, including the individual amounts therefor, on the list.

c. The trust shall not expend any money for a loan or guarantee during a fiscal year for any water supply project unless the expenditure is authorized pursuant to an appropriations act as provided in the provisions of this section, or as otherwise set forth in an appropriations act.

4. This act shall take effect immediately.

Approved August 14, 2002.

CHAPTER 70

AN ACT appropriating moneys to the Department of Environmental Protection for the purpose of making zero interest loans to project sponsors to finance a portion of the costs of construction 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 Fund - State Revolving Fund Accounts (hereinafter referred to as the "Clean Water State Revolving Fund Accounts") an amount equal to the Federal fiscal year 2002 capitalization grant made available to the State for clean water projects pursuant to the "Water Quality Act of 1987" (33 U.S.C.§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 Drinking Water State Revolving Fund an amount equal to the Federal

fiscal year 2002 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 Accounts 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.

(3) 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).

(4) There is appropriated to the Department of Environmental Protection the sum of $10,000,000 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).

(5) There is appropriated to the Department of Environmental Protection the sum of $10,000,000 from the "Water Supply Fund" established pursuant to section 14 of the "Water Supply Bond Act of 1981," (P.L.1981, c.261), as amended by P.L.1983, c.355 and amended and supplemented by P.L.1997, c.223.

Any such amounts shall be for the purpose of making zero interest 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 "Water Quality Act of 1987" (33 U.S.C.§1251 et seq.), the "Wastewater Treatment Bond Act of 1985" (P.L.1985, c.329), the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992" (P.L.1992, c.88), 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 Federal Safe Drinking Water Act, and any amendatory and supplementary acts thereto, and State law.

b. The department is authorized to make zero interest 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, and subsection b. of section 2 and subsection b. of section 3 of this act for drinking water projects, up to the individual amounts indicated

and in the priority stated, except as any such amount may be reduced by the Commissioner of Environmental Protection pursuant to section 6 of this act, or if a project fails to meet the requirements of section 4 of this act.

c. The department is authorized to make zero interest 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, or section 2 of P.L.2000, c.92, including amounts resulting from the 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 and section 6 of P.L.2001, c.222, and from any repayments of loans from the "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," or amounts deposited therein during State fiscal year 2002 pursuant to the provisions of section 16 of P.L.1985, c.329, including any Clean Water State Revolving Fund Accounts contained within the "Wastewater Treatment Fund," and from any repayment of loans 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 environmental infrastructure projects:

Project Number	**Project Sponsor**	**Estimated Allowable Loan Amount**
322-02-01	Passaic Valley Water Commission	$ 650,000
641-01-1	Camden City	$2,150,000
TOTAL		$2,800,000

(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 in State fiscal year 2002 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 amount indicated and in the priority stated, to the extent sufficient funds are available, except as any project fails to meet the requirements of section 4 of this act.

(3) The zero interest loans for the projects authorized in this subsection shall have priority over projects listed in subsection a. of section 3 of this act.

b. (1) The department is authorized to expend funds for the purpose of making a supplemental loan to or on behalf of the project sponsor listed below for the following environmental infrastructure project:

Project Number	**Project Sponsor**	**Estimated Allowable Loan Amount**
1605002-005-1	Passaic Valley Water Commission	$4,400,000
TOTAL		$4,400,000

(2) The loan authorized in this subsection shall be made for the difference between the allowable loan amount required by this project based upon final building costs pursuant to subsection a. of section 7 of this act and the loan amount certified by the commissioner in State fiscal year 2002, and for increased allowable costs as defined and determined in accordance with the rules and regulations adopted by the department pursuant to section 5 of P.L.1981, c.261. The loan authorized in this subsection shall be made to or on behalf of the project sponsor listed, up to the individual amount indicated and in the priority stated, to the extent sufficient funds are available, except as the project fails to meet the requirements of section 4 of this act.

(3) The loan authorized in this subsection shall have priority over the environmental infrastructure projects listed in subsection b. of section 3 of this act.

3. a. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2003 Clean Water Project Priority List":

Project Number	**Project Sponsor**	**Estimated Allowable Loan Amount**
488-04	Hopatcong Borough	$5,500,000
384-05	Musconetcong SA	$4,400,000
546-01	Rahway City	$1,600,000
952-01	North Hudson SA	$17,250,000
853-04	Fort Lee Borough	$3,750,000
372-22	Ocean County UA	$17,950,000
399-20	North Bergen MUA	$27,300,000

362-03	Harrison Township	$2,250,000
463-04	Medford Township	$1,000,000
944-01	Chesterfield Township	$ 650,000
882-04	Lambertville SA	$1,400,000
454-03	Warren County (Pequest River) MUA	$2,200,000
686-02	Essex-Union Joint Meeting Elizabeth Hillside Irvington Newark West Orange	$3,550,000
3037-01	Burlington County BCF	$3,600,000
3004-02	Mercer County	$ 450,000
547-05	Rahway Valley SA	$4,150,000
3035-01	Warren County	$1,000,000
3027-01	Edison Township	$2,100,000
3032-01	Dover Township	$ 750,000
3010-02	Brick Township	$2,400,000
3043-01	Old Bridge Township	$7,600,000
895-06	Winslow Township (Albion Area)	$2,250,000
3039-01	Manalapan Township	$1,900,000
3030-02	Montville Township	$2,050,000
3046-01	Middle Township	$ 400,000
3012-01	Clinton Township	$5,900,000
3040-01	Mansfield Township	$ 250,000
3045-01	Cape May City	$2,450,000
958-04	Gloucester City	$ 400,000
448-05	Brick Township MUA	$ 950,000
448-06	Brick Township MUA	$3,700,000
399-25	Bayonne MUA	$1,800,000
325-02	Monmouth County Bayshore OA	$ 600,000
930-02	Washington Township MUA	$1,300,000
969-02	Berkeley Township SA	$2,350,000
321-01	Montclair State University	$ 600,000
577-07	Readington Township	$ 200,000
337-02	Bellmawr Borough	$1,600,000
363-02	Runnemede SA	$ 400,000
794-05	Riverside SA	$1,000,000
706-05	Washington Borough (Warren County)	$ 950,000
916-02	Dunellen Borough	$1,050,000
664-03	Wildwood City	$ 850,000
663-03	North Wildwood	$1,950,000
287-02	Oaklyn Borough	$ 350,000
871-02	Gibbsboro Borough	$ 650,000
437-11	New Brunswick City	$2,450,000
923-08	Hackensack City	$ 650,000
317-01	Lodi Borough	$ 150,000
577-06	Readington Township	$ 200,000
536-05	Mercer County Improvement Authority	$ 550,000
351-02	Tewksbury Township	$ 150,000
TOTAL		$150,900,000

b. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2003 Drinking Water Project Priority List":

Project Number	Project Sponsor	Estimated Allowable Loan Amount
0601001-001	Bridgeton City	$1,000,000
0408001-003	Camden City	$5,300,000
0435003-004	Waterford Township MUA	$1,400,000
1518003-002	Cedar Glen West, Inc.	$ 200,000
1518003-003	Cedar Glen West, Inc.	$ 150,000
2119001-004	Consumers NJ - Phillipsburg	$1,500,000
1514002-004	Lakewood Township MUA	$3,350,000
1517001-002	Long Beach Township (Brant Beach)	$ 800,000
0604001-004	Bayview Water Company	$ 350,000
0818004-001	Washington Township MUA	$1,650,000
0822001-001	Woodbury City	$2,250,000
1517001-003	Long Beach Township (Brant Beach)	$ 300,000
1345001-003	New Jersey American Water Company - Monmouth	$1,050,000
0712001-001	New Jersey American Water Company - Short Hills	$2,200,000
1103001-002	Consumers NJ - Hamilton	$1,050,000
1352005-001	Monmouth County Improvement Authority/New Jersey Water Supply Authority	$ 800,000
1011001-002	New Jersey American Water Company - Frenchtown	$ 150,000
1517001-004	Long Beach Township (Brant Beach)	$ 650,000
0327001-006	New Jersey American Water Company - Western Division	$ 650,000
1808001-003	Franklin Township	$1,050,000
0818004-004	Washington Township MUA	$ 350,000
1511001-002	Jackson Township MUA	$2,300,000
1904001-001/002/004	Brookwood Musconetcong River POA	$ 650,000
1904002-001	East Brookwood Estates POA	$ 700,000
0713001-007	Montclair Township	$1,050,000
1511001-003	Jackson Township MUA	$1,250,000
1532002-002	Tuckerton Borough	$ 400,000
1504001-002	Beachwood Borough	$ 350,000
1507007-001	New Jersey American Water Company - Ortley Beach	$ 950,000
0713001-008	Montclair Township	$ 600,000
0720001-002	Verona Township	$1,150,000
TOTAL		$35,600,000

4. Any loan made by the Department of Environmental Protection pursuant to this act shall be subject to the following requirements:

a. The commissioner 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 or P.L.1997, c.225, and any rules and regulations adopted pursuant thereto;

b. The loan amount shall not exceed 50% of the allowable project cost of the environmental infrastructure facility;

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 conditioned upon approval of a loan from the New Jersey Environmental Infrastructure Trust pursuant to P.L.2002, c.71;

e. 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.2002, c.71, 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, 2003, 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 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 11 of P.L.1977, c.224 (C.58:12A-11) 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 or P.L.1997, c.225, and the rules and regulations adopted by the commissioner pursuant thereto, and the provisions of the Federal Clean Water Act or the Federal Safe Drinking Water Act, 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 "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, 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, environmental or securities law, to the extent necessary to secure repayment of trust bonds issued to finance loans approved pursuant to P.L.2002, c.71, 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 "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 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 or P.L.2002, c.70 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 or P.L.2002, c.71, 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 "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," the Drinking Water State Revolving 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.

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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 deposited in any account, including the Clean Water State Revolving Fund Accounts contained within 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, 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 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 14, 2002.

CHAPTER 71

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 supplementing P.L.1985, c.334 (C.58:11B-1 et seq.).

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, is authorized to expend the aggregate sum of up to $100,000,000, and any unexpended balance of the aggregate expenditures authorized pursuant to section 1 of P.L.2000, c.93 and section 1 of P.L.2001, c.224 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 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; and

(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.

c. 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); and

(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), and 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.

d. 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.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 and P.L.2002, c.71.

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 environmental infrastructure projects:

Project Number	Project Sponsor	Estimated Allowable Loan Amount
322-02-01	Passaic Valley Water Commission	$ 650,000
641-01-1	Camden City	$2,150,000
TOTAL		$2,800,000

(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 year 2002, 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. (1) The trust is authorized to expend funds for the purpose of making a supplemental loan to or on behalf of the project sponsor listed below for the following environmental infrastructure project:

Project Number	Project Sponsor	Estimated Allowable Loan Amount
1605002-005-1	Water Commission	$4,400,000
TOTAL		$4,400,000

(2) The loan authorized in this subsection shall be made for the difference between the allowable loan amount required by this project based upon final building costs pursuant to subsection a. of section 7 of this act and the loan amount certified by the chairman of the trust in State fiscal year 2002, 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 loan authorized in this subsection shall be made to or on behalf of the project sponsor listed, up to the individual amount

indicated and in the priority stated, to the extent sufficient funds are available, except as the project fails to meet the requirements of section 6 of this act.

(3) The loan authorized in this subsection shall have priority over the environmental infrastructure projects listed in subsection b. of section 4 of this act.

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 subsections b., c. or d. 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 2 and 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 subsections b., c. or d. 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 2003 Clean Water Project Priority List":

Project Number	**Project Sponsor**	**Estimated Allowable Loan Amount**
488-04	Hopatcong Borough	$5,500,000
384-05	Musconetcong SA	$4,400,000
546-01	Rahway City	$1,600,000
952-01	North Hudson SA	$17,250,000
853-04	Fort Lee Borough	$3,750,000
372-22	Ocean County UA	$17,950,000
399-20	North Bergen MUA	$27,300,000
362-03	Harrison Township	$2,250,000
463-04	Medford Township	$1,000,000
944-01	Chesterfield Township	$ 650,000
882-04	Lambertville SA	$1,400,000
454-03	Warren County (Pequest River) MUA	$2,200,000
686-02	Essex-Union Joint Meeting Elizabeth Hillside Irvington	$3,550,000

	Newark West Orange	
3037-01	Burlington County BCF	$3,600,000
3004-02	Mercer County	$ 450,000
547-05	Rahway Valley SA	$4,150,000
3035-01	Warren County	$1,000,000
3027-01	Edison Township	$2,100,000
3032-01	Dover Township	$ 750,000
3010-02	Brick Township	$2,400,000
3043-01	Old Bridge Township	$7,600,000
895-06	Winslow Township (Albion Area)	$2,250,000
3039-01	Manalapan Township	$1,900,000
3030-02	Montville Township	$2,050,000
3046-01	Middle Township	$ 400,000
3012-01	Clinton Township	$5,900,000
3040-01	Mansfield Township	$ 250,000
3045-01	Cape May City	$2,450,000
958-04	Gloucester City	$ 400,000
448-05	Brick Township MUA	$ 950,000
448-06	Brick Township MUA	$3,700,000
399-25	Bayonne MUA	$1,800,000
325-02	Monmouth County Bayshore OA	$ 600,000
930-02	Washington Township MUA	$1,300,000
969-02	Berkeley Township SA	$2,350,000
321-01	Montclair State University	$ 600,000
577-07	Readington Township	$ 200,000
337-02	Bellmawr Borough	$1,600,000
363-02	Runnemede SA	$ 400,000
794-05	Riverside SA	$1,000,000
706-05	Washington Borough (Warren County)	$ 950,000
916-02	Dunellen Borough	$1,050,000
664-03	Wildwood City	$ 850,000
663-03	North Wildwood	$1,950,000
287-02	Oaklyn Borough	$ 350,000
871-02	Gibbsboro Borough	$ 650,000
437-11	New Brunswick City	$2,450,000
923-08	Hackensack City	$ 650,000
317-01	Lodi Borough	$ 150,000
577-06	Readington Township	$ 200,000
536-05	Mercer County Improvement Authority	$ 550,000
351-02	Tewksbury Township	$ 150,000
TOTAL		$150,900,000

b. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2003 Drinking Water Project Priority List":

Project Number	**Project Sponsor**	**Estimated Allowable Loan Amount**
0601001-001	Bridgeton City	$1,000,000
0408001-003	Camden City	$5,300,000

0435003-004	Waterford Township MUA	$1,400,000
1518003-002	Cedar Glen West, Inc.	$ 200,000
1518003-003	Cedar Glen West, Inc.	$ 150,000
2119001-004	Consumers NJ - Phillipsburg	$1,500,000
1514002-004	Lakewood Township MUA	$3,350,000
1517001-002	Long Beach Township (Brant Beach)	$ 800,000
0604001-004	Bayview Water Company	$ 350,000
0818004-001	Washington Township MUA	$1,650,000
0822001-001	Woodbury City	$2,250,000
1517001-003	Long Beach Township (Brant Beach)	$ 300,000
1345001-003	New Jersey American Water Company - Monmouth	$1,050,000
0712001-001	New Jersey American Water Company - Short Hills	$2,200,000
1103001-002	Consumers NJ - Hamilton	$1,050,000
1352005-001	Monmouth County Improvement Authority/New Jersey Water Supply Authority	$ 800,000
1011001-002	New Jersey American Water Company - Frenchtown	$ 150,000
1517001-004	Long Beach Township (Brant Beach)	$ 650,000
0327001-006	New Jersey American Water Company - Western Division	$ 650,000
1808001-003	Franklin Township	$1,050,000
0818004-004	Washington Township MUA	$ 350,000
1511001-002	Jackson Township MUA	$2,300,000
1904001-001/002/004	Brookwood Musconetcong River POA	$ 650,000
1904002-001	East Brookwood Estates POA	$ 700,000
0713001-007	Montclair Township	$1,050,000
1511001-003	Jackson Township MUA	$1,250,000
1532002-002	Tuckerton Borough	$ 400,000
1504001-002	Beachwood Borough	$ 350,000
1507007-001	New Jersey American Water Company - Ortley Beach	$ 950,000
0713001-008	Montclair Township	$ 600,000
0720001-002	Verona Township	$1,150,000
TOTAL		$35,600,000

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; 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 or P.L.1999, c.175, and any rules and regulations adopted pursuant thereto. 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 approval of a zero interest loan from the Department of Environmental Protection from the "Water Supply Fund" established pursuant to section 14 of the "Water Supply Bond Act of 1981," (P.L.1981, c.261), as amended by P.L.1983, c.355 and amended and supplemented by P.L.1997, c.223, the "Wastewater Treatment Fund" established pursuant to section 15 of the "Wastewater Treatment Bond Act of 1985" (P.L.1985, c.329), 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), or the Drinking Water State Revolving Fund established pursuant to section 1 of P.L.1998, c.84;

c. The loan shall be repaid within a period not to exceed 20 years of the making of the loan;

d. The loan 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, 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, 2003, 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 behalf 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 such reserve capacity expenses or associated with loans issued to owners of public water utilities, as may be allowed for the project by the trust in accordance with rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

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.

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 or P.L.2002, c.71, 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 seq.), 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.1997, c.223, P.L.1997, c.225 or P.L.1999, c.175, and the rules and regulations adopted pursuant thereto, and the provisions of the Federal Clean Water Act or the Federal Safe Drinking Water Act, as appropriate.

10. This act shall take effect immediately.

Approved August 14, 2002.

CHAPTER 72

AN ACT providing "Phase 2 Tourism Funding" to tourism and improvement development districts, amending and supplementing P.L.1992, c.165.

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

1. Section 2 of P.L.1992, c.165 (C.40:54D-2) is amended to read as follows:

C.40:54D-2 Findings, determinations relative to tourism improvement and development.

2. The Legislature finds and determines:

a. The State of New Jersey contains many unique natural, recreational, and economic resources that are enjoyed not only by the citizens of the State but also by millions of visitors from all over the United States and the world,

which in turn results in a multi-billion dollar tourism industry that is crucial to the economic well-being of the State.

b. The provision of appropriate public facilities and improvements necessary to promote and sustain tourism is especially difficult for public entities located in sixth class counties of this State. In those counties a relatively small permanent population combines with a relative lack of a diversification in the economic base to present special obstacles for public entities which seek to undertake and fund tourism facilities and improvements without damaging the economic prosperity of the locality by imposing onerous taxes on permanent residents or businesses.

c. The creation of tourism improvement and development districts may assist municipalities in those counties in promoting economic growth and employment related to a tourism-economy and that municipalities in counties of the sixth class should be encouraged to create tourism improvement and development districts to finance the acquisition, maintenance, operation and support of convention center facilities and to promote tourism in order to enhance the local tourism business climates.

d. It is in the public interest to encourage these municipalities in counties of the sixth class to seek regional solutions to common problems related to economic prosperity of this State, and to enhance the prosperity of those municipalities by the adoption of appropriate ordinances to assess, levy and collect taxes upon receipts from certain sales and services, and to impose certain municipal fees. These special public finance measures which are not generally available to other local units of the State, are appropriate to address the particular economic conditions of sixth class counties, and are not necessary or appropriate in areas with a larger population base and more diversified economic structure, which are not so heavily affected by the seasonal fluctuations of a tourism based economy.

e. The extension of the tourism development fees provided by the amendatory and supplementary act, P.L.2002, c.72 is intended to serve as a tool for the tourism improvement and development authority to attract visitors and tourists to the State. The municipalities that constitute the tourism improvement and development district will establish the amounts of the fees, in their sole discretion, with no fee schedule set by the State.

2. Section 3 of P.L.1992, c.165 (C.40:54D-3) is amended to read as follows:

C.40:54D-3 Definitions relative to tourism improvement and development.

3. As used in this act:

"Authority" means a tourism improvement and development authority created pursuant to section 18 of this act, P.L.1992, c.165 (C.40:54D-18).

"Beach operation offset payment " means a payment made by an authority to municipalities in its district for tourism development activities related to operating and maintaining public beaches within a zone to seaward of a line of demarcation located not more than 1,000 feet from the mean high water line.

"Bond" means any bond or note issued by an authority pursuant to the provisions of this act.

"Commissioner" means the Commissioner of the Department of Commerce and Economic Development.

"Construction" means the planning, designing, construction, reconstruction, rehabilitation, replacement, repair, extension, enlargement, improvement and betterment of a project, and includes the demolition, clearance and removal of buildings or structures on land acquired, held, leased or used for a project.

"Convention center facility" means any convention hall or center or like structure or building, and shall include all facilities, including commercial, office, community service, parking facilities and all property rights, easements and interests, and other facilities constructed for the accommodation and entertainment of tourists and visitors, constructed in conjunction with a convention center facility and forming reasonable appurtenances thereto but does not mean the Wildwood convention center facility as defined in this section.

"Tourism project" means the convention center facility or outdoor special events arena, or both, located in the territorial limits of the district, and any costs associated therewith but does not mean the Wildwood convention center facility as defined in this section.

"Cost" means all or any part of the expenses incurred in connection with the acquisition, construction and maintenance of any real property, lands, structures, real or personal property rights, rights-of-way, franchises, easements, and interests acquired or used for a project; any financing charges and reserves for the payment of principal and interest on bonds or notes; the expenses of engineering, appraisal, architectural, accounting, financial and legal services; and other expenses as may be necessary or incident to the acquisition, construction and maintenance of a project, the financing thereof and the placing of the project into operation.

"County" means a county of the sixth class.

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Fund" means a Reserve Fund created pursuant to section 13 of P.L.1992, c.165 (C.40:54D-13).

"Outdoor special events arena" means a facility or structure for the holding outdoors of public events, entertainments, sporting events, concerts or similar activities, and shall include all facilities, property rights and interests, and

all appurtenances reasonably related thereto, constructed for the accommodation and entertainment of tourists and visitors.

"Participant amusement" means a sporting activity or amusement the charge for which is exempt from taxation under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) by virtue of the participation of the patron in the activity or amusement, such as bowling alleys, swimming pools, water slides, miniature golf, boardwalk or carnival games and amusements, baseball batting cages, tennis courts, and fishing and sightseeing boats.

"Predominantly tourism related retail receipts" means:

a. The rent for every occupancy of a room or rooms in a hotel subject to taxation pursuant to subsection (d) of section 3 of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-3);

b. Receipts from the sale of food and drink in or by restaurants, taverns, or other establishments in the district, or by caterers, including in the amount of such receipt any cover, minimum, entertainment or other charge made to patrons or customers, subject to taxation pursuant to subsection © of section 3 of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-3) but excluding receipts from sales of food and beverages sold through coin operated vending machines; and

c. Admissions charges to or the use of any place of amusement or of any roof garden, cabaret or similar place, subject to taxation pursuant to subsection (e) of section 3 of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-3).

"Purchaser" means any person purchasing or hiring property or services from another person, the receipts or charges from which are taxable by an ordinance authorized under P.L.1992, c.165 (C.40:54D-1 et seq.).

"Sports authority" means the New Jersey Sports and Exposition Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.).

"Tourism" means activities involved in providing and marketing services and products, including accommodations, for nonresidents and residents who travel to and in New Jersey for recreation and pleasure.

"Tourism assessment" means an assessment on the rent for every occupancy of a room or rooms in a hotel subject to taxation pursuant to subsection (d) of section 3 of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-3).

"Tourism development activities" include operations of the authority to carry out its statutory duty to promote, advertise and market the district, including making beach operation offset payments.

"Tourism development fee" means a fee imposed by ordinance pursuant to section 15 of P.L.1992, c.165 (C.40:54D-15).

"Tourism improvement and development district" or "district" means an area within two or more contiguous municipalities within a county of the sixth class established pursuant to ordinance enacted by those municipalities,

for the purposes of promoting the acquisition, construction, maintenance, operation and support of a tourism project, and to devote the revenue and the proceeds from taxes upon predominantly tourism related retail receipts and from tourism development fees to the purposes as herein defined.

"Tourist industry" means the industry consisting of private and public organizations which directly or indirectly provide services and products to nonresidents and residents who travel to and in New Jersey for recreation and pleasure.

"Tourism lodging" means any dwelling unit, other than a dwelling unit in a hotel the rent for which is subject to taxation under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), rented with or without a lease, whether rented by the owner or by an agent for the owner: (1) within a multiple unit building of more than four units, which building is (a) under single ownership without regard to the form of ownership, or (b) organized as condominiums or cooperatives; or (2) in a group of buildings of more than four units, which group of buildings are (a) under single ownership without regard to the form of ownership, or (b) organized as condominiums or cooperatives.

"Vendor" means a person selling or hiring property or services to another person, the receipts or charges from which are taxable by an ordinance authorized under P.L.1992, c.165 (C.40:54D-1 et seq.).

"Wildwood convention center facility" means the project authorized by paragraph (12) of subsection a. of section 6 of P.L.1971, c.137 (C.5:10-6).

3. Section 4 of P.L.1992, c.165 (C.40:54D-4) is amended to read as follows:

C.40:54D-4 Tourism improvement and development districts.

4. a. Two or more contiguous municipalities located in a county of the sixth class may, by ordinances of a substantially similar nature, create a tourism improvement and development district for the purpose of increasing public revenue and to levy taxes upon predominantly tourism related retail receipts at a rate not to exceed 2 percent, and to levy a tourism assessment at a rate of 1.85 percent, and to devote the proceeds therefrom for the purposes herein described. Municipal ordinances so adopted shall not affect which retail receipts are subject to the "Sales and Use Tax Act."

For the same purposes, the ordinances establishing the district shall also provide for the imposition of tourism development fees authorized pursuant to section 15 of P.L.1992, c.165 (C.40:54D-15). The taxes on predominantly tourism related retail receipts and tourism development fees so imposed shall be uniform throughout the district.

b. Notwithstanding any other law to the contrary, ordinances so adopted shall not be subject to referenda, and shall not be altered or repealed, except

by mutual action of all such municipalities and then only upon the written approval of the State Treasurer and, so long as the sports authority shall own and be responsible for the construction and operation of the Wildwood convention center facility, upon the written approval of the sports authority. Each municipality which enters into the creation of the district shall covenant that the ordinance, or a condition imposed by statute that each municipality is required to meet, shall not be altered or repealed in such manner as to affect any bonds or other obligations pertaining to projects within the district which are outstanding. Any alteration or repeal, or attempted alteration or repeal, in violation of this subsection, whether before or after the effective date of P.L.1997, c.273 (C.40:54D-25.1 et al.) shall be null and void.

c The district shall comprise all territory within the boundaries of the municipalities which create or enter into the district.

d. A contiguous municipality located in a county of the sixth class may, by such an ordinance, and with the mutual consent of the governing bodies of the municipalities which created the district, enter into the district so created after the date of the district's creation.

e. A copy of an ordinance adopted pursuant to this section shall be transmitted upon adoption or amendment to the State Treasurer. An ordinance so adopted or any amendment thereto shall provide that the retail receipts tax provisions of the ordinance or any amendment to the retail receipts tax provisions shall take effect on the first day of the first full month occurring 90 days after the date of transmittal to the State Treasurer.

4. Section 6 of P.L.1992, c.165 (C.40:54D-6) is amended to read as follows:

C.40:54D-6 Collection, administration of tax, assessment; determination, certification of revenues.

6. a. The director shall collect and administer any tax or tourism assessment imposed pursuant to the provisions of P.L.1992, c.165 (C.40:54D-1 et seq.) notwithstanding the provisions of any other law or ordinance to the contrary. In carrying out the provisions of P.L.1992, c.165 (C.40:54D-1 et seq.) the director shall have all the powers granted in P.L.1996; c.30 (C.54:32B-1 et seq.).

b. The director shall determine and certify to the State Treasurer on a monthly basis the amount of revenues collected in a district on predominantly tourism related retail receipts pursuant to P.L.1992, c.165 (C.40:54D-1 et seq.). The State Treasurer, upon the certification of the director and upon the warrant of the State Comptroller, shall pay and distribute on a monthly basis to the fund established pursuant to section 13 of P.L.1992, c.165 (C.40:54D-13) the amount so determined and certified.

c. The director shall determine and certify to the State Treasurer on a monthly basis the amount of revenues collected in a district as tourism assessments pursuant to P.L.1992, c.165 (C.40:54D-1 et seq.). The State Treasurer, upon the certification of the director and upon the warrant of the State Comptroller, shall pay and distribute on a monthly basis to the fund established pursuant to section 9 of P.L.2002, c.72 (C.40:54D-14.1) the amount so determined and certified.

5. Section 7 of P.L.1992, c.165 (C.40:54D-7) is amended to read as follows:

C.40:54D-7 Contents of ordinance.

7. An ordinance imposing a tax upon predominantly tourism related retail receipts or tourism assessments adopted pursuant to this act shall contain the following provisions:

a. All taxes or assessments imposed by the ordinance shall be paid by the purchaser;

b. A vendor shall not assume or absorb any tax or assessment imposed by the ordinance;

c. A vendor shall not in any manner advertise or represent that a tax or assessment imposed by the ordinance will be assumed or absorbed by the vendor;

d. Each assumption or absorption by a vendor of the tax or assessment shall be deemed a separate offense and each representation of advertisement by a vendor for each day the representation or advertisement continues shall be deemed a separate offense; and

e. Penalties as fixed in the ordinance, for violation of the foregoing provisions.

6. Section 9 of P.L.1992, c.165 (C.40:54D-9) is amended to read as follows:

C.40:54D-9 Forwarding of tax, assessment collected, filing returns.

9. a. A vendor required to collect the tax upon predominantly tourism related retail receipts or tourism assessment imposed pursuant to this act shall on or before the dates required pursuant to section 17 of P.L.1966, c.30 (C.54:32B-17), forward to the director the tax and assessments collected in the preceding month and make and file a return for the preceding month with the director on any form and containing any information as the Director of the Division of Taxation in the Department of the Treasury shall prescribe by rule or regulation as necessary to determine liability for the tax and assessment in the preceding month during which the person was required to collect the tax.

b. The director may permit or require returns to be made covering other periods and upon any dates as the director may specify. In addition, the director may require payments of tax and assessment liability at any intervals and based upon any classifications as the director may designate. In prescribing any other periods to be covered by the return or intervals or classifications for payment of tax and assessment liability, the director may take into account the dollar volume of tax and assessment involved as well as the need for ensuring the prompt and orderly collection of the tax imposed.

c. The director may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

d. The director shall inform the authority for each month in which this tax and assessment is collected and returns made of the amount so collected in each month.

7. Section 10 of P.L.1992, c.165 (C.40:54D-10) is amended to read as follows:

C.40:54D-10 "State Tax Uniform Procedure Law" applicable.

10. The tourism assessment and the tax imposed upon predominantly tourism related retail receipts pursuant to this act shall be governed by the provisions of the "State Tax Uniform Procedure Law," R.S.54:48-1 et seq.

8. Section 12 of P.L.1992, c.165 (C.40:54D-12) is amended to read as follows:

C.40:54D-12 Revenues deposited in funds.

12. a. All revenues from a tax on predominantly tourism related retail receipts collected by the director under an ordinance adopted and authorized pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et seq.), shall be retained by the State Treasurer for deposit in the fund established pursuant to section 13 of this act, P.L.1992, c.165 (C.40:54D-13), to be used and distributed according to P.L.1992, c.165 (C.40:54D-1 et seq.).

b. All revenues from tourism assessments collected by the director under an ordinance adopted and authorized pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et seq.), shall be retained by the State Treasurer for deposit in the fund established pursuant to section 9 of P.L.2002, c.72 (C.40:54D-14.1) to be used and distributed according to the terms of that section.

c. The State Treasurer may deduct from amounts so retained prior to deposit in the funds an amount equal to that necessary to compensate the Department of the Treasury for costs actually incurred by that department in administering the provisions of this act. The State Treasurer shall annually provide the authority to which the funds pertain with a written account of the amounts so deducted and of the costs so incurred in the previous fiscal year.

Amounts deducted by the State Treasurer shall be retained by the Department of the Treasury and used exclusively for costs so incurred.

C.40:54D-14.1 Tourism assessment funds; use.

9. a. There is created for a tourism improvement and development district established pursuant to P.L.1992, c.165 (C.40:54D-1 et seq.), a tourism assessment fund to be held by the State Treasurer, but not to exist in the State Treasury, to be the repository for monies paid to the State Treasurer pursuant to P.L.1992, c.165 (C.40:54D-1 et seq.) representing net collections of the tourism assessments.

b. The revenues deposited by the State Treasurer in the tourism assessment fund shall be used by the authority first to make payment for services provided by a municipality in which a tourism project is located to that extent that those payments are required by an agreement entered into on or before February 8, 2000. The remaining tourism assessments collected shall be used for a beach operation offset payment and the balance of the funds shall be used by the authority for advertising, promotion and other tourism development activities as approved and budgeted by the authority.

c. The beach operation offset payment payable within the district in each calendar year shall be equal to the permitted percentage of 50% of the amount deposited by the State Treasurer in the tourism assessment fund that remains after payment for the calendar year for services provided by a municipality in which a tourism project is located to that extent that those payments are required by an agreement entered into on or before February 8, 2000. Each municipality within the district shall receive an equal share of the beach operations offset payment payable in the district in which the municipality is located; provided however, that the share of a municipality that may not receive a payment due to the provisions of subsection d. of this section shall be used by the authority for advertising, promotion and other tourism development activities as approved and budgeted by the authority.

d. No beach operation offset payments may be made to a municipality in any year in which that municipality imposes beach fees, beach taxes or similar user fees, or "beach tag" type fees for access to, or the use of, a beach within the boundaries of that municipality.

e. For the purposes of this section, "permitted percentage" means, in the initial year after the implementation of the amendments to P.L.1992, c.165 (C.40:54D-1 et seq.) pursuant to P.L.2002, c.72 (C.40:54D-14.1 et al.), 100%. The permitted percentage shall be determined in the second year after the implementation of the amendments to P.L.1992, c.165 (C.40:54D-1 et seq.) pursuant to P.L.2002, c.72 (C.40:54D-14.1 et al.) as the ratio of total of tourism development fees collected in that district in that year to 50% of the tourism assessments remaining after payments of services provided by a municipality

in which a tourism project is located to the extent that those payments are required by an agreement entered into on or before February 8, 2000, expressed as a percentage, but not to exceed 100%. That permitted percentage of tourism development fees collected shall be used to calculate the beach operation offset payment to municipalities in years two through six, subject to the other restrictions of this section. The permitted percentage shall be recalculated for each fifth year following a calculation or recalculation year by comparing the average of the tourism development fees collected in the previous five year period to the average of 50% of the tourism assessments remaining after payments of services provided by a municipality in which a tourism project is located, to that extent that those payments are required by an agreement entered into on or before February 8, 2000, in the previous five year period.

10. Section 15 of P.L.1992, c.165 (C.40:54D-15) is amended to read as follows:

C.40:54D-15 Imposition of tourism development fee.

15. Ordinances adopted pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et seq.) shall impose a tourism development fee. The ordinances imposing the fee shall set forth the method for the calculation thereof which shall be similar to that used for mercantile licenses and other such fees as established by the municipalities.

A business paying the tourism development fee or tourism assessment shall be exempt from any future room taxes, tourism taxes, beach fees, or other similar taxes imposed by a county or the State of New Jersey on tourism related business. The fee shall be uniform throughout the district and shall apply to:

a. all persons making sales of tangible personal property or services, the receipts from which are subject to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), not required to collect a tax on predominantly tourism related retail receipts;

b. all persons making charges for participant amusements;

c. all persons operating businesses that charge for parking, garaging or storing motor vehicles;

d. all persons maintaining or operating coin-operated vending machines within the district, for the machines within the district, regardless of the types of commodities sold through the machines;

e. all persons making sales of tangible personal property or services, the receipts from which are subject to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) and who are required to collect a tax on predominately tourism related retail receipts, but only to the extent that the amount of tax on those receipts collected in a year by the person is less than the amount of

the tourism development fee for that year, provided however that persons making sales of food and drink subject to taxation pursuant to subsection (c) of section 3 of P.L.1966, c.30 (C.54:32B-3) shall pay a tourism development fee in the amount determined in the sole discretion of the municipality by ordinance, which shall be in addition to any amount of the tax on predominantly tourism related retail receipts; and

f. all persons providing tourism lodging, who shall pay a tourism development fee in an amount determined in the sole discretion of the municipality by ordinance regardless of whether those sales are otherwise subject to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.). If the lodging is rented by an agent on behalf of the owner, the agent shall retain the amount of the fee for each unit of lodging from the amount or amounts of rent first collected on behalf of the owner on that unit in a year, and forward the amount or amounts on behalf of the person providing tourism lodging pursuant to the requirements of section 17 of P.L.1992, c.165 (C.40:54D-17).

A person shall be exempt from payment of a tourism development fee for a year if that person is a vendor required to collect the tax upon predominantly tourism related retail receipts under an ordinance authorized under this act, P.L.1992, c.165 (C.40:54D-1 et seq.), in an amount equal to the amount of tax so collected in that year, except as provided in subsection e.

A person claiming any exemption for an amount of fee otherwise required by this section by reason of the collection of amounts of tax on predominately tourism related retail receipts is deemed to have consented to the release of information concerning that person's tax on predominately tourism related retail receipts collections for the fee period sufficient, as determined by the director, to verify the claim for exemption. The municipality shall provide safeguards which restrict the use or disclosure of any such information provided to purposes directly connected with the administration of the fee.

A municipality may, at any time, notwithstanding the approval provisions of subsection b. of section 4 of P.L.1992 c.165 (C.40:54D-4), adjust by municipal ordinance, otherwise in compliance with the requirements of subsection b. of section 4 of P.L.1992 c.165 (C.40:54D-4), the schedule of tourism development fees to reflect changes in the funds available for beach operation offset payments so as to maximize the beach operation offset payments that the municipalities can receive pursuant to the limitations of subsection e. of section 9 of P.L.2002, c.72 (C.40:54D-14.1).

11. Section 17 of P.L.1992, c.165 (C.40:54D-17) is amended to read as follows:

C.40:54D-17 Remitting, reporting of fees paid, appropriation to authority.

17. a. All tourism development fees imposed by ordinance pursuant to section 15 of this act, P.L.1992, c.165 (C.40:54D-15), shall be paid to the municipality by the person making the charge that subjects the person or business to imposition of the fee or, in the case of an agent collecting rents on tourism lodging, by the agent making the collection on behalf of the person providing tourism lodging. The fees shall be remitted to the chief fiscal officer of the municipality, and shall be reported on such forms and paid at such times as may be prescribed by ordinance. The ordinance shall provide for the penalties and interest to be paid in the event of delinquency in payment of fees.

b. The amount of all fees paid to a municipality pursuant to this section shall be appropriated annually to the authority established pursuant to section 18 of this act, P.L.1992, c.165 (C.40:54D-18), to be used by the authority to develop, support, promote and advertise events in the district during all months of the year and to enhance the public awareness of those events promoted in the district.

C.40:54D-21.1 Entrance into a marketing partnership; qualified business, authority.

12. a. A qualified business outside of the district may enter into a marketing partnership with the authority and participate in events and any housing assignment programs or other services or programs administered by an authority, pursuant to this section.

b. An authority may establish and enter into marketing partnership contracts with a qualified business outside the district for participation in events or other services or programs administered by the authority. A qualified business electing to participate in those services of programs shall enter into a marketing partnership contract with the authority. Under the contract the authority shall agree to provide the business with all the rights and privileges applicable to that type of business located within the district, and the business shall agree to pay directly to the authority an amount equal to the tourism development fees and tourism assessments payable by that type of business as if located within the district.

c. For the purposes of this section, "qualified business" means a hotel, motel or other business collecting receipts, sales or charges subject to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

13. This act shall take effect immediately.

Approved August 14, 2002.

CHAPTER 73

AN ACT concerning restrictions on employment at airports and supplementing Title 6 and Title 32 of the Revised Statutes.

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

C.32:2-37 Definitions relative to airport employment restrictions; criminal history record checks.

1. a. As used in this section:

"Aircraft operator" means the holder of an operating certificate issued by the Federal Aviation Administration or a permit issued by the Civil Aeronautics Board or the federal Department of Transportation who conducts scheduled passenger, public charter or private charter flight operations in which passengers are emplaned from or deplaned into a sterile area.

"Airport" means a commercial service airport facility, conducting business pursuant to Title 14 of the Code of Federal Regulations Part 139, located wholly within this State operating pursuant to an airport security program approved by the Federal Aviation Administration.

"Airport operator" means the Port Authority of New York and New Jersey.

"Employee" means any person who provides services in the sterile area of an airport.

"Prior conviction" means a conviction under the laws of this State, another state, or the United States of an offense substantially equivalent to any crime listed in this section for which a sentence of imprisonment in excess of one year could be imposed.

"Sterile area" means that portion of an airport that provides passengers access to boarding aircraft and to which the access generally is controlled through the screening of persons and property in accordance with a security program approved by the Federal Aviation Administration.

b. An airport operator shall not employ or permit to be employed any employee who has a disqualifying conviction. An airport operator shall not employ, or permit to be employed, an employee unless it has determined, consistent with the standards of this section, that no criminal history record background information exists on file in the Federal Bureau of Investigation, Criminal Justice Information Service or the Division of State Police which would disqualify that individual from being employed. This section shall apply to all employees who are currently employed at or who are prospective employees at an airport operated by an airport operator. This section shall not apply to employees who are subject to fingerprint-based criminal history record background checks mandated by federal law or rules and regulations.

c. The airport operator shall require, for purposes of determining employment eligibility, the fingerprinting of prospective or current employees. The airport operator is authorized to receive criminal history record background information from the Division of State Police and the Federal Bureau of Investigation, Criminal Justice Information Service consistent with the provisions of Public Law 92-544, for use in determining employment eligibility. The airport operator shall:

(1) promulgate rules and regulations for the use and safeguarding of criminal history record background information received from the Division of State Police and the Federal Bureau of Investigation, Criminal Justice Information Service;

(2) develop a form to be used in connection with the submission of fingerprints that contains the specific job title held or sought, and any other information that may be relevant to consideration of the current or prospective employee; and

(3) promulgate a form to be provided to all prospective and current employees that shall inform the prospective or current employee that: (a) the airport operator is required to request that employee's criminal history record background information from the Division of State Police and the Federal Bureau of Investigation, Criminal Justice Information Service and review such information pursuant to this section; (b) the prospective or current employee has the right to obtain, review and seek correction of his criminal history record background information; and © the prospective or current employee shall have 14 days from the date of any written notice of disqualification to challenge the accuracy of the criminal history record background information.

d. The employee or prospective employee shall submit to the airport operator the individual's name and address and shall provide written consent to and cooperate in the securing of fingerprints taken in accordance with applicable State and federal laws, rules, regulations and standards by a State or municipal law enforcement agency or the Port Authority of New York and New Jersey police department or other person designated by the Division of State Police, and any fees imposed by the Division of State Police and the Federal Bureau of Investigation, Criminal Justice Information Service. The airport operator is authorized to exchange fingerprint data with and receive criminal history record background information from the Federal Bureau of Investigation, Criminal Justice Information Service and the Division of State Police for use in determining the eligibility for employment of employees and prospective employees, consistent with the provisions of Public Law 92-544. The airport operator shall promptly transmit such fingerprints, the required fees and any other demographic information required by the Division of State Police to the Division of State Police and the Federal Bureau of Investigation,

Criminal Justice Information Service for their full search and processing. The Division of State Police is authorized to submit the fingerprints and the appropriate fee to the Federal Bureau of Investigation, Criminal Justice Information Service for a national criminal history record background check.

The Division of State Police shall forward the criminal history record to the airport operator in a timely manner.

e. All criminal history records processed and sent to the airport operator pursuant to this section shall be confidential pursuant to the applicable federal and state laws, rules and regulations, and shall not be published or in any way disclosed to persons other than an airport operator, unless otherwise authorized by law. No cause of action against an airport operator for damages shall exist for the determination that a prospective or current employee has a disqualifying criminal conviction, or for the lawful disclosure of a disqualifying criminal conviction to an employer, when an airport operator has reasonably and in good faith relied upon the accuracy and completeness of criminal history record background information furnished to it by the Division of State Police or the Federal Bureau of Investigation, Criminal Justice Information Service. An airport operator who acts upon or discloses information pertaining to a disqualifying criminal conviction of a prospective or current employee shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the airport operator acted with actual malice toward the person who is the subject of the information.

No cause of action against an employer for damages shall exist for acting upon information received from an airport operator that a current employee has a disqualifying criminal conviction, when the employer has reasonably and in good faith relied upon the determination made by the airport operator that the current employee has a disqualifying criminal conviction. An employer at the airport who acts upon information pertaining to a disqualifying criminal conviction of a current employee shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the employer acted with actual malice toward the person who is the subject of the information.

f. The airport operator shall review the criminal history record of a current or prospective employee covered by this section to determine whether that employee has a disqualifying criminal conviction in his background. A disqualifying criminal conviction shall be evidenced by a criminal history record background check which reveals a conviction within the preceding 10 years of any of the following:

(1) any crime in violation of N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:11-5 or N.J.S.2C:11-6;

(2) any crime in violation of N.J.S.2C:12-1, N.J.S.2C:12-2 or N.J.S.2C:12-3;

(3) any kidnaping in violation of N.J.S.2C:13-1, criminal restraint in violation of N.J.S.2C:13-2, interference with custody in violation of N.J.S.2C:13-4, criminal coercion in violation of N.J.S.2C:13-5 or luring or enticing a child in violation of section 1 of P.L.1993, c.291 (C.2C:13-6);

(4) any aggravated sexual assault or sexual assault in violation of N.J.S.2C:14-2, or aggravated criminal sexual contact or criminal sexual contact in violation of N.J.S.2C:14-3;

(5) any robbery in violation of N.J.S.2C:15-1 or carjacking in violation of section 1 of P.L.1993, c.221 (C.2C:15-2);

(6) any crime of bias intimidation in violation of N.J.S.2C:16-1;

(7) any arson or related offense in violation of N.J.S.2C:17-1, causing or risking widespread injury or damage in violation of N.J.S.2C:17-2, any crime of criminal mischief in violation of N.J.S.2C:17-3a, any crime of alteration of motor vehicle trademarks or identification numbers in violation of section 1 of P.L.1983, c.351 (C.2C:17-6), or any violation of P.L.1983, c.480 (C.2C:17-7 et seq.);

(8) any burglary in violation of N.J.S.2C:18-2 or any crime of criminal trespass in violation of N.J.S.2C:18-3;

(9) any crime of theft in violation of chapter 20 of Title 2C of the New Jersey Statutes;

(10) any crime of forgery and fraudulent practices in violation of chapter 21 of Title 2C of the New Jersey Statutes;

(11) any crime of bribery and corrupt influence in violation of chapter 27 of Title 2C of the New Jersey Statues;

(12) any crime in violation of N.J.S.2C:28-1, N.J.S.2C:28-2, N.J.S.2C:28-3a, N.J.S.2C:28-4a, N.J.S.2C:28-5, N.J.S.2C:28-6, N.J.S.2C:28-7 or N.J.S.2C:28-8b;

(13) any crime in violation of N.J.S.2C:29-1 or N.J.S.2C:29-8;

(14) any crime in violation of N.J.S.2C:33-1a, N.J.S.2C:33-3, N.J.S.2C:33-14 or section 1 of P.L.1991, c.335 (C.2C:33-14.1);

(15) any crime in violation of chapter 35 of Title 2C of the New Jersey Statutes;

(16) any crime in violation of chapter 36 of Title 2C of the New Jersey Statutes;

(17) any crime in violation of N.J.S.2C:39-3, N.J.S.2C:39-4, section 1 of P.L.1998, c.26 (C.2C:39-4.1), N.J.S.2C:39-5, section 1 of P.L.1983, c.229 (C.2C:39-14) or section 1 of P.L.1995, c.405 (C.2C:39-16);

(18) racketeering in violation of P.L.1981, c.167 (C.2C:41-1.1 et al.);

(19) any crime in violation of sections 2 through 5 of the "September 11th, 2001 Anti-Terrorism Act," P.L.2002, c.26 (C.2C:38-2 through 2C:38-5);

(20) any of the following federal offenses: registration violations involving aircraft not providing air transportation as defined in 49 U.S.C.s.46306;

interference with air navigation as defined in 49 U.S.C.s.46308; transporting hazardous material as defined in 49 U.S.C.s.46312; aircraft piracy as defined in 49 U.S.C.s.46502; interference with flight crew members and attendants as defined in 49 U.S.C.s.46504; application of certain criminal laws to acts on aircraft as defined in 49 U.S.C.s.46506; carrying a weapon or explosive on an aircraft as defined in 49 U.S.C.s.46505; false information and threats as defined in 49 U.S.C.s.46507; lighting violations involving transporting controlled substances by aircraft not providing air transportation as defined in 49 U.S.C.s.46315; entering aircraft or airport area in violation of security requirements as defined in 49 U.S.C.s.46314; destruction of aircraft or aircraft facilities as defined in 18 U.S.C.s.32; espionage as defined in 18 U.S.C.ss.793, 794, 798, or 3077; treason, sedition and subversive activities as defined in 18 U.S.C.ss.2381, 2384 and 2385; a violation of 50 U.S.C.s.783; violence at international airports as defined in 18 U.S.C.s.37; or conspiracy or solicitation as defined in 18 U.S.C.ss. 371 and 373; or

(21) an attempt or conspiracy to commit any of the offenses specified in paragraphs (1) through (20) of this subsection.

g. Upon receipt of the criminal history record background information from the Division of State Police and Federal Bureau of Investigation, Criminal Justice Information Service for a prospective or current employee, the airport operator shall notify the prospective or current employee, in writing, of the prospective or current employee's qualification or disqualification for employment. If the prospective or current employee is disqualified, the convictions that constitute the basis for the disqualification shall be identified in the written notice to the prospective or current employee. Unless otherwise specified by law or regulation, the prospective or current employee shall have 14 days from the date of the written notice of disqualification to challenge the accuracy of the criminal history record background information. If no challenge is filed or if the determination of the accuracy of the criminal history record background information upholds the disqualification, the airport operator shall notify the employer that the prospective or current employee has been disqualified from employment. When the airport operator determines that employment in a position to which the provisions of this section apply should be terminated pursuant to this section, the current employee shall be afforded notice in writing and the right to be heard and offer proof in opposition to such determination in accordance with the rules and regulations promulgated pursuant to subsection c. of this section.

h. The Division of State Police shall promptly notify the airport operator in the event a prospective or current employee, who was the subject of a criminal history record background check conducted pursuant to subsection d. of this section, is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of such notification, the airport

operator shall make a determination regarding the eligibility for employment of the prospective or current employee.

i. Every employee shall have a continuing obligation to promptly notify the employee's employer and the airport operator of any conviction of a crime punishable by more than one year in prison. The failure to so notify the employer and airport operator shall be grounds for immediate termination of employment.

j. This section shall apply to all prospective employees on the effective date thereof. Airport operators shall require the criminal history record background checks to be initiated on all current employees within 90 days of the effective date of this section.

C.6:1-100 Definitions relative to airport employment restrictions; criminal history record checks.

2. a. As used in this section:

"Aircraft operator" means the holder of an operating certificate issued by the Federal Aviation Administration or a permit issued by the Civil Aeronautics Board or the federal Department of Transportation who conducts scheduled passenger, public charter or private charter flight operations in which passengers are emplaned from or deplaned into a sterile area.

"Airport" means a commercial service airport facility conducting business pursuant to Title 14 of Code of Federal Regulations Part 139, located wholly within this State operating pursuant to an airport security program approved by the Federal Aviation Administration.

"Airport operator" means a State or local government unit, agency or public authority that operates an airport that serves an aircraft operator, except the Port Authority of New York and New Jersey.

"Employee" means any person who provides services in the sterile area of an airport.

"Prior conviction" means a conviction under the laws of this State, another state, or the United States of an offense substantially equivalent to any crime listed in this section for which a sentence of imprisonment in excess of one year could be imposed.

"Sterile area" means that portion of an airport that provides passengers access to boarding aircraft and to which the access generally is controlled through the screening of persons and property in accordance with a security program approved by the Federal Aviation Administration.

b. An airport operator shall not employ or permit to be employed any employee who has a disqualifying conviction. An airport operator shall not employ, or permit to be employed, an employee unless it has determined, consistent with the standards of this section, that no criminal history record background information exists on file in the Federal Bureau of Investigation, Criminal Justice Information Service or the Division of State Police which

would disqualify that individual from being employed. This section shall apply to all employees who are currently employed at or who are prospective employees at an airport operated by an airport operator. This section shall not apply to employees who are subject to fingerprint-based criminal history record background checks mandated by federal law or rules and regulations.

c. Each airport operator shall require, for purposes of determining employment eligibility, the fingerprinting of prospective or current employees. The airport operator is authorized to receive criminal history record background information from the Division of State Police and the Federal Bureau of Investigation, Criminal Justice Information Service consistent with the provisions of Public Law 92-544, for use in determining employment eligibility. Each airport operator shall:

(1) promulgate rules and regulations for the use and safeguarding of criminal history record background information received from the Division of State Police and the Federal Bureau of Investigation, Criminal Justice Information Service;

(2) develop a form to be used in connection with the submission of fingerprints that contains the specific job title held or sought, and any other information that may be relevant to consideration of the current or prospective employee; and

(3) promulgate a form to be provided to all prospective and current employees that shall inform the prospective or current employee that: (a) the airport operator is required to request that employee's criminal history record background information from the Division of State Police and the Federal Bureau of Investigation, Criminal Justice Information Service and review such information pursuant to this section; (b) the prospective or current employee has the right to obtain, review and seek correction of his criminal history record background information; and © the prospective or current employee shall have 14 days from the date of any written notice of disqualification to challenge the accuracy of the criminal history record background information.

d. The employee or prospective employee shall submit to the airport operator the individual's name and address and shall provide written consent to and cooperate in the securing of fingerprints taken in accordance with applicable State and federal laws, rules, regulations and standards by a State or municipal law enforcement agency or other person designated by the Division of State Police, and any fees imposed by the Division of State Police and the Federal Bureau of Investigation, Criminal Justice Information Service. The airport operator is authorized to exchange fingerprint data with and receive criminal history record background information from the Federal Bureau of Investigation, Criminal Justice Information Service and the Division of State Police for use in determining the eligibility for employment of employees

and prospective employees, consistent with the provisions of Public Law 92-544. The airport operator shall promptly transmit such fingerprints and the required fees to the Division of State Police and the Federal Bureau of Investigation, Criminal Justice Information Service for their full search and processing. The Division of State Police is authorized to submit the fingerprints and the appropriate fee to the Federal Bureau of Investigation, Criminal Justice Information Service for a national criminal history record background check.

The Division of State Police shall forward the criminal history record to the airport operator in a timely manner.

e. All criminal history records processed and sent to the airport operator pursuant to this section shall be confidential pursuant to the applicable federal and state laws, rules and regulations, and shall not be published or in any way disclosed to persons other than an airport operator, unless otherwise authorized by law. No cause of action against an airport operator for damages shall exist for the determination that a prospective or current employee has a disqualifying criminal conviction, or for the lawful disclosure of a disqualifying criminal conviction to an employer, when an airport operator has reasonably and in good faith relied upon the accuracy and completeness of criminal history record background information furnished to it by the Division of State Police or the Federal Bureau of Investigation, Criminal Justice Information Service. An airport operator who acts upon or discloses information pertaining to a disqualifying criminal conviction of a prospective or current employee shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the airport operator acted with actual malice toward the person who is the subject of the information.

No cause of action against an employer for damages shall exist for acting upon information received from an airport operator that a current employee has a disqualifying criminal conviction, when the employer has reasonably and in good faith relied upon the determination made by the airport operator that the current employee has a disqualifying criminal conviction. An employer at the airport who acts upon information pertaining to a disqualifying criminal conviction of a current employee shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the employer acted with actual malice toward the person who is the subject of the information.

f. The airport operator shall review the criminal history record of a current or prospective employee covered by this section to determine whether that employee has a disqualifying criminal conviction in his background. A disqualifying criminal conviction shall be evidenced by a criminal history record background check which reveals a conviction within the preceding 10 years of any of the following:

(1) any crime in violation of N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:11-5 or N.J.S.2C:11-6;

(2) any crime in violation of N.J.S.2C:12-1, N.J.S.2C:12-2 or N.J.S.2C:12-3;

(3) any kidnaping in violation of N.J.S.2C:13-1, criminal restraint in violation of N.J.S.2C:13-2, interference with custody in violation of N.J.S.2C:13-4, criminal coercion in violation of N.J.S.2C:13-5 or luring or enticing a child in violation of section 1 of P.L.1993, c.291 (C.2C:13-6);

(4) any aggravated sexual assault or sexual assault in violation of N.J.S.2C:14-2, or aggravated criminal sexual contact or criminal sexual contact in violation of N.J.S.2C:14-3;

(5) any robbery in violation of N.J.S.2C:15-1 or carjacking in violation of section 1 of P.L.1993, c.221 (C.2C:15-2);

(6) any crime of bias intimidation in violation of N.J.S.2C:16-1;

(7) any arson or related offense in violation of N.J.S.2C:17-1, causing or risking widespread injury or damage in violation of N.J.S.2C:17-2, any crime of criminal mischief in violation of N.J.S.2C:17-3a, any crime of alteration of motor vehicle trademarks or identification numbers in violation of section 1 of P.L.1983, c.351 (C.2C:17-6), or any violation of P.L.1983, c.480 (C.2C:17-7 et seq.);

(8) any burglary in violation of N.J.S.2C:18-2 or any crime of criminal trespass in violation of N.J.S.2C:18-3;

(9) any crime of theft in violation of chapter 20 of Title 2C of the New Jersey Statutes;

(10) any crime of forgery and fraudulent practices in violation of chapter 21 of Title 2C of the New Jersey Statutes;

(11) any crime of bribery and corrupt influence in violation of chapter 27 of Title 2C of the New Jersey Statues;

(12) any crime in violation of N.J.S.2C:28-1, N.J.S.2C:28-2, N.J.S.2C:28-3a, N.J.S.2C:28-4a, N.J.S.2C:28-5, N.J.S.2C:28-6, N.J.S.2C:28-7 or N.J.S.2C:28-8b;

(13) any crime in violation of N.J.S.2C:29-1 or N.J.S.2C:29-8;

(14) any crime in violation of N.J.S.2C:33-1a, N.J.S.2C:33-3, N.J.S.2C:33-14 or section 1 of P.L.1991, c.335 (C.2C:33-14.1);

(15) any crime in violation of chapter 35 of Title 2C of the New Jersey Statutes;

(16) any crime in violation of chapter 36 of Title 2C of the New Jersey Statutes;

(17) any crime in violation of N.J.S.2C:39-3, N.J.S.2C:39-4, section 1 of P.L.1998, c.26 (C.2C:39-4.1), N.J.S.2C:39-5, section 1 of P.L.1983, c.229 (C.2C:39-14) or section 1 of P.L.1995, c.405 (C.2C:39-16);

(18) racketeering in violation of P.L.1981, c.167 (C.2C:41-1.1 et al.);

(19) any crime in violation of sections 2 through 5 of the "September 11th, 2001 Anti-Terrorism Act," P.L.2002, c.26 (C.2C:38-2 through 2C:38-5);

(20) any of the following federal offenses: registration violations involving aircraft not providing air transportation as defined in 49 U.S.C.s.46306; interference with air navigation as defined in 49 U.S.C.s.46308; transporting hazardous material as defined in 49 U.S.C.s.46312; aircraft piracy as defined in 49 U.S.C.s.46502; interference with flight crew members and attendants as defined in 49 U.S.C.s.46504; application of certain criminal laws to acts on aircraft as defined in 49 U.S.C.s.46506; carrying a weapon or explosive on an aircraft as defined in 49 U.S.C.s.46505; false information and threats as defined in 49 U.S.C.s.46507; lighting violations involving transporting controlled substances by aircraft not providing air transportation as defined in 49 U.S.C.s.46315; entering aircraft or airport area in violation of security requirements as defined in 49 U.S.C.s.46314; destruction of aircraft or aircraft facilities as defined in 18 U.S.C.s.32; espionage as defined in 18 U.S.C.ss.793, 794, 798, or 3077; treason, sedition and subversive activities as defined in 18 U.S.C.ss.2381, 2384 and 2385; a violation of 50 U.S.C.s.783; violence at international airports as defined in 18 U.S.C.s.37; or conspiracy or solicitation as defined in 18 U.S.C.ss. 371 and 373; or

(21) an attempt or conspiracy to commit any of the offenses specified in paragraphs (1) through (20) of this subsection.

g. Upon receipt of the criminal history record background information from the Division of State Police and Federal Bureau of Investigation, Criminal Justice Information Service for a prospective or current employee, the airport operator shall notify the prospective or current employee, in writing, of the prospective or current employee's qualification or disqualification for employment. If the prospective or current employee is disqualified, the convictions that constitute the basis for the disqualification shall be identified in the written notice to the prospective or current employee. Unless otherwise specified by law or regulation, the prospective or current employee shall have 14 days from the date of the written notice of disqualification to challenge the accuracy of the criminal history record background information. If no challenge is filed or if the determination of the accuracy of the criminal history record background information upholds the disqualification, the airport operator shall notify the employer that the prospective or current employee has been disqualified from employment. When the airport operator determines that employment in a position to which the provisions of this section apply should be terminated pursuant to this section, the current employee shall be afforded notice in writing and the right to be heard and offer proof in opposition to such determination in accordance with the rules and regulations promulgated pursuant to subsection c. of this section.

h. The Division of State Police shall promptly notify the airport operator in the event a prospective or current employee, who was the subject of a criminal history record background check conducted pursuant to subsection d. of this

section, is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of such notification, the airport operator shall make a determination regarding the eligibility for employment of the prospective or current employee.

i. Every employee shall have a continuing obligation to promptly notify the employee's employer and the airport operator of any conviction of a crime punishable by more than one year in prison. The failure to so notify the employer and airport operator shall be grounds for immediate termination of employment.

j. This section shall apply to all prospective employees on the effective date thereof. Airport operators shall require the criminal history record background checks to be initiated on all current employees within 90 days of the effective date of this section.

3. Section 1 of this act shall take effect upon the enactment into law by the State of New York of legislation having an identical effect with this section, but if the State of New York shall have already enacted such legislation, section 1 shall take effect immediately, and section 2 shall take effect on the 90th day after enactment of this act. Airport operators and the Division of State Police shall take such anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved August 15, 2002.

CHAPTER 74

AN ACT concerning the establishment of athletic codes of conduct for players, coaches, officials and parents and supplementing Title 5 of the Revised Statutes.

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

C.5:17-1 Athletic code of conduct, permitted; "youth sports event" defined.

1. a. A school board or youth sports team organization may establish an athletic code of conduct. An athletic code of conduct established pursuant to the provisions of this act shall contain guidelines for conduct of behavior to be observed at youth sports events and shall permit the school board or youth sports team organization to ban the presence of any person at youth sports events who (1) engages in verbal or physical threats or abuse aimed at any student, coach, official or parent, or (2) initiates a fight or scuffle with

any student, coach, official, parent, or other person if the conduct occurs at or in connection with a school or community sponsored youth sports event.

b. As used in this act, "youth sports event" means a competition, practice or instructional event involving one or more interscholastic sports teams or sports teams organized pursuant to a nonprofit or similar charter or which are member teams in a league organized by or affiliated with a county or municipal recreation department.

C.5:17-2 Athletic code of conduct established by school board, agreement required for participation.

2. A school board which has established an athletic code of conduct pursuant to the provisions of this act may require that all students, coaches, officials, or parents of students as a condition of participation in any athletic program by the student, agree in writing to a code of conduct established pursuant to section 1 of P.L.2002, c.74 (C.5:17-1) which would require the student, parent, coach or official to refrain from verbal or physical threats or abuse aimed at any student, coach, official or other parent, or, from initiating any fight or scuffle with any person. The board shall have the power to ban the presence of any student, coach, parent or official at any subsequent school sports event who shall violate the athletic code of conduct.

C.5:17-3 Athletic code of conduct established by certain sports teams, agreement required for participation.

3. Any sports teams organized pursuant to a nonprofit or similar charter or which are member teams in a league organized by or affiliated with a county or municipal recreation department may require that all youth athletes, coaches, officials, or parents of youth athletes as a condition of participation in any athletic program by the youth athlete agree in writing to a code of conduct established pursuant to section 1 of P.L.2002, c.74 (C.5:17-1) which would require the youth athlete, parent, coach or official to refrain from verbal or physical threats or abuse aimed at any student, coach, official or other parent, or, from initiating any fight or scuffle with any person. The sports team shall have the power to ban the presence of any youth athlete, coach, parent or official at any subsequent youth sports event who shall violate the code of conduct.

C.5:17-4 Violation of code, ban; resumption of participation on counseling.

4. Any student, coach, official, parent or other person subject to the terms and conditions of an athletic code of conduct established pursuant to the provisions of P.L.2002, c.74 (C.5:17-1 et seq.) who violates the provisions of the athletic code of conduct, may be banned from attending any subsequent school or community sponsored youth sports event. In the event that any student, coach, official, parent or other person subject to the terms and conditions of an athletic code of conduct is banned from attendance, that person may petition the school board or sports team for permission to resume attendance.

Prior to being permitted to resume attendance, the school board or sports team shall require the individual to present proof of completion of anger management counseling through a public or private source.

C.5:17-5 Attorney General to promulgate model code, policies.

5. The Attorney General shall promulgate:

a. (1) A model athletic code of conduct which may be adopted by a school board or youth sports team organization pursuant to the provisions of this act; and

(2) Model policies regarding banning a person from a school or community sponsored youth sports event, minimum requirements for anger management counseling and permitting a person to resume attendance subsequent to the completion of anger management counseling, which may be adopted by a school board or youth sports team organization pursuant to the provisions of this act.

b. In developing these models, the Attorney General shall consult with youth interscholastic or nonprofit community sports organizations, county and municipal recreation departments and any other organization deemed appropriate.

6. This act shall take effect immediately.

Approved August 25, 2002.

CHAPTER 75

AN ACT establishing the Amistad Commission and supplementing chapter 16A of Title 52 of the New Jersey Statutes.

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

C.52:16A-86 Findings, declarations relative to Amistad Commission.

1. The Legislature finds and declares that:

a. During the period beginning late in the 15th century through the 19th century, millions of persons of African origin were enslaved and brought to the Western Hemisphere, including the United States of America; anywhere from between 20 to 50 percent of enslaved Africans died during their journey to the Western Hemisphere; the enslavement of Africans and their descendants was part of a concerted effort of physical and psychological terrorism that deprived groups of people of African descent the opportunity to preserve many of their social, religious, political and other customs; the vestiges of slavery

in this country continued with the legalization of second class citizenship status for African-Americans through Jim Crow laws, segregation and other similar practices; the legacy of slavery has pervaded the fabric of our society; and in spite of these events there are endless examples of the triumphs of African-Americans and their significant contributions to the development of this country;

b. All people should know of and remember the human carnage and dehumanizing atrocities committed during the period of the African slave trade and slavery in America and of the vestiges of slavery in this country; and it is in fact vital to educate our citizens on these events, the legacy of slavery, the sad history of racism in this country, and on the principles of human rights and dignity in a civilized society;

c. It is the policy of the State of New Jersey that the history of the African slave trade, slavery in America, the depth of their impact in our society, and the triumphs of African-Americans and their significant contributions to the development of this country is the proper concern of all people, particularly students enrolled in the schools of the State of New Jersey; and

d. It is therefore desirable to create a State-level commission, which as an organized body, on a continuous basis, will survey, design, encourage, and promote the implementation of education and awareness programs in New Jersey concerned with the African slave trade, slavery in America, the vestiges of slavery in this country, and the contributions of African-Americans in building our country; to develop workshops, institutes, seminars, and other teacher training activities designed to educate teachers on this subject matter; and which will be responsible for the coordination of events on a regular basis, throughout the State, that provide appropriate memorialization of the events concerning the enslavement of Africans and their descendants in America as well as their struggle for freedom and liberty.

C.52:16A-87 Amistad Commission established.

2. a. The Amistad Commission, so named in honor of the group of enslaved Africans led by Joseph Cinque who, while being transported in 1839 on a vessel named the Amistad, gained their freedom after overthrowing the crew and eventually having their case successfully argued before the United States Supreme Court, is 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 members, including the Secretary of State or a designee, the Commissioner of Education or a designee and the chair of the executive board of the Presidents' Council or a designee, serving ex officio, and 16 public members.

Public members shall be appointed as follows: four public members, no more than two of whom shall be of the same political party, shall be appointed by the President of the Senate; four public members, no more than two of whom shall be of the same political party, shall be appointed by the Speaker of the General Assembly; and eight public members, no more than four of whom shall be of the same political party, shall be appointed by the Governor. The public members shall be residents of this State, chosen with due regard to broad geographic representation and ethnic diversity, who have an interest in the history of the African slave trade and slavery in America and the contributions of African-Americans to our society.

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 appointed by the President of the Senate, one member appointed by the Speaker of the General Assembly, and two members appointed by the Governor shall serve for terms of one year; one member appointed by the President of the Senate, one member appointed by the Speaker of the General Assembly, and three members appointed by the Governor shall serve for terms of two years; and two members appointed by the President of the Senate, two members appointed by the Speaker of the General Assembly, and three members appointed by the Governor shall serve for terms of three years. Public members shall be eligible for reappointment. They shall serve until their successors are appointed and qualified, and the term of the successor of any incumbent shall be calculated from the expiration of the term of that incumbent. A vacancy occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

c. The members of the commission shall serve without compensation but shall be entitled to reimbursement for all necessary expenses incurred in the performance of their duties.

d. The Secretary of State, or a designee, shall serve as the chair and the Commissioner of Education, or a designee, shall serve as the vice-chair of the commission. The presence of a majority of the authorized membership of the commission shall be required for the conduct of official business.

e. The New Jersey Historical Commission shall serve as staff for the Amistad Commission. The New Jersey Historical Commission may, subject to the availability of appropriations, hire additional staff and consultants to carry out the duties and responsibilities of the Amistad Commission.

f. The Department of Education shall:

(1) assist the Amistad Commission in marketing and distributing to educators, administrators and school districts in the State educational information and other materials on the African slave trade, slavery in America, the vestiges of slavery in this country and the contributions of African-Americans to our society;

(2) conduct at least one teacher workshop annually on the African slave trade, slavery in America, the vestiges of slavery in this country and the contributions of African-Americans to our society;

(3) assist the Amistad Commission in monitoring the inclusion of such materials and curricula in the State's educational system; and

(4) consult with the Amistad Commission to determine ways it may survey, catalog, and extend slave trade and American slavery education presently being incorporated into the Core Curriculum Content Standards and taught in the State's educational system.

C.52:16A-88 Responsibilities, duties of Amistad Commission.

3. The Amistad Commission shall have the following responsibilities and duties:

a. to provide, based upon the collective interest of the members and the knowledge and experience of its staff and consultants, assistance and advice to public and nonpublic schools within the State with respect to the implementation of education, awareness programs, textbooks, and educational materials concerned with the African slave trade, slavery in America, the vestiges of slavery in this country and the contributions of African-Americans to our society;

b. to survey and catalog the extent and breadth of education concerning the African slave trade, slavery in America, the vestiges of slavery in this country and the contributions of African-Americans to our society presently being incorporated into the curricula and textbooks and taught in the school systems of the State; to inventory those African slave trade, American slavery, or relevant African-American history memorials, exhibits and resources which should be incorporated into courses of study at educational institutions and schools throughout the State; and to assist the Department of State, the Department of Education and other State and educational agencies in the development and implementation of African slave trade, American slavery and African-American history education programs;

c. to act as a liaison with textbook publishers, public and nonpublic schools, public and private nonprofit resource organizations, and members of the United States Senate and House of Representatives and the New Jersey Senate and General Assembly in order to facilitate the inclusion of the history of African slavery and of African-Americans in this country in the curricula of public and nonpublic schools;

d. to compile a roster of individual volunteers who are willing to share their knowledge and experience in classrooms, seminars and workshops with students and teachers on the subject of the African slave trade, American slavery and the impact of slavery on our society today, and the contributions of African-Americans to our country;

e. to coordinate events memorializing the African slave trade, American slavery and the history of African-Americans in this country that reflect the contributions of African-Americans in overcoming the burdens of slavery and its vestiges, and to seek volunteers who are willing and able to participate in commemorative events that will enhance student awareness of the significance of the African slave trade, American slavery, its historical impact, and the struggle for freedom;

f. to prepare reports for the Governor and the Legislature regarding its findings and recommendations on facilitating the inclusion of the African slave trade, American slavery studies, African-American history and special programs in the educational system of the State;

g. to develop, in consultation with the Department of Education, curriculum guidelines for the teaching of information on the African slave trade, slavery in America, the vestiges of slavery in this country, and the contributions of African-Americans to our country. Every board of education shall incorporate the information in an appropriate place in the curriculum of elementary and secondary school students; and

h. to solicit, receive, and accept appropriations, gifts and donations.

C.52:16A-89 Assistance to Amistad Commission.

4. a. The commission is authorized to call upon any department, office, division or agency of the State, or of any county, municipality or school district of the State, to supply such data, program reports and other information, personnel and assistance as it deems necessary to discharge its responsibilities under this act.

b. These departments, offices, divisions and agencies shall, to the extent possible and not inconsistent with any other law of this State, cooperate with the commission and shall furnish it with such information, personnel and assistance as may be necessary or helpful to accomplish the purposes of this act.

5. This act shall take effect immediately.

Approved August 28, 2002.

CHAPTER 76

AN ACT concerning the preservation of lands for certain public purposes, and amending and supplementing P.L.1999, c.152.

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

1. Section 2 of P.L.1999, c.152 (C.13:8C-2) is amended to read as follows:

C.13:8C-2 Findings, declarations relative to open space, farmland, and historic preservation.

2. The Legislature finds and declares that enhancing the quality of life of the citizens of New Jersey is a paramount policy of the State; that the acquisition and preservation of open space, farmland, and historic properties in New Jersey protects and enhances the character and beauty of the State and provides its citizens with greater opportunities for recreation, relaxation, and education; that the lands and resources now dedicated to these purposes will not be adequate to meet the needs of an expanding population in years to come; that the open space and farmland that is available and appropriate for these purposes will gradually disappear as the costs of preserving them correspondingly increase; and that it is necessary and desirable to provide funding for the development of parks and other open space for recreation and conservation purposes.

The Legislature further finds and declares that agriculture plays an integral role in the prosperity and well-being of the State as well as providing a fresh and abundant supply of food for its citizens; that much of the farmland in the State faces an imminent threat of permanent conversion to non-farm uses; and that the retention and development of an economically viable agricultural industry is of high public priority.

The Legislature further finds and declares that there is an urgent need to preserve the State's historic heritage to enable present and future generations to experience, understand, and enjoy the landmarks of New Jersey's role in the birth and development of this nation; that the restoration and preservation of properties of historic character and importance in the State is central to meeting this need; and that a significant number of these historic properties are located in urban centers, where their restoration and preservation will advance urban revitalization efforts of the State and local governments.

The Legislature further finds and declares that there is growing public recognition that the quality of life, economic prosperity, and environmental quality in New Jersey are served by the protection and timely preservation of open space and farmland and better management of the lands, resources, historic properties, and recreational facilities that are already under public ownership or protection; that the protection and preservation of New Jersey's water resources, including the quality and quantity of the State's limited water supply, is essential to the quality of life and the economic health of the citizens of the State; that the acquisition of flood-prone areas is in the best interests of the State to prevent the loss of life and property; that the preservation of

the existing diversity of animal and plant species is essential to sustaining both the environment and the economy of the Garden State, and the conservation of adequate habitat for endangered, threatened, and other rare species is necessary to preserve this biodiversity; that there is a need to establish a program to serve as the successor to the programs established by the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, nine previous similar bond acts enacted in 1961, 1971, 1974, 1978, 1981, 1983, 1987, 1989, and 1992, and various implementing laws; and that any such successor program should support implementation of Statewide policies, goals, and strategies concerned with and emphasizing the importance of preserving open space, sensitive environmental areas, critical wildlife habitat, farmland, and historic resources.

The Legislature further finds and declares that the citizens of the State have indicated their very strong support for open space, farmland, and historic preservation efforts not only in the past approval of State Green Acres bond acts and numerous county and municipal dedicated funding sources for those purposes, but most recently in 1998 with the approval of an amendment to the New Jersey Constitution that provides for a stable and dedicated source of funding for those purposes for the next decade and beyond.

The Legislature therefore determines that it is in the public interest to preserve as much open space and farmland, and as many historic properties, as possible within the means provided by the 1998 constitutional amendment; that of the open space preserved, as much of those lands as possible shall protect water resources and preserve adequate habitat and other environmentally sensitive areas; that, in recognition of the recommendations of the Governor's Council on New Jersey Outdoors, it is a worthy goal to preserve one million more acres of open space and farmland in the Garden State in the next decade to protect the quality of life for New Jersey residents; and that, to accomplish that goal, it is also in the public interest to create the Garden State Preservation Trust and to enable it to raise revenue for those purposes, and to delegate to it such other duties and responsibilities as shall be necessary to further the purposes of the constitutional amendment and to advance the policies and achieve the goals set forth in this preamble.

2. Section 24 of P.L.1999, c.152 (C.13:8C-24) is amended to read as follows:

C.13:8C-24 Office of Green Acres established.

24. a. (1) There is established in the Department of Environmental Protection the Office of Green Acres. The commissioner may appoint an administrator or director who shall supervise the office, and the department may employ such other personnel and staff as may be required to carry out

the duties and responsibilities of the department and the office pursuant to this act, all without regard to the provisions of Title 11A, Civil Service, of the New Jersey Statutes. Persons appointed or employed as provided pursuant to this subsection shall be compensated in a manner similar to other employees in the Executive Branch, and their compensation shall be determined by the Commissioner of Personnel.

(2) The Green Acres Program in the Department of Environmental Protection, together with all of its functions, powers and duties, are continued and transferred to and constituted as the Office of Green Acres in the Department of Environmental Protection. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Green Acres Program, the same shall mean and refer to the Office of Green Acres in the Department of Environmental Protection. This transfer shall be subject to the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

b. The duties and responsibilities of the office shall be as follows:

(1) Administer all provisions of this act pertaining to funding the acquisition and development of lands for recreation and conservation purposes as authorized pursuant to Article VIII, Section II, paragraph 7 of the State Constitution;

(2) Continue to administer all grant and loan programs for the acquisition and development of lands for recreation and conservation purposes, including the Green Trust, established or funded for those purposes pursuant to: P.L.1961, c.45 (C.13:8A-1 et seq.); P.L.1971, c.419 (C.13:8A-19 et seq.); P.L.1975, c.155 (C.13:8A-35 et seq.); or any Green Acres bond act; and

(3) Adopt, with the approval of the commissioner and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations:

(a) establishing application procedures for grants and loans for the acquisition and development of lands for recreation and conservation purposes, criteria and policies for the evaluation and priority ranking of projects for eligibility to receive funding for recreation and conservation purposes using constitutionally dedicated moneys, any conditions that may be placed on the award of a grant or loan for recreation and conservation purposes pursuant to this act, and any restrictions that may be placed on the use of lands acquired or developed with a grant or loan for recreation and conservation purposes pursuant to this act. The criteria and policies established pursuant to this subparagraph for the evaluation and priority ranking of projects for eligibility to receive funding for recreation and conservation purposes using constitutionally dedicated moneys may be based upon, but need not be limited to, such factors as: protection of the environment, natural resources, water resources, watersheds, aquifers, wetlands, floodplains and flood-prone areas, stream

corridors, beaches and coastal resources, forests and grasslands, scenic views, biodiversity, habitat for wildlife, rare, threatened, or endangered species, and plants; degree of likelihood of development; promotion of greenways; provision for recreational access and use; protection of geologic, historic, archaeological, and cultural resources; relative cost; parcel size; and degree of public support; and

(b) addressing any other matters deemed necessary to implement and carry out the goals and objectives of Article VIII, Section II, paragraph 7 of the State Constitution and this act with respect to the acquisition and development of lands for recreation and conservation purposes; and

(4) Establishing criteria and policies for the evaluation and priority ranking of State projects to acquire and develop lands for recreation and conservation purposes using constitutionally dedicated moneys, which criteria and policies may be based upon, but need not be limited to, such factors as: protection of the environment, natural resources, water resources, watersheds, aquifers, wetlands, floodplains and flood-prone areas, stream corridors, beaches and coastal resources, forests and grasslands, scenic views, biodiversity, habitat for wildlife, rare, threatened, or endangered species, and plants; degree of likelihood of development; promotion of greenways; provision for recreational access and use; protection of geologic, historic, archaeological, and cultural resources; relative cost; parcel size; and degree of public support.

3. Section 25 of P.L.1999, c.152 (C.13:8C-25) is amended to read as follows:

C.13:8C-25 Biennial progress report to Governor, Legislature by the trust.

25. Within one year after the date of enactment of this act, and biennially thereafter until and including 2008, the Garden State Preservation Trust, after consultation with the Department of Environmental Protection, the State Agriculture Development Committee, the New Jersey Historic Trust, the Pinelands Commission, and the Office of State Planning in the Department of Community Affairs, shall prepare and submit to the Governor and the Legislature a written report, which shall:

a. Describe the progress being made on achieving the goals and objectives of Article VIII, Section II, paragraph 7 of the State Constitution and this act with respect to the acquisition and development of lands for recreation and conservation purposes, the preservation of farmland, and the preservation of historic properties, and provide recommendations with respect to any legislative, administrative, or local action that may be required to ensure that those goals and objectives may be met in the future;

b. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality,

of lands acquired for recreation and conservation purposes and of farmland preserved for farmland preservation purposes that have been applied toward meeting the goals and objectives of Article VIII, Section II, paragraph 7 of the State Constitution and this act with respect to the acquisition of lands for recreation and conservation purposes and the preservation of farmland;

c. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of any donations of land that have been applied toward meeting the goals and objectives of Article VIII, Section II, paragraph 7 of the State Constitution and this act with respect to the acquisition of lands for recreation and conservation purposes and the preservation of farmland;

d. List, both for the reporting period and cumulatively, and by project name, project sponsor, and location by county and municipality, all historic preservation projects funded with constitutionally dedicated moneys in whole or in part;

e. Indicate those areas of the State where, as designated by the Department of Environmental Protection in the Open Space Master Plan prepared pursuant to section 5 of P.L.2002, c.76 (C.13:8C-25.1), the acquisition and development of lands by the State for recreation and conservation purposes is planned or is most likely to occur, and those areas of the State where there is a need to protect water resources, including the identification of lands where protection is needed to assure adequate quality and quantity of drinking water supplies in times of drought, indicate those areas of the State where the allocation of constitutionally dedicated moneys for farmland preservation purposes is planned or is most likely to occur, and provide a proposed schedule and expenditure plan for those acquisitions, developments, and allocations, for the next reporting period, which shall include an explanation of how those acquisitions, developments, and allocations will be distributed throughout all geographic regions of the State to the maximum extent practicable and feasible;

f. List any surplus real property owned by the State or an independent authority of the State that may be utilizable for recreation and conservation purposes or farmland preservation purposes, and indicate what action has been or must be taken to effect a conveyance of those lands to the department, the committee, local government units, qualifying tax exempt nonprofit organizations, or other entities or persons so that the lands may be preserved and used for those purposes;

g. List, for the reporting period, all projects for which applications for funding under the Green Acres, farmland preservation, and historic preservation programs were received but not funded with constitutionally dedicated moneys during the reporting period, and the reason or reasons why those projects were not funded;

h. Provide, for the reporting period, a comparison of the amount of constitutionally dedicated moneys annually appropriated for local government unit projects for recreation and conservation purposes in municipalities eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) to the average amount of Green Acres bond act moneys annually appropriated for such projects in the years 1984 through 1998; and

i. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of lands acquired for recreation and conservation purposes that protect water resources and that protect flood-prone areas.

4. Section 26 of P.L.1999, c.152 (C.13:8C-26) is amended to read as follows:

C.13:8C-26 Allocation of funds appropriated; conditions.

26. a. Moneys appropriated from the Garden State Green Acres Preservation Trust Fund to the Department of Environmental Protection shall be used by the department to:

(1) Pay the cost of acquisition and development of lands by the State for recreation and conservation purposes;

(2) Provide grants and loans to assist local government units to pay the cost of acquisition and development of lands for recreation and conservation purposes; and

(3) Provide grants to assist qualifying tax exempt nonprofit organizations to pay the cost of acquisition and development of lands for recreation and conservation purposes.

b. The expenditure and allocation of constitutionally dedicated moneys for recreation and conservation purposes shall reflect the geographic diversity of the State to the maximum extent practicable and feasible.

c. (1) Notwithstanding the provisions of section 5 of P.L.1985, c.310 (C.13:18A-34) or this act, or any rule or regulation adopted pursuant thereto, to the contrary, the value of a pinelands development credit, allocated to a parcel pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto, shall be made utilizing a value to be determined by either appraisal, regional averaging based upon appraisal data, or a formula supported by appraisal data. The appraisal and appraisal data shall consider as appropriate: land values in the pinelands regional growth areas; land values in counties, municipalities, and other areas reasonably contiguous to, but outside of, the pinelands area; and other relevant factors as may be necessary to maintain the environmental, ecological, and agricultural qualities of the pinelands area.

(2) No pinelands development credit allocated to a parcel of land pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto that is acquired or obtained in connection with the acquisition of the parcel for recreation and conservation purposes by the State, a local government unit, or a qualifying tax exempt nonprofit organization using constitutionally dedicated moneys in whole or in part may be conveyed in any manner. All such pinelands development credits shall be retired permanently.

d. (1) (a) For State fiscal years 2000 through 2004 only, when the department, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire lands for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part or Green Acres bond act moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using the land use zoning of the lands (I) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if that land use zoning is still in effect at the time of proposed acquisition. The higher of those two values shall be utilized by the department, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this subparagraph.

A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

(b) After the date of enactment of P.L.2001, c.315 and through June 30, 2004, in determining the two values required pursuant to subparagraph (a) of this paragraph, the appraisal shall be made using not only the land use zoning but also the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands subject to the appraisal (i) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition.

(2) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(3) This subsection shall not:

(a) apply if the land use zoning of the lands at the time of proposed acquisition, and the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands at the time of proposed acquisition, have not changed since November 3, 1998;

(b) apply in the case of lands to be acquired with federal moneys in whole or in part;

(c) apply in the case of lands to be acquired in accordance with subsection c. of this section;

(d) apply to projects funded using constitutionally dedicated moneys appropriated pursuant to the annual appropriations act for State fiscal year 2000 (P.L.1999, c.138); or

(e) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

e. Moneys appropriated from the fund may be used to match grants, contributions, donations, or reimbursements from federal aid programs or from other public or private sources established for the same or similar purposes as the fund.

f. Moneys appropriated from the fund shall not be used by local government units or qualifying tax exempt nonprofit organizations to acquire lands that are already permanently preserved for recreation and conservation purposes, as determined by the department.

g. Whenever lands are donated to the State by a public utility, as defined pursuant to Title 48 of the Revised Statutes, for recreation and conservation purposes, the commissioner may make and keep the lands accessible to the public, unless the commissioner determines that public accessibility would be detrimental to the lands or any natural resources associated therewith.

h. Whenever the State acquires land for recreation and conservation purposes, the agency in the Department of Environmental Protection responsible for administering the land shall, within six months after the date of acquisition, inspect the land for the presence of any buildings or structures thereon which are or may be historic properties and, within 60 days after completion of the inspection, provide to the New Jersey Historic Preservation Office in the department (1) a written notice of its findings, and (2) for any buildings or structures which are or may be historic properties discovered on the land, a request for determination of potential eligibility for inclusion of the historic building or structure in the New Jersey Register of Historic Places. Whenever such a building or structure is discovered, a copy of the written notice provided to the New Jersey Historic Preservation Office shall also be sent to the New Jersey Historic Trust and to the county historical commission or advisory committee, the county historical society, the local historic preservation commission or advisory committee, and the local historical society if any of those entities exist in the county or municipality wherein the land is located.

i. (1) Commencing July 1, 2004 and until five years after the date of enactment of P.L.2001, c.315, when the department, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire lands for

recreation and conservation purposes using constitutionally dedicated moneys in whole or in part or Green Acres bond act moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands subject to the appraisal (a) in effect at the time of proposed acquisition, and (b) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition. The higher of those two values shall be utilized by the department, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph. A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

(2) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(3) This subsection shall not:

(a) apply if the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands at the time of proposed acquisition have not changed since November 3, 1998;

(b) apply in the case of lands to be acquired with federal moneys in whole or in part;

(c) apply in the case of lands to be acquired in accordance with subsection c. of this section; or

(d) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

j. The department shall adopt guidelines for the evaluation and priority ranking process which shall be used in making decisions concerning the acquisition of lands by the State for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund and from any other source. The guidelines, and any subsequent revisions thereto, shall be published in the New Jersey Register. The adoption of the guidelines or of the revisions thereto, shall not be subject to the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

k. In making decisions concerning the acquisition of lands by the State for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund, in the evaluation and priority ranking process the department shall accord three times the weight to acquisitions of lands that would protect water resources, and two times the weight to

acquisitions of lands that would protect flood-prone areas, as those criteria are compared to the other criteria in the priority ranking process.

l. The department, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations that establish standards and requirements regulating any activity on lands acquired by the State for recreation and conservation purposes using constitutionally dedicated moneys to assure that the activity on those lands does not diminish the protection of surface water or groundwater resources.

Any rules and regulations adopted pursuant to this subsection shall not apply to activities on lands acquired prior to the adoption of the rules and regulations.

C.13:8C-25.1 Submission of Open Space Master Plan.

5. a. Within one year after the date of enactment of P.L.2002, c.76 (C.13:8C-25.1 et al.), and annually thereafter, the Department of Environmental Protection, in consultation with the Office of State Planning in the Department of Community Affairs and the Pinelands Commission, shall prepare and submit to the Governor and the Legislature an Open Space Master Plan, which shall indicate those areas of the State where the acquisition and development of lands by the State for recreation and conservation purposes is planned or is most likely to occur, and those areas of the State where there is a need to protect water resources, including the identification of lands where protection is needed to assure adequate quality and quantity of drinking water supplies in times of drought, and which shall provide a proposed schedule and expenditure plan for those acquisitions and developments for the next reporting period, which shall include an explanation of how those acquisitions and developments will be distributed throughout all geographic regions of the State to the maximum extent practicable and feasible.

b. The department shall provide any information the Garden State Preservation Trust deems necessary in preparing its biennial report pursuant to section 25 of P.L.1999, c.152 (C.13:8C-25).

6. Section 38 of P.L.1999, c.152 (C.13:8C-38) is amended to read as follows:

C.13:8C-38 Acquisitions, grants with respect to farmland preservation.

38. a. All acquisitions or grants made pursuant to section 37 of this act shall be made with respect to farmland devoted to farmland preservation under programs established by law.

b. The expenditure and allocation of constitutionally dedicated moneys for farmland preservation purposes shall reflect the geographic diversity of the State to the maximum extent practicable and feasible.

c. The committee shall implement the provisions of section 37 of this act in accordance with the procedures and criteria established pursuant to the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.) except as provided otherwise by this act.

d. The committee shall adopt the same or a substantially similar method for determining, for the purposes of this act, the committee's share of the cost of a development easement on farmland to be acquired by a local government as that which is being used by the committee on the date of enactment of this act for prior farmland preservation funding programs.

e. Notwithstanding the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31) or this act, or any rule or regulation adopted pursuant thereto, to the contrary, whenever the value of a development easement on farmland to be acquired using constitutionally dedicated moneys in whole or in part is determined based upon the value of any pinelands development credits allocated to the parcel pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto, the committee shall determine the value of the development easement by:

(1) conducting a sufficient number of fair market value appraisals as it deems appropriate to determine the value for farmland preservation purposes of the pinelands development credits;

(2) considering development easement values in counties, municipalities, and other areas (a) reasonably contiguous to, but outside of, the pinelands area, which in the sole opinion of the committee constitute reasonable development easement values in the pinelands area for the purposes of this subsection, and (b) in the pinelands area where pinelands development credits are or may be utilized, which in the sole opinion of the committee constitute reasonable development easement values in the pinelands area for the purposes of this subsection;

(3) considering land values in the pinelands regional growth areas;

(4) considering the importance of preserving agricultural lands in the pinelands area; and

(5) considering such other relevant factors as may be necessary to increase participation in the farmland preservation program by owners of agricultural lands located in the pinelands area.

f. No pinelands development credit that is acquired or obtained in connection with the acquisition of a development easement on farmland or fee simple title to farmland by the State, a local government unit, or a qualifying tax exempt nonprofit organization using constitutionally dedicated moneys in whole or in part may be conveyed in any manner. All such pinelands development credits shall be retired permanently.

g. (1) (a) For State fiscal years 2000 through 2004 only, when the committee, a local government unit, or a qualifying tax exempt nonprofit

organization seeks to acquire a development easement on farmland or the fee simple title to farmland for farmland preservation purposes using constitutionally dedicated moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using the land use zoning of the lands (I) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if that land use zoning is still in effect at the time of proposed acquisition. The higher of those two values shall be utilized by the committee, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this subparagraph.

A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

(b) After the date of enactment of P.L.2001, c.315 and through June 30, 2004, in determining the two values required pursuant to subparagraph (a) of this paragraph, the appraisal shall be made using not only the land use zoning but also the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands subject to the appraisal (I) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition.

(2) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(3) This subsection shall not:

(a) apply if the land use zoning of the lands at the time of proposed acquisition, and the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands at the time of proposed acquisition, have not changed since November 3, 1998;

(b) apply in the case of lands to be acquired with federal moneys in whole or in part;

(c) apply in the case of lands to be acquired in accordance with subsection e. of this section;

(d) apply to projects funded using constitutionally dedicated moneys appropriated pursuant to the annual appropriations act for State fiscal year 2000 (P.L.1999, c.138); or

(e) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

h. Any farmland for which a development easement or fee simple title has been acquired pursuant to section 37 of this act shall be entitled to the benefits conferred by the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et al.) and the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et al.).

i. (1) Commencing July 1, 2004 and until five years after the date of enactment of P.L.2001, c.315, when the committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire a development easement on farmland or the fee simple title to farmland for farmland preservation purposes using constitutionally dedicated moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands subject to the appraisal (a) in effect at the time of proposed acquisition, and (b) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition. The higher of those two values shall be utilized by the committee, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph. A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

(2) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(3) This subsection shall not:

(a) apply if the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands at the time of proposed acquisition have not changed since November 3, 1998;

(b) apply in the case of lands to be acquired with federal moneys in whole or in part;

(c) apply in the case of lands to be acquired in accordance with subsection e. of this section; or

(d) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

j. The committee and the Department of Environmental Protection, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall jointly adopt rules and regulations that establish standards and requirements regulating any improvement on lands acquired by the State for farmland preservation purposes using constitutionally dedicated moneys to

assure that any improvement does not diminish the protection of surface water or groundwater resources.

Any rules and regulations adopted pursuant to this subsection shall not apply to improvements on lands acquired prior to the adoption of the rules and regulations.

7. This act shall take effect immediately.

Approved August 29, 2002.

CHAPTER 77

AN ACT concerning the State's toll road authorities and supplementing Title 27 of the Revised Statutes.

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

C.27:12B-5.2a Registration of towing operators with New Jersey Highway Authority.

1. a. An operator awarded a contract for towing and storage services by the New Jersey Highway Authority shall register with the authority. Upon issuance of the registration, the authority shall provide the operator with two decals and accompanying notices for each tow truck owned or leased by that operator and to be used under the terms of the contract. The decals and the accompanying notices, which shall be of a distinctive design and color, shall be conspicuously displayed on the exterior of each such tow truck in a manner and location prescribed by the authority.

The decals shall set forth a specific registration number for each registered tow truck. The notices shall include a statement indicating substantially the following: "This tow truck is registered with the New Jersey Highway Authority. The driver is required to provide you with a written schedule of tne fees charged for towing and storage services before providing that service to you, including those services for which there is no fee. If the fee charged is in excess of the fee listed on the schedule, please notify the authority or the New Jersey Division of Consumer Affairs." An operator shall file a copy of the schedule of fees with the authority. Upon request of the Division of Consumer Affairs in the Department of Law and Public Safety, the authority shall provide a list of the registered tow trucks to the division, in addition to a copy of the schedule of fees.

b. Prior to providing any towing services, a driver of a tow truck shall provide the person whose vehicle is to be towed a written schedule of fees and shall recite the information contained in the notice.

c. An operator who fails to display the decals and notices required by subsection a. of this section or the driver of a tow truck who fails to provide a person to be towed the written schedule of fees or recite the information contained in the notice prior to providing a towing service as required by subsection b. of this section shall be subject to a fine of $300 for the first offense. For the second and any subsequent offense the operator or the driver, as the case may be, shall be subject to a fine of $600.

d. It shall be an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any person to charge a fee in excess of the fee listed in the written schedule of fees provided pursuant to subsection a. of this section.

e. If an operator or the driver of an operator's tow truck is convicted a third time for violation of any provisions of this section, the authority may, in its discretion, terminate the operator's contract for towing and storage services with the authority.

C.27:23-6.2 Registration of towing operators with New Jersey Turnpike Authority.

2. a. An operator awarded a contract for towing and storage services by the New Jersey Turnpike Authority shall register with the authority. Upon issuance of the registration, the authority shall provide the operator with two decals and accompanying notices for each tow truck owned or leased by that operator and to be used under the terms of the contract. The decals and accompanying notices, which shall be of a distinctive design and color, shall be conspicuously displayed on the exterior of each such tow truck in a manner and location prescribed by the authority.

The decals shall set forth a specific registration number for each registered tow truck. The notices shall include a statement indicating substantially the following: "This tow truck is registered with the New Jersey Turnpike Authority. The driver is required to provide you with a written schedule of the fees charged for towing and storage services before providing that service to you, including those services for which there is no fee. If the fee charged is in excess of the fee listed on the schedule, please notify the authority or the New Jersey Division of Consumer Affairs." An operator shall file a copy of the schedule of fees with the authority. Upon request of the Division of Consumer Affairs in the Department of Law and Public Safety, the authority shall provide a list of the registered tow trucks to the division, in addition to the schedule of fees.

b. Prior to providing any towing services, a driver of a tow truck shall provide the person whose vehicle is to be towed a written schedule of fees and shall recite the information contained in the notice.

c. An operator who fails to display the decals and notices required by subsection a. of this section or the driver of a tow truck who fails to provide a person to be towed the written schedule of fees or recite the information

contained in the notice prior to providing a towing service as required by subsection b. of this section shall be subject to a fine of $300 for the first offense. For the second and any subsequent offense the operator or the driver, as the case may be, shall be subject to a fine of $600.

d. It shall be an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any person to charge a fee in excess of the fee listed in the written schedule of fees provided pursuant to subsection a. of this section.

e. If an operator or the driver of an operator's tow truck is convicted a third time for violation of any provisions of this section, the authority may, in its discretion, terminate the operator's contract for towing and storage services with the authority.

C.27:25A-8.1 Registration of towing operators with South Jersey Transportation Authority.

3. a. An operator awarded a contract for towing and storage services by the South Jersey Transportation Authority shall register with the authority. Upon issuance of the registration, the authority shall provide the operator with two decals and accompanying notices for each tow truck owned or leased by that operator and to be used under the terms of the contract. The decals and the accompanying notices, which shall be of a distinctive design and color, shall be conspicuously displayed on the exterior of each such tow truck in a manner and location prescribed by the authority.

The decals shall set forth a specific registration number for each registered tow truck. The notices shall include a statement indicating substantially the following: "This tow truck is registered with the South Jersey Transportation Authority. The driver is required to provide you with a written schedule of the fees charged for towing and storage services before providing that service to you, including those services for which there is no fee. If the fee charged is in excess of the fee listed on the schedule, please notify the authority or the New Jersey Division of Consumer Affairs." An operator shall file a copy of the schedule of fees with the authority. Upon request of the Division of Consumer Affairs in the Department of Law and Public Safety, the authority shall provide a list of the registered tow trucks to the division, in addition to the schedule of fees.

b. Prior to providing any towing services, a driver of a tow truck shall provide the person whose vehicle is to be towed a written schedule of fees and shall recite the information contained in the notice.

c. An operator who fails to display the decals and notices required by subsection a. of this section or the driver of a tow truck who fails to provide a person to be towed the written schedule of fees or recite the information contained in the notice prior to providing a towing service as required by subsection b. of this section shall be subject to a fine of $300 for the first offense.

For the second and any subsequent offense the operator or the driver, as the case may be, shall be subject to a fine of $600.

d. It shall be an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any person to charge a fee in excess of the fee listed in the written schedule of fees provided pursuant to subsection a. of this section.

e. If an operator or the driver of a operator's tow truck is convicted a third time for violation of any provisions of this section, the authority may, in its discretion, terminate the operator's contract for towing and storage services with the authority.

4. This act shall take effect immediately and shall apply to contracts for towing and storage services entered into, renewed or renegotiated on or after the effective date of this act.

Approved September 5, 2002.

CHAPTER 78

AN ACT concerning construction contracts undertaken in connection with financial assistance from the New Jersey Commerce and Economic Growth Commission or the New Jersey Economic Development Authority, amending P.L.1979, c.303 and supplementing P.L.1998, c.44 (C.52:27C-61 et seq.).

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

1. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to read as follows:

C.34:1B-5.1 Rules, regulations relative to payment of prevailing wage rate; "authority financial assistance" defined.

1. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract undertaken in connection with any of its projects, those projects which it undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) or school facilities projects or undertaken to fulfill any condition of receiving authority financial assistance. The prevailing wage rate shall be the rate determined by the Commissioner of Labor pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the purposes of this section, "authority financial

assistance" means any loan, loan guarantee, grant, incentive, tax exemption or other financial assistance approved, funded, authorized, administered or provided by the authority to any entity, including but not limited to, all authority financial assistance received by the entity pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.) that enables the entity to engage in a construction contract, but this shall not be construed as requiring the payment of the prevailing wage for construction commencing more than two years after the assistance is received.

2. Section 2 of P.L.1979, c.303 (C.34:1B-5.2) is amended to read as follows:

C.34:1B-5.2 Administration and enforcement of rules and regulations.

2. The rules and regulations adopted under section 1 of this act shall provide for the proper and appropriate administration and enforcement of such regulations.

C.52:27C-73.1 Rules, regulations relative to payment of prevailing wage rate; "commission financial assistance" defined.

3. The commission shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract undertaken in connection with commission financial assistance or undertaken to fulfill any condition of receiving commission financial assistance. The prevailing wage rate shall be the rate determined by the Commissioner of Labor pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the purposes of this section, "commission financial assistance" means any loan, loan guarantee, grant, incentive, tax exemption or other financial assistance approved, funded, authorized, administered or provided by the commission to any entity, including but not limited to, all commission financial assistance received by the entity pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) that enables the entity to engage in a construction contract, but this shall not be construed as requiring the payment of the prevailing wage for construction commencing more than two years after the assistance is received.

4. This act shall take effect immediately.

Approved September 5, 2002.

CHAPTER 79

AN ACT concerning the donation of blood and amending P.L.1971, c.355.

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

1. Section 1 of P.L.1971, c.355 (C.9:17A-6) is amended to read as follows:

C.9:17A-6 Consent by person age 17 or over to donate blood.

1. Any person of the age of 17 years or over can consent to donate blood in any voluntary and noncompensatory blood program without the necessity of obtaining parental permission or authorization. Such consent shall be valid and binding as if the person had achieved his majority, and shall not be subject to later disaffirmance because of minority.

2. This act shall take effect immediately.

Approved September 5, 2002.

CHAPTER 80

AN ACT concerning public participation at municipal meetings and amending P.L.1975, c.231.

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

1. Section 7 of P.L.1975, c.231 (C.10:4-12) is amended to read as follows:

C.10:4-12 Meetings open to public; exceptions.

7. a. Except as provided by subsection b. of this section all meetings of public bodies shall be open to the public at all times. Nothing in this act shall be construed to limit the discretion of a public body to permit, prohibit or regulate the active participation of the public at any meeting, except that a municipal governing body shall be required to set aside a portion of every meeting of the municipal governing body, the length of the portion to be determined by the municipal governing body, for public comment on any governmental issue that a member of the public feels may be of concern to the residents of the municipality.

b. A public body may exclude the public only from that portion of a meeting at which the public body discusses:

(1) Any matter which, by express provision of Federal law or State statute or rule of court shall be rendered confidential or excluded from the provisions of subsection a. of this section.

(2) Any matter in which the release of information would impair a right to receive funds from the Government of the United States.

(3) Any material the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, data, reports, recommendations, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare, housing, relocation, insurance and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by such institution or program, including but not limited to information relative to the individual's personal and family circumstances, and any material pertaining to admission, discharge, treatment, progress or condition of any individual, unless the individual concerned (or, in the case of a minor or incompetent, his guardian) shall request in writing that the same be disclosed publicly.

(4) Any collective bargaining agreement, or the terms and conditions which are proposed for inclusion in any collective bargaining agreement, including the negotiation of the terms and conditions thereof with employees or representatives of employees of the public body.

(5) Any matter involving the purchase, lease or acquisition 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 such matters were disclosed.

(6) Any tactics and techniques utilized in protecting the safety and property of the public, provided that their disclosure could impair such protection. Any investigations of violations or possible violations of the law.

(7) Any pending or anticipated litigation or contract negotiation other than in subsection b. (4) herein in which the public body is, or may become a party.

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.

(8) 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 public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting.

(9) Any deliberations of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding

party as a result of an act or omission for which the responding party bears responsibility.

2. This act shall take effect immediately.

Approved September 5, 2002.

CHAPTER 81

AN ACT concerning providers of home care services and supplementing Titles 26 and 34 of the Revised Statutes.

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

C.26:2H-5d Information provided to patients receiving home care services regulated by Health and Senior Services.

1. a. The Commissioner of Health and Senior Services, in consultation with the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, shall require that, no later than the 180th day after the date of enactment of this act, each home health agency licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall provide the following information to each patient receiving home-based services from that agency, or to a person designated by the patient:

(1) the name and certification or licensure title, as applicable, of the homemaker-home health aide or other health care professional whose practice is regulated pursuant to Title 45 of the Revised Statutes, to be displayed on an identification tag as required for homemaker-home health aides by regulation of the New Jersey Board of Nursing, or as otherwise to be prescribed by regulation of the commissioner for other health care professionals, that the homemaker-home health aide or other health care professional shall wear at all times while examining, observing or caring for the patient; and

(2) a copy of the most current edition of the consumer guide to homemaker-home health aides published by the New Jersey Board of Nursing.

b. The consumer guide required pursuant to subsection a. of this section shall be provided:

(1) in advance of the provision of services to the patient, whenever possible; and

(2) otherwise upon the homemaker-home health aide's initial visit to the patient's home.

c. Beginning on the first day of the 13th month after the date of enactment of this act, the identification tag required pursuant to subsection a. of this section shall include a photograph of the homemaker-home health aide or other health care professional.

d. The commissioner, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this section.

C.34:8-79 Information provided to patients receiving home care services regulated by Division of Consumer Affairs.

2. a. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety, in consultation with the Commissioner of Health and Senior Services, shall require that, no later than the 180th day after the date of enactment of this act, each health care service firm regulated by the Division of Consumer Affairs shall provide the following information to each patient receiving home-based services from that firm, or to a person designated by the patient:

(1) `the name and certification or licensure title, as applicable, of the homemaker-home health aide or other health care professional whose practice is regulated pursuant to Title 45 of the Revised Statutes, to be displayed on an identification tag as required by regulation of the New Jersey Board of Nursing, or as otherwise to be prescribed by regulation of the director for other health care professionals, that the homemaker-home health aide or other health care professional shall wear at all times while examining, observing or caring for the patient; and

(2) a copy of the most current edition of the consumer guide to homemaker-home health aides published by the New Jersey Board of Nursing.

b. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety, in consultation with the Commissioner of Health and Senior Services, shall require that, no later than the 180th day after the date of enactment of this act, each health care service firm, employment agency or registry and temporary help service firm or personnel consultant regulated by the Division of Consumer Affairs shall provide the following information in writing to each consumer receiving home-based services, including, but not limited to, domestic, companion, sitter and live-in services, from a person who is employed by that firm, agency, registry or consultant and is not a certified homemaker-home health aide or other health care professional whose practice is regulated pursuant to Title 45 of the Revised Statutes, or to a person designated by the consumer:

(1) notification that the person is not a certified homemaker-home health aide or other health care professional whose practice is regulated pursuant to Title 45 of the Revised Statutes;

(2) any training received by that person which the firm, agency, registry or consultant deems relevant to the provision of those services that the person is assigned to provide to the consumer;

(3) proof that the person is a United States citizen or legally documented alien; and

(4) evidence of employment history verification or character references for that person.

c. The information provided pursuant to subsections a. and b. of this section shall be provided:

(1) in advance of the provision of services to the patient or consumer, as applicable, whenever possible; and

(2) otherwise upon the initial visit to the patient's or consumer's home of the person assigned to provide services to the patient or consumer.

d. Beginning on the first day of the 13th month after the date of enactment of this act, the identification tag required pursuant to subsection a. of this section shall include a photograph of the homemaker-home health aide or other health care professional.

e. The director, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this section.

3. This act shall take effect immediately.

Approved September 5, 2002.

CHAPTER 82

AN ACT concerning discrimination in housing, amending various parts of the statutory law, supplementing P.L.1945, c.169, and repealing P.L.1981, c.323.

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

1. Section 4 of P.L.1945, c.169 (C.10:5-4) is amended to read as follows:

C.10:5-4 Obtaining employment, accommodations and privileges without discrimination; civil right.

4. All persons shall have the opportunity to obtain employment, and to obtain all the accommodations, advantages, facilities, and privileges of any place of public accommodation, publicly assisted housing accommodation, and other real property without discrimination because of race, creed, color,

national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, sex or source of lawful income used for rental or mortgage payments, subject only to conditions and limitations applicable alike to all persons. This opportunity is recognized as and declared to be a civil right.

2. Section 1 of P.L.1954, c.198 (C.10:5-9.1) is amended to read as follows:

C.10:5-9.1 Enforcement of laws against discrimination in public housing and real property.

1. The Division on Civil Rights in the Department of Law and Public Safety shall enforce the laws of this State against discrimination in housing built with, or leased with the assistance of, public funds or public assistance, pursuant to any law, and in real property, as defined in the law hereby supplemented, because of race, religious principles, color, national origin, ancestry, marital status, affectional or sexual orientation, familial status, sex or source of lawful income used for rental or mortgage payments. The said laws shall be so enforced in the manner prescribed in the act to which this act is a supplement.

3. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to read as follows:

C.10:5-12 Unlawful employment practices, discrimination.

11. It shall be an unlawful employment practice, or, as the case may be, an unlawful discrimination:

a. For an employer, because of the race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, genetic information, sex or atypical hereditary cellular or blood trait of any individual, or because of the liability for service in the Armed Forces of the United States or the nationality of any individual, or because of the refusal to submit to a genetic test or make available the results of a genetic test to an employer, to refuse to hire or employ or to bar or to discharge or require to retire, unless justified by lawful considerations other than age, from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment; provided, however, it shall not be an unlawful employment practice to refuse to accept for employment an applicant who has received a notice of induction or orders to report for active duty in the armed forces; provided further that nothing herein contained shall be construed to bar an employer from refusing to accept for employment any person on the basis of sex in those certain circumstances where sex is a bona fide occupational qualification, reasonably necessary to the normal operation of the particular business or enterprise; provided further that nothing herein contained shall be construed to bar an employer from refusing to accept for employment or to promote any person over 70 years of age; provided further

that it shall not be an unlawful employment practice for a club exclusively social or fraternal to use club membership as a uniform qualification for employment, or for a religious association or organization to utilize religious affiliation as a uniform qualification in the employment of clergy, religious teachers or other employees engaged in the religious activities of the association or organization, or in following the tenets of its religion in establishing and utilizing criteria for employment of an employee; provided further, that it shall not be an unlawful employment practice to require the retirement of any employee who, for the two-year period immediately before retirement, is employed in a bona fide executive or a high policy-making position, if that employee is entitled to an immediate non-forfeitable annual retirement benefit from a pension, profit sharing, savings or deferred retirement plan, or any combination of those plans, of the employer of that employee which equals in the aggregate at least $27,000.00; and provided further that an employer may restrict employment to citizens of the United States where such restriction is required by federal law or is otherwise necessary to protect the national interest.

For the purposes of this subsection, a "bona fide executive" is a top level employee who exercises substantial executive authority over a significant number of employees and a large volume of business. A "high policy-making position" is a position in which a person plays a significant role in developing policy and in recommending the implementation thereof.

b. For a labor organization, because of the race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation or sex of any individual, or because of the liability for service in the Armed Forces of the United States or nationality of any individual, to exclude or to expel from its membership such individual or to discriminate in any way against any of its members, against any applicant for, or individual included in, any apprentice or other training program or against any employer or any individual employed by an employer; provided, however, that nothing herein contained shall be construed to bar a labor organization from excluding from its apprentice or other training programs any person on the basis of sex in those certain circumstances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of the particular apprentice or other training program.

c. For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment, or to make an inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation or sex or liability of any applicant for employment for service in the Armed Forces

of the United States, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification.

d. For any person to take reprisals against any person because that person has opposed any practices or acts forbidden under this act or because that person has filed a complaint, testified or assisted in any proceeding under this act or to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this act.

e. For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or to attempt to do so.

f. (1) For any owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation directly or indirectly to refuse, withhold from or deny to any person any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any person in the furnishing thereof, or directly or indirectly to publish, circulate, issue, display, post or mail any written or printed communication, notice, or advertisement to the effect that any of the accommodations, advantages, facilities, or privileges of any such place will be refused, withheld from, or denied to any person on account of the race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation or nationality of such person, or that the patronage or custom thereat of any person of any particular race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation or nationality is unwelcome, objectionable or not acceptable, desired or solicited, and the production of any such written or printed communication, notice or advertisement, purporting to relate to any such place and to be made by any owner, lessee, proprietor, superintendent or manager thereof, shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained herein shall be construed to bar any place of public accommodation which is in its nature reasonably restricted exclusively to individuals of one sex, and which shall include but not be limited to any summer camp, day camp, or resort camp, bathhouse, dressing room, swimming pool, gymnasium, comfort station, dispensary, clinic or hospital, or school or educational institution which is restricted exclusively to individuals of one sex, from refusing, withholding from or denying to any individual of the opposite sex any of the accommodations, advantages, facilities or privileges thereof on the basis of sex; provided further, that the foregoing limitation shall not apply to any restaurant as defined in R.S.33:1-1 or place where alcoholic beverages are served.

(2) Notwithstanding the definition of "public accommodation " as set forth in subsection l. of section 5 of P.L.1945, c.169 (C.10:5-5), for any owner,

lessee, proprietor, manager, superintendent, agent, or employee of any private club or association to directly or indirectly refuse, withhold from or deny to any individual who has been accepted as a club member and has contracted for or is otherwise entitled to full club membership any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any member in the furnishing thereof on account of the race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation or nationality of such person.

In addition to the penalties otherwise provided for a violation of P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2) of subsection f. of this section is the holder of an alcoholic beverage license issued under the provisions of R.S.33:1-12 for that private club or association, the matter shall be referred to the Director of the Division of Alcoholic Beverage Control who shall impose an appropriate penalty in accordance with the procedures set forth in R.S.33:1-31.

g. For the owner, lessee, sublessee, assignee or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent, lease, assign, or sublease any real property or part or portion thereof, or any agent or employee of any of these:

(1) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of the race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, familial status, nationality, or source of lawful income used for rental or mortgage payments of such person or group of persons;

(2) To discriminate against any person or group of persons because of the race, creed, color, national origin, marital status, sex, affectional or sexual orientation, familial status, or source of lawful income used for rental or mortgage payments of such person or group of persons in the terms, conditions or privileges of the sale, rental or lease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith;

(3) To print, publish, circulate, issue, display, post or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment or sublease of any real property or part or portion thereof, or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property, or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, familial status, nationality, or source of lawful income used for rental or mortgage payments, or any intent to make any such limitation, specification or

discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained in this subsection shall be construed to bar any person from refusing to sell, rent, lease, assign or sublease or from advertising or recording a qualification as to sex for any room, apartment, flat in a dwelling or residential facility which is planned exclusively for and occupied by individuals of one sex to any individual of the exclusively opposite sex on the basis of sex;

(4) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

(5) To refuse to rent or lease any real property to another person because that person's family includes children under 18 years of age, or to make an agreement, rental or lease of any real property which provides that the agreement, rental or lease shall be rendered null and void upon the birth of a child. This paragraph shall not apply to any county, State or federally financed or assisted housing project constructed for occupancy by senior citizens or to any property located in a retirement subdivision as defined in the "Retirement Community Full Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et seq.), to any housing for older persons or to any unit in a planned real estate development that is age-restricted and subject to the provisions of the "Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.).

h. For any person, including but not limited to, any real estate broker, real estate salesperson, or employee or agent thereof:

(1) To refuse to sell, rent, assign, lease or sublease, or offer for sale, rental, lease, assignment, or sublease any real property or part or portion thereof to any person or group of persons or to refuse to negotiate for the sale, rental, lease, assignment, or sublease of any real property or part or portion thereof to any person or group of persons because of the race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation, nationality, or source of lawful income used for rental or mortgage payments of such person or group of persons, or to represent that any real property or portion thereof is not available for inspection, sale, rental, lease, assignment, or sublease when in fact it is so available, or otherwise to deny or withhold any real property or any part or portion of facilities thereof to or from any person or group of persons because of the race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation or nationality of such person or group of persons;

(2) To discriminate against any person because of his race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation, nationality, or source of lawful income used for rental or mortgage payments in the terms, conditions or privileges of the sale, rental, lease, assignment or sublease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith;

(3) To print, publish, circulate, issue, display, post, or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation, nationality, or source of lawful income used for rental or mortgage payments or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained in this subsection h., shall be construed to bar any person from refusing to sell, rent, lease, assign or sublease or from advertising or recording a qualification as to sex for any room, apartment, flat in a dwelling or residential facility which is planned exclusively for and occupied exclusively by individuals of one sex to any individual of the opposite sex on the basis of sex;

(4) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

(5) To refuse to rent or lease any real property to another person because that person's family includes children under 18 years of age, or to make an agreement, rental or lease of any real property which provides that the agreement, rental or lease shall be rendered null and void upon the birth of a child. This paragraph shall not apply to any county, State or federally financed or assisted housing project constructed for occupancy by senior citizens or to any property located in a retirement subdivision as defined in the "Retirement Community Full Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et seq.), to housing for older persons or to any unit in a planned real estate development that is age-restricted and subject to the provisions of the "Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.).

i. For any person, bank, banking organization, mortgage company, insurance company or other financial institution, lender or credit institution to whom application is made for any loan or extension of credit including but not limited to an application for financial assistance for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any real property or part or portion thereof or any agent or employee thereof:

(1) To discriminate against any person or group of persons because of the race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation or nationality of such person or group of persons or of the prospective occupants or tenants of such real property or part or portion thereof, in the granting, withholding, extending, modifying or renewing, or in the fixing of the rates, terms, conditions or provisions of any such loan, extension of credit or financial assistance or in the extension of services in connection therewith;

(2) To use any form of application for such loan, extension of credit or financial assistance or to make record or inquiry in connection with applications for any such loan, extension of credit or financial assistance which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation or nationality or any intent to make any such limitation, specification or discrimination; unless otherwise required by law or regulation to retain or use such information;

(3) To discriminate on the basis of familial status in any manner described in paragraph (1) or (2) of this subsection with respect to any real property;

(4) To discriminate against any person or group of persons because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

(5) To discriminate against any person or group of persons because that person's family includes children under 18 years of age, or to make an agreement or mortgage which provides that the agreement or mortgage shall be rendered null and void upon the birth of a child. This paragraph shall not apply to any county, State or federally financed or assisted housing project constructed for occupancy by senior citizens or to any property located in a retirement subdivision as defined in the "Retirement Community Full Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et seq.), to housing for older persons or to any unit in a planned real estate development that is age-restricted and subject to the provisions of the "Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.).

j. For any person whose activities are included within the scope of this act to refuse to post or display such notices concerning the rights or responsibilities of persons affected by this act as the Attorney General may by regulation require.

k. For any real estate broker, real estate salesperson or employee or agent thereof or any other individual, corporation, partnership, or organization, for the purpose of inducing a transaction for the sale or rental of real property from which transaction such person or any of its members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation, nationality, or source of lawful income used for rental or mortgage payments of the owners or occupants in the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including, but not limited to the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other facilities.

l. For any person to refuse to buy from, sell to, lease from or to, license, contract with, or trade with, provide goods, services or information to, or otherwise do business with any other person on the basis of the race, creed, color, national origin, ancestry, age, sex, affectional or sexual orientation, marital status, liability for service in the Armed Forces of the United States, nationality, or source of lawful income used for rental or mortgage payments of such other person or of such other person's spouse, partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers. This subsection shall not prohibit refusals or other actions (1) pertaining to employee-employer collective bargaining, labor disputes, or unfair labor practices, or (2) made or taken in connection with a protest of unlawful discrimination or unlawful employment practices.

m. For any person to:

(1) Grant or accept any letter of credit or other document which evidences the transfer of funds or credit, or enter into any contract for the exchange of goods or services, where the letter of credit, contract, or other document contains any provisions requiring any person to discriminate against or to certify that he, she or it has not dealt with any other person on the basis of the race, creed, color, national origin, ancestry, age, sex, affectional or sexual orientation, marital status, liability for service in the Armed Forces of the United States, or nationality of such other person or of such other person's spouse, partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers.

(2) Refuse to grant or accept any letter of credit or other document which evidences the transfer of funds or credit, or refuse to enter into any contract for the exchange of goods or services, on the ground that it does not contain such a discriminatory provision or certification.

The provisions of this subsection shall not apply to any letter of credit, contract, or other document which contains any provision pertaining to employee-employer collective bargaining, a labor dispute or an unfair labor practice, or made in connection with the protest of unlawful discrimination or an unlawful employment practice, if the other provisions of such letter of credit, contract, or other document do not otherwise violate the provisions of this subsection.

n. For any person to aid, abet, incite, compel, coerce, or induce the doing of any act forbidden by subsections l. and m. of section 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to do so. Such prohibited conduct shall include, but not be limited to:

(1) Buying from, selling to, leasing from or to, licensing, contracting with, trading with, providing goods, services, or information to, or otherwise doing business with any person because that person does, or agrees or attempts to do, any such act or any act prohibited by this subsection n.; or

(2) Boycotting, commercially blacklisting or refusing to buy from, sell to, lease from or to, license, contract with, provide goods, services or information to, or otherwise do business with any person because that person has not done or refuses to do any such act or any act prohibited by this subsection n.; provided that this subsection n. shall not prohibit refusals or other actions either pertaining to employee-employer collective bargaining, labor disputes, or unfair labor practices, or made or taken in connection with a protest of unlawful discrimination or unlawful employment practices.

4. Section 6 of P.L.1979, c.404 (C.10:5-27.1) is amended to read as follows:

C.10:5-27.1 Attorney fees.

6. In any action or proceeding brought under this act, the prevailing party may be awarded a reasonable attorney's fee as part of the cost, provided however, that no attorney's fee shall be awarded to the respondent unless there is a determination that the complainant brought the charge in bad faith. If the complainant's case was initiated by a housing authority on behalf of a tenant for a violation of paragraph (4) of subsection g. or paragraph (4) of subsection h. of section 11 of P.L.1945, c.169 (C.10:5-12) and the complainant prevailed, reasonable costs, including attorney fees, of the housing authority may be assessed against a nonprevailing respondent. If the complainant's case was presented by the attorney for the division and the complainant prevailed, the reasonable costs, including attorney fees, of such representation may be assessed against a nonprevailing respondent.

5. Section 22 of P.L.1992, c.79 (C.40A:12A-22) is amended to read as follows:

C.40A:12A-22 Powers of municipality, county, redevelopment agency, housing authority.

22. A municipality, county, redevelopment agency, or housing authority is authorized to exercise all those public and essential governmental functions necessary or convenient to effectuate the purposes of this act, including the following powers which shall be in addition to those otherwise granted by this act or by other law:

a. To sue and be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary and convenient to the exercise of the powers of the agency or authority; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with this act, to carry into effect its powers and purposes.

b. Pursuant to an adopted cash management plan, invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, in property or securities in which governmental units may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be cancelled.

c. Borrow money and receive grants and loans from any source for the financing of a redevelopment project or housing project.

d. Invest in an obligee the right in the event of a default by the agency to foreclose and take possession of the project covered by the mortgage or apply for the appointment of a receiver.

e. Invest in a trustee or trustees or holders of bonds the right to enforce the payment of the bonds or any covenant securing or relating to the bonds, which may include the right, in the event of the default, to take possession and use, operate and manage any project or part thereof, and to collect the rents and revenues arising therefrom and to dispose of the moneys in accordance with the agreement of the authority with the trustee.

f. Provide for the refunding of any of its bonds, by the issuance of such obligations, in such manner and form, and upon such terms and conditions, as it shall deem in the best interests of the public.

g. Consent to the modification of any contract, bond indenture, mortgage or other instrument entered into by it.

h. Pay or compromise any claim arising on, or because of any agreement, bond indenture, mortgage or instrument.

i. Acquire or contract to acquire from any person, firm, or corporation, public or private, by contribution, gift, grant, bequest, devise, purchase, or otherwise, real or personal property or any interest therein, including such

property as it may deem necessary or proper, although temporarily not required for such purposes, in a redevelopment area or in any area designated by the governing body as necessary for carrying out the relocation of the residents, industry and commerce displaced from a redevelopment area.

j. Subordinate, waive, sell, assign or release any right, title, claim, lien or demand however acquired, including any equity or right of redemption, foreclosure, sell or assign any mortgage held by it, or any interest in real or personal property; and purchase at any sale, upon such terms and at such prices as it determines to be reasonable, and to take title to the property, real, personal, or mixed, so acquired and similarly to sell, exchange, assign, convey or otherwise dispose of any property.

k. Complete, administer, operate, obtain and pay for insurance on, and maintain, renovate, repair, modernize, lease or otherwise deal with any property.

l. Employ or retain consulting and other attorneys, planners, engineers, architects, managers and financial experts and other employees and agents of a permanent or temporary nature as may be necessary, determine their qualifications, duties and compensation, and delegate to one or more of its agents or employees such powers and duties as it deems proper. For such legal services as may be required, a redevelopment agency or housing authority may call upon the chief law officers of the municipality or county, as the case may be, or may employ its own counsel and legal staff.

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

n. Conduct examinations and investigations, hear testimony and take proof, under oath at public or private hearings of any material matter, compel witnesses and the production of books and papers and issue commissions for the examination of witnesses who are out of State, unable to attend, or excused from attendance; authorize a committee designated by it consisting of one or more members, or counsel, or any officer or employee to conduct the examination or investigation, in which case it may authorize in its name the committee, counsel, officer or employee to administer oaths, take affidavits and issue subpoenas or commissions.

o. Make and enter into all contracts and agreements necessary or incidental to the performance of the duties authorized in this act.

p. After thorough evaluation and investigation, bring an action on behalf of a tenant to collect or enforce any violation of subsection g. or h. of section 11 of the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-12).

q. Designate members or employees, who shall be knowledgeable of federal and State discrimination laws, and who shall be available during all normal business hours, to evaluate a complaint made by a tenant pursuant to the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-12).

C.10:5-8.1 Preparation of statement by Attorney General.

6. a. The Attorney General shall prepare a statement notifying landlords that the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1et seq.), as amended by P.L.2002, c.82, prohibits discrimination against tenants based on the source of income being used for rental or mortgage payments. In addition, the notification shall include instructions for those wishing to report such discrimination to the Division on Civil Rights.

b. Each agency or entity authorized to issue federal rental assistance vouchers to eligible tenants shall include a copy of the notification required pursuant to subsection a. of this section when issuing such a voucher

Repealer.

7. P.L.1981, c.323 (C.2A:42-100 et seq.) is hereby repealed.

8. This act shall take effect immediately.

Approved September 5, 2002.

CHAPTER 83

AN ACT concerning the adoption of harassment and bullying prevention policies by public school districts and supplementing chapter 37 of Title 18A of the New Jersey Statutes.

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

C.18A:37-13 Findings, declarations relative to adoption of harassment and bullying prevention policies.

1. The Legislature finds and declares that: a safe and civil environment in school is necessary for students to learn and achieve high academic standards; harassment, intimidation or bullying, like other disruptive or violent behaviors, is conduct that disrupts both a student's ability to learn and a school's ability to educate its students in a safe environment; and since students learn by example, school administrators, faculty, staff, and volunteers should be commended for demonstrating appropriate behavior, treating others with civility and respect, and refusing to tolerate harassment, intimidation or bullying.

C.18A:37-14 Definitions relative to adoption of harassment and bullying prevention policies.

2. As used in this act:

"Harassment, intimidation or bullying" means any gesture or written, verbal or physical act that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory handicap, or by any other distinguishing characteristic, that takes place on school property, at any school-sponsored function or on a school bus and that:

a. a reasonable person should know, under the circumstances, will have the effect of harming a student or damaging the student's property, or placing a student in reasonable fear of harm to his person or damage to his property; or

b. has the effect of insulting or demeaning any student or group of students in such a way as to cause substantial disruption in, or substantial interference with, the orderly operation of the school.

C.18A:37-15 Adoption of policy by each school district.

3. a. Each school district shall adopt a policy prohibiting harassment, intimidation or bullying on school property, at a school-sponsored function or on a school bus. The school district shall attempt to adopt the policy through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives.

b. A school district shall have local control over the content of the policy, except that the policy shall contain, at a minimum, the following components:

(1) a statement prohibiting harassment, intimidation or bullying of a student;

(2) a definition of harassment, intimidation or bullying no less inclusive than that set forth in section 2 of this act;

(3) a description of the type of behavior expected from each student;

(4) consequences and appropriate remedial action for a person who commits an act of harassment, intimidation or bullying;

(5) a procedure for reporting an act of harassment, intimidation or bullying, including a provision that permits a person to report an act of harassment, intimidation or bullying anonymously; however, this shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report;

(6) a procedure for prompt investigation of reports of violations and complaints, identifying either the principal or the principal's designee as the person responsible for the investigation;

(7) the range of ways in which a school will respond once an incident of harassment, intimidation or bullying is identified;

(8) a statement that prohibits reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying and the consequence and appropriate remedial action for a person who engages in reprisal or retaliation;

(9) consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or as a means of harassment, intimidation or bullying; and

(10) a statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions.

c. A school district shall adopt a policy and transmit a copy of its policy to the appropriate county superintendent of schools by September 1, 2003.

d. To assist school districts in developing policies for the prevention of harassment, intimidation or bullying, the Commissioner of Education shall develop a model policy applicable to grades kindergarten through 12. This model policy shall be issued no later than December 1, 2002.

e. Notice of the school district's policy shall appear in any publication of the school district that sets forth the comprehensive rules, procedures and standards of conduct for schools within the school district, and in any student handbook.

C.18A:37-16 Reprisal, retaliation, false accusation prohibited.

4. a. A school employee, student or volunteer shall not engage in reprisal, retaliation or false accusation against a victim, witness or one with reliable information about an act of harassment, intimidation or bullying.

b. A school employee, student or volunteer who has witnessed, or has reliable information that a student has been subject to, harassment, intimidation or bullying shall report the incident to the appropriate school official designated by the school district's policy.

c. A school employee who promptly reports an incident of harassment, intimidation or bullying, to the appropriate school official designated by the school district's policy, and who makes this report in compliance with the procedures in the district's policy, is immune from a cause of action for damages arising from any failure to remedy the reported incident.

C.18A:37-17 Establishment of bullying prevention programs.

5. a. Schools and school districts are encouraged to establish bullying prevention programs, and other initiatives involving school staff, students, administrators, volunteers, parents, law enforcement and community members.

b. To the extent funds are appropriated for these purposes, a school district shall: (1) provide training on the school district's harassment, intimidation or bullying policies to school employees and volunteers who have significant contact with students; and (2) develop a process for discussing the district's harassment, intimidation or bullying policy with students.

c. Information regarding the school district policy against harassment, intimidation or bullying shall be incorporated into a school's employee training program.

C.18A:37-18 Other remedies unaffected.

6. This act shall not be interpreted to prevent a victim from seeking redress under any other available law either civil or criminal. This act does not create or alter any tort liability.

C.18A:37-19 Application by school district for reimbursement.

7. A school district that incurs additional costs due to the implementation of the provisions of this act shall apply to the Commissioner of Education for reimbursement.

8. This act shall take effect immediately.

Approved September 6, 2002.

CHAPTER 84

AN ACT concerning transition bonds 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 and gas industries.

3. As used in this act:

"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 this act, an assignee shall not be subject to the public utility requirements of Title 48 or any rules or regulations adopted pursuant thereto;

"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" means electric generation service that is provided, pursuant to section 9 of this act, to any customer that has not chosen

an alternative electric power 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 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 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 this act, 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, interest rate cap, swap or collar, yield maintenance, maturity guarantee or other hedging

agreements, equity investments, operating costs and other related fees, costs and charges, or to assign, sell or otherwise transfer bondable transition property;

"Bondable stranded costs rate order" means one or more irrevocable written orders issued by the board pursuant to this act 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 this act, which order shall become effective immediately upon the written consent of the related electric public utility to such order as provided in this act;

"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 this act, and all revenues, collections, payments, money and proceeds arising under, or with respect to, all of the foregoing;

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

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

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

"Class I renewable energy" means electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells, geothermal technologies, wave or tidal action, and methane gas from landfills or a biomass

facility, provided that the biomass is cultivated and harvested in a sustainable manner;

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

"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 this act or that is not regulated by the board;

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

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

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

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

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

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

"Electric power supplier" means a person or entity that is duly licensed pursuant to the provisions of this act 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 this act;

"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;

"Energy agent" means a person that is duly registered pursuant to the provisions of this act, 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;

"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 this act, 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 this act 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 this act;

"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;

"Market transition charge" means a charge imposed pursuant to section 13 of this act 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 this act;

"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 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;

"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;

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

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

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

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

"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;

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

"Restructuring related costs" means reasonably incurred costs directly related to the restructuring of the electric power industry, including the closure, sale, functional separation and divestiture of generation and other competitive utility assets by a public utility, or the provision of competitive services as such costs are determined by the board, and which are not stranded costs as defined in this act 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 this act;

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

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

does not include any demand side management program or any environmental requirements or controls;

"Societal benefits charge" means a charge imposed by an electric public utility, at a level determined by the board, pursuant to, and in accordance with, section 12 of this act;

"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 this act, 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 this act 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 and the recovery mechanisms therefor;

"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 this act;

"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 this act 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;

"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;

"Transition period" means the period from August 1, 1999 through July 31, 2003; 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 14 of P.L.1999, c.23 (C.48:3-62) is amended to read as follows:

C.48:3-62 Authorization for issuance of transition bonds.

14. a. For purposes of recovering a portion of the stranded costs of an electric public utility that are deemed eligible for rate recovery in a stranded cost recovery order consistent with the provisions of section 13 of this act, and for compliance by the electric public utility with the rate reduction requirements determined by the board to be necessary and appropriate consistent with the provisions of sections 4 and 13 of this act, or for the purposes of recovering basic generation service transition costs of an electric public utility, the board may authorize the issuance of transition bonds by the electric public utility or other financing entity approved by the board. Such bonds shall be secured through an irrevocable bondable stranded cost rate order imposing a non-bypassable transition bond charge as provided in section 18 of this act and shall provide for collection of the transition bond charge by the electric public utility or another entity approved by the board. This transition bond charge shall be assessed in connection with the recovery of stranded costs pursuant to section 13 of this act or basic generation service transition costs pursuant to this section, but each electric public utility shall maintain separate accounting for transition bond charges so that the board can determine, at any time, the amount of each type of charge that has been assessed and collected by the electric public utility. The net proceeds of the transition bonds shall be used by or on behalf of the electric public utility solely for the purposes of reducing the amount of its otherwise recovery-eligible stranded costs, as determined by the board in accordance with the provisions of section 13 of this act, or reducing the amount of basic generation service transition costs through the refinancing or retirement of electric public utility debt or equity, or both, or the buyout, buydown or other restructuring of a power purchase agreement if such buyout, buydown or restructuring leads directly to substantial customer benefits over the term of the power purchase agreement. The entire amount of cost savings achieved as a result of the issuance of such transition bonds, whether as a result of a reduction in capital costs or a lengthened recovery period associated with otherwise recovery-eligible stranded costs or basic generation service transition costs or as a source of cash for the buyout, buydown or other restructuring of a power purchase agreement, shall be passed on to the customers of the electric public utility in the form of reduced rates or mitigated rate increases for electricity. Anything in this act or any other law to the contrary notwithstanding, except for adjustments authorized under paragraph (2) of subsection a. and subsection b. of section 15 of this act, transition bond charges approved by the board in a bondable stranded costs rate order shall not be offset, reduced, adjusted or otherwise diminished either directly or indirectly.

b. For the purposes of recovering stranded costs of an electric public utility, the issuance of transition bonds for an electric public utility may be authorized by the board if all the following findings are made by the board in connection with its review of a stranded cost filing made by an electric public utility pursuant to section 13 of this act:

(1) The electric public utility has taken reasonable measures to date, and has the appropriate incentives or plans in place to take reasonable measures, to mitigate the total amount of its stranded costs;

(2) The electric public utility will not be able to achieve the level of rate reduction deemed by the board to be necessary and appropriate pursuant to the provisions of sections 4 and 13 of this act absent the issuance of transition bonds;

(3) The issuance of such bonds will provide tangible and quantifiable benefits to ratepayers, including greater rate reductions than would have been achieved absent the issuance of such bonds and net present value savings over the term of the bonds; and

(4) The structuring and pricing of the transition bonds assure that the electric public utility's customers pay the lowest transition bond charges consistent with market conditions and the terms of the bondable stranded costs rate order. If so authorized in the financing order by the board, the structure and pricing of the transition bonds shall be conclusively deemed to satisfy this requirement if so certified by a designee of the board upon the pricing of the transition bonds, which certification will be final and uncontestable as of its date.

c. Subject to the other requirements of this section:

(1) The board may authorize the issuance of transition bonds for utility generation plant stranded costs determined by the board to be recoverable pursuant to paragraph (1) of subsection a. of section 13 of this act in a principal amount of up to 75 percent of the total amount of the electric public utility's recovery-eligible utility generation plant stranded costs, as determined by the board in accordance with the provisions of section 13 of this act, or, in the event that an electric public utility divests itself of a majority of its generating assets, which divestiture will result in a lower market transition charge than that which would have been collected from customers had the electric public utility not divested such assets, and the utility has established, as determined by the board, the stranded cost amount with certainty attributable to its remaining generating asset or assets, the board may authorize the issuance of transition bonds in a principal amount up to the full stranded cost value of such remaining generating asset or assets based on the following criteria:

(a) The greater the level of aggregate rate reduction provided pursuant to subsections d. and e. of section 4 of this act, the higher the percentage of stranded costs for which transition bonds may be issued;

(b) The higher the degree of certainty, such as might be obtained by auction or sale of the assets, as to the magnitude of the electric public utility's actual stranded costs, the larger the magnitude of transition bonds which may be permitted; and

(c) Based on evidence on the record, such amount will produce substantial and quantifiable savings for the customers of that utility;

(2) The board may authorize the issuance of transition bonds for the buyout or buydown of long-term power purchase contracts with non-utility generators determined by the board to be recoverable pursuant to paragraph (3) of subsection a. of section 13 of this act in a principal amount to be determined by the board in accordance with the provisions of section 13 of this act, based on the following criteria:

(a) The greater the level of aggregate rate reduction provided pursuant to subsections d. and e. of section 4 of this act, the higher the percentage of stranded costs that may be securitized;

(b) The higher the degree of certainty as to the magnitude of the electric public utility's actual stranded costs, the larger the magnitude of transition bonds which may be permitted; and

(c) Based on evidence on the record, such amount will produce substantial and quantifiable savings for the customers of that electric public utility because the amount of the buyout or buydown payment is substantially less than the total projected stranded costs associated with the contract; and

(3) The board may authorize the issuance of transition bonds for the recovery of up to the full amount of an electric public utility's reasonably and prudently incurred basic generation service transition costs based on the criteria that such amount will produce benefits for customers of the electric public utility which include the lowest transition bond charges consistent with market conditions and the terms of the bondable stranded costs rate order.

d. The board may approve transition bonds with scheduled amortization upon issuance of up to:

(1) Fifteen years if the electric public utility intends to utilize the proceeds from such transition bonds to reduce the stranded costs related to utility-owned generation;

(2) The remaining term of a power purchase agreement if the electric public utility intends to utilize the proceeds from such transition bonds solely for the purposes and requirements of paragraph (2) of subsection c. of this section; or

(3) Fifteen years if the electric public utility intends to utilize the proceeds from such transition bonds for the purpose of the recovery of basic generation service transition costs.

e. Transition bonds for the purpose and requirements of paragraph (1), (2) or (3) of subsection c. of this section may be issued in one or more series,

in one or more offerings, and each such series may consist of one or more classes of transition bonds.

f. The board shall issue orders with respect to each electric public utility's amortization of stranded costs or basic generation service transition costs through the transition bond charges pursuant to this section.

g. For the purpose of recovering basic generation service transition costs, an electric public utility may make a filing in a form to be adopted by the board to request the board to authorize the issuance of transition bonds and to issue a bondable stranded cost rate order. The board shall review such filing, and after providing appropriate notice and an opportunity for hearing, may render a determination authorizing the issuance of transition bonds. If so authorized in the financing order by the board, the structure and pricing of the transition bonds shall be conclusively deemed to assure the lowest transition bond charges consistent with market conditions and the terms of the bondable stranded costs rate order when so certified by a designee of the board upon the pricing of the transition bonds, which certification will be final and uncontestable as of its date.

3. This act shall take effect immediately.

Approved September 9, 2002.

CHAPTER 85

AN ACT concerning personal identifying information and amending N.J.S.2C:20-1, N.J.S.2C:21-1, P.L.1983, c.565 and N.J.S.2C:21-17 and supplementing Title 2C of the New Jersey Statutes.

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

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

Definitions.

2C:20-1. Definitions. In chapters 20 and 21, unless a different meaning plainly is required:

a. "Deprive" means: (1) to withhold or cause to be withheld property of another permanently or for so extended a period as to appropriate a substantial portion of its economic value, or with purpose to restore only upon payment of reward or other compensation; or (2) to dispose or cause disposal of the property so as to make it unlikely that the owner will recover it.

b. "Fiduciary" means an executor, general administrator of an intestate, administrator with the will annexed, substituted administrator, guardian, substituted guardian, trustee under any trust, express, implied, resulting or constructive, substituted trustee, executor, conservator, curator, receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, agent or officer of a corporation, public or private, temporary administrator, administrator, administrator pendente lite, administrator ad prosequendum, administrator ad litem or other person acting in a similar capacity.

c. "Financial institution" means a bank, insurance company, credit union, savings and loan association, investment trust or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

d. "Government" means the United States, any state, county, municipality, or other political unit, or any department, agency or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government.

e. "Movable property" means property the location of which can be changed, including things growing on, affixed to, or found in land, and documents, although the rights represented thereby have no physical location. "Immovable property" is all other property.

f. "Obtain" means: (1) in relation to property, to bring about a transfer or purported transfer of a legal interest in the property, whether to the obtainer or another; or (2) in relation to labor or service, to secure performance thereof.

g. "Property" means anything of value, including real estate, tangible and intangible personal property, trade secrets, contract rights, choses in action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink, electric, gas, steam or other power, financial instruments, information, data, and computer software, in either human readable or computer readable form, copies or originals.

h. "Property of another" includes property in which any person other than the actor has an interest which the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security agreement.

i. "Trade secret" means the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula or improvement which is secret and of value. A trade secret shall be presumed to be secret when the owner thereof takes measures to prevent it from becoming available

to persons other than those selected by the owner to have access thereto for limited purposes.

j. "Dealer in property" means a person who buys and sells property as a business.

k. "Traffic" means:

(1) To sell, transfer, distribute, dispense or otherwise dispose of property to another person; or

(2) To buy, receive, possess, or obtain control of or use property, with intent to sell, transfer, distribute, dispense or otherwise dispose of such property to another person.

l. "Broken succession of title" means lack of regular documents of purchase and transfer by any seller except the manufacturer of the subject property, or possession of documents of purchase and transfer by any buyer without corresponding documents of sale and transfer in possession of seller, or possession of documents of sale and transfer by seller without corresponding documents of purchase and transfer in possession of any buyer.

m. "Person" includes any individual or entity or enterprise, as defined herein, holding or capable of holding a legal or beneficial interest in property.

n. "Anything of value" means any direct or indirect gain or advantage to any person.

o. "Interest in property which has been stolen" means title or right of possession to such property.

p. "Stolen property" means property that has been the subject of any unlawful taking.

q. "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact, although not a legal entity, and it includes illicit as well as licit enterprises and governmental as well as other entities.

r. "Attorney General" includes the Attorney General of New Jersey, his assistants and deputies. The term shall also include a county prosecutor or his designated assistant prosecutor, if a county prosecutor is expressly authorized in writing by the Attorney General to carry out the powers conferred on the Attorney General by this chapter.

s. "Access device" means property consisting of any telephone calling card number, credit card number, account number, mobile identification number, electronic serial number, personal identification number, or any other data intended to control or limit access to telecommunications or other computer networks in either human readable or computer readable form, either copy or original, that can be used to obtain telephone service.

t. "Defaced access device" means any access device, in either human readable or computer readable form, either copy or original, which has been

removed, erased, defaced, altered, destroyed, covered or otherwise changed in any manner from its original configuration.

u. "Domestic companion animal" means any animal commonly referred to as a pet or one that has been bought, bred, raised or otherwise acquired, in accordance with local ordinances and State and federal law for the primary purpose of providing companionship to the owner, rather than for business or agricultural purposes.

v. "Personal identifying information" means any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual and includes, but is not limited to, the name, address, telephone number, date of birth, social security number, official State issued identification number, employer or taxpayer number, place of employment, employee identification number, demand deposit account number, savings account number, credit card number, mother's maiden name, unique biometric data, such as fingerprint, voice print, retina or iris image or other unique physical representation, or unique electronic identification number, address or routing code of the individual.

2. N.J.S.2C:21-1 is amended to read as follows:

Forgery and Related Offenses.

2C:21-1. Forgery and Related Offenses.

a. Forgery. A person is guilty of forgery if, with purpose to defraud or injure anyone, or with knowledge that he is facilitating a fraud or injury to be perpetrated by anyone, the actor:

(1) Alters or changes any writing of another without his authorization;

(2) Makes, completes, executes, authenticates, issues or transfers any writing so that it purports to be the act of another who did not authorize that act or of a fictitious person, or to have been executed at a time or place or in a numbered sequence other than was in fact the case, or to be a copy of an original when no such original existed; or

(3) Utters any writing which he knows to be forged in a manner specified in paragraph (1) or (2).

"Writing" includes printing or any other method of recording information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks, access devices, and other symbols of value, right, privilege, or identification, including retail sales receipts, universal product code (UPC) labels and checks. This section shall apply without limitation to forged, copied or imitated checks.

As used in this section, "information" includes, but is not limited to, personal identifying information as defined in subsection v. of N.J.S.2C:20-1.

b. Grading of forgery. Forgery is a crime of the third degree if the writing is or purports to be part of an issue of money, securities, postage or revenue

stamps, or other instruments, certificates or licenses issued by the government, New Jersey Prescription Blanks as referred to in R.S.45:14-14, or part of an issue of stock, bonds or other instruments representing interest in or claims against any property or enterprise, personal identifying information or an access device. Forgery is a crime of the third degree if the writing is or purports to be a check. Forgery is a crime of the third degree if the writing is or purports to be 15 or more forged or altered retail sales receipts or universal product code labels.

Otherwise forgery is a crime of the fourth degree.

c. Possession of forgery devices. A person is guilty of possession of forgery devices, a crime of the third degree, when with purpose to use, or to aid or permit another to use the same for purposes of forging written instruments, including access devices and personal identifying information, he makes or possesses any device, apparatus, equipment, computer, computer equipment, computer software or article specially designed or adapted to such use.

3. Section 1 of P.L.1983, c.565 (C.2C:21-2.1) is amended to read as follows:

C.2C:21-2.1 Offenses involving false government documents, degree of crime.

1. a. A person who knowingly sells, offers or exposes for sale, or otherwise transfers, or possesses with the intent to sell, offer or expose for sale, or otherwise transfer, a document, printed form or other writing which falsely purports to be a driver's license or other document issued by a governmental agency and which could be used as a means of verifying a person's identity or age or any other personal identifying information is guilty of a crime of the third degree.

b. A person who knowingly makes, or possesses devices or materials to make, a document or other writing which falsely purports to be a driver's license or other document issued by a governmental agency and which could be used as a means of verifying a person's identity or age or any other personal identifying information is guilty of a crime of the third degree.

c. A person who knowingly exhibits, displays or utters a document or other writing which falsely purports to be a driver's license or other document issued by a governmental agency and which could be used as a means of verifying a person's identity or age or any other personal identifying information is guilty of a crime of the fourth degree.

d. A person who knowingly possesses a document or other writing which falsely purports to be a driver's license or other document issued by a governmental agency and which could be used as a means of verifying a person's

identity or age or any other personal identifying information is guilty of a disorderly persons offense.

e. In addition to any other disposition authorized by this Title, the provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), or any other statute indicating the dispositions that may be ordered for an adjudication of delinquency, and, notwithstanding the provisions of subsection c. of N.J.S.2C:43-2, every person convicted of or adjudicated delinquent for a violation of any offense defined in this section shall forthwith forfeit his right to operate a motor vehicle over the highways of this State for a period to be fixed by the court at not less than six months or more than two years which shall commence on the day the sentence is imposed. In the case of any person who at the time of the imposition of the sentence is less than 17 years of age, the period of the suspension of driving privileges authorized herein, including a suspension of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period as fixed by the court of not less than six months or more than two years after the day the person reaches the age of 17 years. If the driving privilege of any person is under revocation, suspension, or postponement for a violation of any provision of this Title or Title 39 of the Revised Statutes at the time of any conviction or adjudication of delinquency for a violation of any offense defined in this chapter or chapter 36 of this Title, the revocation, suspension, or postponement period imposed herein shall commence as of the date of termination of the existing revocation, suspension or postponement.

The court before whom any person is convicted of or adjudicated delinquent for a violation of any offense defined in this section shall collect forthwith the New Jersey driver's license or licenses of that person and forward the license or licenses to the Director of the Division of Motor Vehicles along with a report indicating the first and last day of the suspension or postponement period imposed by the court pursuant to this section. If the court is for any reason unable to collect the license or licenses of the person, the court shall cause a report of the conviction or adjudication of delinquency to be filed with the director. The report shall include the complete name, address, date of birth, eye color and sex of the person and shall indicate the first and last day of the suspension or postponement period imposed by the court pursuant to this section. The court shall inform the person orally and in writing that if the person is convicted of personally operating a motor vehicle during the period of license suspension or postponement imposed pursuant to this section, the person shall, upon conviction, be subject to the penalties set forth in R.S.39:3-40. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of R.S.39:3-40. If the person is the holder of a driver's license

from another jurisdiction, the court shall not collect the license, but shall notify forthwith the director who shall notify the appropriate officials in that licensing jurisdiction. The court shall, however, in accordance with the provisions of this section, revoke the person's non-resident driving privileges in this State.

In addition to any other condition imposed, a court, in its discretion, may suspend, revoke or postpone the driving privileges of a person admitted to supervisory treatment under N.J.S.2C:36A-1 or N.J.S.2C:43-12 without a plea of guilty or finding of guilt.

C.2C:21-17.1 Restitution to victim of unlawful use of personal identifying information.

4. Restitution to a victim of an offense under N.J.S.2C:21-1, section 1 of P.L.1983, c.565 (C.2C:21-2.1) or N.J.S. 2C:21-17 when the offense concerns personal identifying information may include costs incurred by the victim:

a. in clearing the credit history or credit rating of the victim; or

b. in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising as a result of the actions of the defendant.

5. N.J.S.2C:21-17 is amended to read as follows:

Impersonation; theft of identity; disorderly persons offense, crime.

2C:21-17. Impersonation; Theft of Identity; disorderly persons offense, crime.

a. A person is guilty of an offense when he:

(1) Impersonates another or assumes a false identity and does an act in such assumed character or false identity for purpose of obtaining a pecuniary benefit for himself or another or to injure or defraud another;

(2) Pretends to be a representative of some person or organization and does an act in such pretended capacity for the purpose of obtaining a benefit for himself or another or to injure or defraud another;

(3) Impersonates another, assumes a false identity or makes a false or misleading statement regarding the identity of any person, in an oral or written application for services, for the purpose of obtaining services; or

(4) Obtains any personal identifying information pertaining to another person and uses that information, or assists another person in using the information, in order to assume the identity of or represent themselves as another person, without that person's authorization and with the purpose to fraudulently obtain or attempt to obtain a pecuniary benefit or services, or avoid the payment of debt or other legal obligation or avoid prosecution for a crime by using the name of the other person.

b. A person is guilty of an offense if, in the course of making an oral or written application for services, he impersonates another, assumes a false

identity or makes a false or misleading statement with the purpose of avoiding payment for prior services. Purpose to avoid payment for prior services may be presumed upon proof that the person has not made full payment for prior services and has impersonated another, assumed a false identity or made a false or misleading statement regarding the identity of any person in the course of making oral or written application for services.

c. (1) A person who violates subsection a. or b. of this section is guilty of a crime of the second degree if the pecuniary benefit, the value of the services received, the payment sought to be avoided or the injury or fraud perpetrated on another is $75,000 or more. If the pecuniary benefit, the value of the services received, the payment sought to be avoided or the injury or fraud perpetrated on another is at least $500 but is less than $75,000, the offender is guilty of a crime of the third degree. If the pecuniary benefit, the value of the services received, the payment sought to be avoided or the injury or fraud perpetrated on another is at least $200 but is less than $500, the offender is guilty of a crime of the fourth degree.

(2) If the pecuniary benefit, the value of the services received, the payment sought to be avoided or the injury or fraud perpetrated on another is less than $200, or if the benefit or services received or the injury or fraud perpetrated on another has no pecuniary value, or if the person was unsuccessful in an attempt to receive a benefit or services or to injure or perpetrate a fraud on another, then the person is guilty of a disorderly persons offense.

d. A violation of R.S.39:3-37 for using the personal information of another to obtain a driver's license or register a motor vehicle or a violation of R.S.33:1-81 or section 6 of P.L.1968, c.313 (C.33:1-81.7) for using the personal information of another to illegally purchase an alcoholic beverage shall not constitute an offense under this section if the actor received only that benefit or service and did not perpetrate or attempt to perpetrate any additional injury or fraud on another.

6. This act shall take effect immediately.

Approved October 16, 2002.

CHAPTER 86

AN ACT concerning the certification of interior designers, amending R.S.45:3-1, and supplementing chapter 3 of Title 45 of the Revised Statutes.

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

C.45:3-31 Short title.

1. This act shall be known and may be cited as the "Interior Designers Certification Act."

C.45:3-32 Certification required for "certified interior designer."

2. No person shall use the title "certified interior designer" in this State or the abbreviation "CID" or any other title, designation, sign, card or device indicating that such person is a certified interior designer, unless certified pursuant to the provisions of this act. Every holder of a certificate of certification pursuant to this act shall display it in a conspicuous place in the holder's principal office, place of business or employment.

No corporation, firm, partnership or association shall be granted a certificate of certification pursuant to this act.

C.45:3-32 Definitions relative to certification of interior designers.

3. As used in this act:

"Board" means the New Jersey State Board of Architects.

"Committee" means the Interior Design Examination and Evaluation Committee established pursuant to section 5 of this act.

"Interior design services" means rendering or offering to render services, for a fee or other valuable consideration, in the preparation and administration of interior design documents, including, but not limited to, drawings, schedules and specifications which pertain to the design intent and planning of interior spaces, including furnishings, layouts, non-load bearing partitions, fixtures, cabinetry, lighting location and type, outlet location and type, switch location and type, finishes, materials and interior construction not materially related to or materially affecting the building systems, in accordance with applicable laws, codes, regulations and standards.

"Certified interior designer" means an individual who through education, training, and experience is skilled in interior design services for commercial and residential spaces and is certified by the board pursuant to section 9 of this act and holds a current, valid certificate.

C.45:3-34 Construction of act relative to certain professions.

4. Nothing in this act shall be construed to prevent the practice of architecture, engineering or land surveying or professional planning by the holder of a license to practice that profession issued by this State, but no architect, engineer, surveyor or professional planner shall use the designation "certified interior designer" unless certified as such under the provisions of this act.

C.45:3-35 Interior Design Examination and Evaluation Committee.

5. There is established a committee of the board to be known as the Interior Design Examination and Evaluation Committee. The committee shall consist of five certified interior designers, one of whom is a member of the board. The committee members shall be appointed by the Governor within 60 days after the effective date of this act. Two initial members shall be appointed to one term each of two years and three shall be appointed for three years, and thereafter their successors shall be appointed for terms of five years and shall serve until the appointment and qualification of their successors. A member of the committee shall not be eligible to serve for more than two successive terms. Vacancies in the membership of the committee, however created, shall be similarly filled by appointment of the Governor for the unexpired terms only. In making appointments to the board and the committee the Governor shall give due consideration to the recommendations by State organizations of the interior design profession and shall promptly give due notice to those organizations of any vacancy in the membership of the board or committee. Members of the committee shall be residents of this State, shall have at least 10 years' experience in interior design services, shall be of good standing in the interior design services profession, shall be full-time providers of interior design services and, except as to the initial appointments to the committee, shall be certified under the provisions of this act. The initial appointees shall become certified as soon as practicable after their appointments. The Governor may remove a member of the committee, after hearing, for misconduct, incompetence, neglect of duty or any other sufficient cause.

Members of the committee shall receive no compensation for their services, but may be reimbursed for all necessary expenses incidental to performance of their duties as members of the committee.

Each member of the committee, before entering upon the duties of the office, shall subscribe to an oath to faithfully perform the duties of the office.

C.45:3-36 Organization, meetings, schedule of committee.

6. The committee shall, at its first meeting, called by the Governor as soon as may be practicable following the appointments of its members, and at all annual meetings, to be held in July of each year thereafter, organize by electing from its membership a chair and by appointing a secretary, who need not be a member of the committee, and other assistants as it deems necessary.

The committee shall adopt annually a schedule of regular meetings, and special meetings may be held at the call of the chair.

A quorum of the committee shall consist of three members. No action shall be taken at a meeting without at least three votes in accord.

C.45:3-37 Duties, authority of committee.

7. The committee is authorized to: administer examinations required pursuant to this act; review the content and duration of courses of study offered by colleges and universities for degrees in interior design services and to establish and maintain a register of colleges and universities whose curricula in interior design services are approved by the committee; establish and maintain a list of recognized subjects and courses of study; and establish minimum requirements therefor which shall be acceptable to the board and the committee in accordance with standards approved by the Foundation for Interior Design Education Research or substantially equivalent standards approved by the committee.

In addition to those records of proceedings and applicants established by the board, the committee shall keep a record of its proceedings and a record of all applicants for certification, the date of application, name, age, education and other qualifications, place of practice and place of residence, and whether the applicant was rejected or a certificate granted, and the date of that action.

C.45:3-38 Application procedure for certification.

8. Each person applying for certification as a certified interior designer shall make application therefor to the board on the form and in the manner the committee prescribes, and the board shall immediately refer each application to the committee for appropriate action. Each applicant shall furnish evidence satisfactory to the committee that the applicant:

a. Is of good moral character;

b. (1) Is a graduate of a five-year interior design program accredited by the Foundation for Interior Design Education Research or a substantially equivalent program approved by the committee and has completed at least one year of diversified interior design services experience of a grade and character satisfactory to the committee; or

(2) Is a graduate of a four-year interior design program accredited by the Foundation for Interior Design Education Research or a substantially equivalent program approved by the committee and has completed at least two years of diversified interior design services experience of a grade and character satisfactory to the committee; or

(3) Has completed at least three years of an interior design curriculum accredited by the Foundation for Interior Design Education Research or a substantially equivalent curriculum approved by the committee and has completed at least three years of diversified interior design services experience of a grade and character satisfactory to the committee; or

(4) Is a graduate of a two-year interior design program accredited by the Foundation for Interior Design Education Research or a substantially equivalent program approved by the committee and has completed four years of diversified

interior design services experience of a grade and character satisfactory to the committee; and

c. Has passed the examination offered by the National Council for Interior Design Qualification (NCIDQ). This examination may have been passed before the effective date of this act.

C.45:3-39 Review of application.

9. The committee shall review the qualifications of each person who applies for certification. No applicant shall be certified by the board unless a majority of the full committee first determines that the applicant has met the education and experience requirements and performed satisfactorily on the appropriate examination required pursuant to this act. All applicants who are determined to be qualified and are recommended for certification by the committee shall be certified by the board.

The committee is authorized to make recommendations to the board with the final decisions to be made by the board. The board is authorized to review the actions taken by the committee with respect to the committee's evaluation and examination of applicants for certification and the board may reverse, modify or fail to implement any determination by the committee with an affirmative vote of a majority of the board.

C.45:3-40 Exemption from examination.

10. The committee may exempt from examination an applicant who is certified, registered or licensed as an interior designer in another state, if that state's requirements for certification, registration or licensure are substantially equivalent to those required for a certification in this State.

C.45:3-41 Fees.

11. The following fees shall be assessed and collected by the board:

a. An application fee for certification as a certified interior designer which shall not be subject to refund;

b. The initial two-year certification fee for certified interior designers;

c. A two-year renewal fee for certified interior designers; and

d. A reinstatement fee for certified interior designers.

C.45:3-42 Certification without examination.

12. For a period of 360 days from the date of the first meeting of the Interior Design Examination and Evaluation Committee, any individual of good moral character who was residing in this State on the effective date of this act shall qualify as a certified interior designer without examination, upon application for certification and payment of the appropriate fee, provided that the individual has a total of at least 10 years of full-time diversified professional experience

on the effective date of this act in interior design of a grade and character acceptable to the committee.

C.45:3-43 Issuance of certificate.

13. a. The Division of Consumer Affairs shall issue to each certified interior designer a certificate bearing that interior designer's certificate number, which certificate number shall appear on all design related documents.

b. Any design related documents including, but not limited to, drawings, schedules and specifications prepared by a certified interior designer shall bear the signature and certificate number of the certified interior designer who prepared those documents and the date on which the documents were signed and shall appear within the document's title block. The signature, date and certificate number shall be evidence of the authenticity of those documents.

C.45:3-44 Expiration, renewal of certificate.

14. Certificates for certified interior designers shall expire on a date to be determined by the Director of the Division of Consumer Affairs in the second year following the year of issuance, renewal or reinstatement, and shall become invalid on that day unless renewed. On a date to be determined by the Director of the Division of Consumer Affairs in the year of expiration of a certificate, the secretary of the board shall notify all persons certified under this act of the date of the expiration of their certificates and the amount of the renewal fee. Notice shall be mailed to each holder of a certificate at the holder's last post office address known to the board.

Certified interior designers shall apply for renewal on a date to be determined by the Director of the Division of Consumer Affairs in the year of expiration of a certificate. A certificate shall not be renewed until the certificate holder submits satisfactory evidence to the committee that during the preceding two years the certificate holder has completed such continuing education credits as are to be determined by the committee. The committee shall approve continuing education that builds upon basic knowledge of interior design services in accordance with the guidelines established by the Interior Design Continuing Education Council (IDCEC), and which updates the competency of the certificate holder. The committee may make exceptions from the continuing education requirement in emergency or hardship cases with the approval of an affirmative vote of a majority of the board.

Failure on the part of the holder of a certificate to renew the certificate every two years shall not deprive that person of the right of renewal during the ensuing two years, but a reinstatement fee shall be added to the certification fee; and if the certificate is not renewed within the two years following its expiration, the holder of the certificate shall pay a reinstatement fee for each two years or portion thereof in which the holder is in arrears. Continuing to

use the title "certified interior designer" after the expiration of the certificate shall be a violation of this act.

A duplicate certificate to replace one lost, destroyed or mutilated may be issued subject to the rules and regulations of the board, and a reasonable fee, to be established by the board, may be charged for each duplicate certificate. An unsuspended, unrevoked and unexpired certificate as a certified interior designer under this act shall be prima facie evidence in all courts and places that the person named therein is certified. Each certificate shall be recorded by the board in the office of the Secretary of State, in a book kept for that purpose, and any recording fee as may be provided by law shall be paid by the applicant before the certificate is delivered.

C.45:3-45 Construction of act relative to interior design services.

15. Nothing in this act shall be construed to prohibit any person from rendering interior design services, provided that person shall not be identified by the title "certified interior designer" unless certified in accordance with the provisions of this act.

C.45:3-46 Construction of act relative to uncertified interior designers.

16. Nothing in this act shall be construed to authorize the board or committee to regulate persons who are rendering interior design services and are not certified interior designers under the provisions of this act or to adopt regulations that would exceed the powers and responsibilities expressly authorized under this act.

17. R.S.45:3-1 is amended to read as follows:

New Jersey State Board of Architects; membership, terms, compensation.

45:3-1. The New Jersey State Board of Architects, hereinafter in this chapter designated as the "board," created and established by an act entitled "An act to regulate the practice of architecture," approved March twenty-fourth, one thousand nine hundred and two (P.L.1902, c.29, p.54), as amended and supplemented, is continued. The board shall consist of 11 members: six of whom shall be architects residing in this State and shall have been engaged in the practice of their profession for at least 10 years; one of whom shall be a certified landscape architect in good standing and engaged in the practice of landscape architecture for at least five years pursuant to sections 4 through 18 of P.L.1983, c.337 (C.45:3A-1 et seq.), except as to the initial appointment to the board, who shall become certified as soon as practicable after his appointment; one of whom shall be a certified interior designer who is not a licensed architect and is certified pursuant to P.L.2002, c.86 (C.45:3-31 et al.), in good standing and engaged in providing interior design services for at least 10 years, except as to the initial appointment to the board, who shall

become certified as soon as practicable after his appointment; two of whom shall be public members and one of whom shall be a State executive department member as prescribed pursuant to the provisions of P.L.1971, c.60 (C.45:1-2.1 et seq.). On the effective date of this act the terms of office of the members of the board shall cease and terminate, and they shall thereafter continue in office as hold-over members until such time as the Governor shall designate and appoint them to serve for new terms of office as hereinafter provided. Within a period of 30 days after the effective date of this act, or as soon thereafter as circumstances shall permit, the Governor shall designate and appoint said members to serve and hold office for the following terms: one member for a term of one year from the date of such designation and appointment; one member for a term of two years from said date; one member for a term of three years from said date; one member for a term of four years from said date; and one member for a term of five years from said date. The initial landscape architect appointment shall be for a term of two years beginning July 1 next following the appointment. The initial appointment of a certified interior designer and the sixth architect appointed pursuant to this section shall be for a term of three years beginning July 1 next following the appointment. Should any vacancy exist on the board at the time of appointment and designation of the members to the new terms herein provided for, the Governor shall appoint a new member to fill such vacancy, subject to the provisions of section 2 of P.L.1971, c.60 (C.45:1-2.2), such member to serve for any one of the several terms herein fixed as the Governor in his discretion shall designate. Thereafter, upon the expiration of the term of office of any member, his successor shall be appointed by the Governor, subject to the provisions of section 2 of P.L.1971, c.60 (C.45:1-2.2), for a term of five years. Each member shall hold his office until his successor has qualified. Any vacancy in the membership of the board shall be filled for the unexpired term in the manner provided for an original appointment. Except as hereinafter provided, the members of the board shall serve without compensation.

18. This act shall take effect immediately.

Approved October 22, 2002.

CHAPTER 87

AN ACT concerning the reimbursement of remediation costs for contaminated sites, and amending P.L.1997, c.278.

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

1. Section 35 of P.L.1997, c.278 (C.58:10B-27) is amended to read as follows:

C.58:10B-27 Terms and conditions of agreements.

35. a. The provisions of any other law, or rule or regulation adopted pursuant thereto, to the contrary notwithstanding, any developer may enter into a redevelopment agreement with the State pursuant to the provisions of this section. The State may not enter into a redevelopment agreement with a developer who is liable, pursuant to paragraph (1) of subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g), for the contamination at the site proposed to be in the redevelopment agreement.

The decision whether or not to enter into a redevelopment agreement is solely within the discretion of the Commissioner of Commerce and Economic Development and the State Treasurer and both must agree to enter into the redevelopment agreement. Nothing in P.L.1997, c.278 (C.58:10B-1.1 et al.) may be construed to compel the commissioner and the State Treasurer to enter into any redevelopment agreement.

The Commissioner of Commerce and Economic Development in consultation with the State Treasurer shall negotiate the terms and conditions of any redevelopment agreement on behalf of the State. The redevelopment agreement shall specify the amount of the reimbursement to be awarded the developer, the frequency of payments and the length of time in which that reimbursement shall be granted. In no event shall the amount of the reimbursement, when taken together with the property tax exemption received pursuant to the "Environmental Opportunity Zone Act," P.L.1995, c.413 (C.54:4-3.151), less any in lieu of tax payments made pursuant to that act, or any other State, local, or federal tax incentive or grant to remediate a site, exceed 75% of the total cost of the remediation.

The commissioner and the State Treasurer may only enter into a redevelopment agreement if they make a finding that the State tax revenues to be realized from the redevelopment project will be in excess of the amount necessary to reimburse the developer. This finding may be made by an estimation based upon the professional judgment of the commissioner and the State Treasurer.

The percentage of each payment to be made to the developer pursuant to the redevelopment agreement shall be conditioned on the occupancy rate of the residential dwelling units, buildings, or other work areas located on the property. The redevelopment agreement shall provide for the payments made in order to reimburse the developer to be in the same percentages as

the occupancy rate at the site except that upon the attainment of a 90% occupancy rate, the developer shall be entitled to the entire amount of each payment toward the reimbursement as set forth in the redevelopment agreement. The redevelopment agreement shall provide for the frequency of the director's finding of the occupancy rate during the payment schedule.

b. In deciding whether or not to enter into a redevelopment agreement and in negotiating a redevelopment agreement with a developer, the commissioner shall consider the following factors:

(1) the economic feasibility of the redevelopment project;

(2) the extent of economic and related social distress in the municipality and the area to be affected by the redevelopment project;

(3) the degree to which the redevelopment project will advance State, regional and local development and planning strategies;

(4) the likelihood that the redevelopment project shall, upon completion, be capable of generating new tax revenue in an amount in excess of the amount necessary to reimburse the developer for the remediation costs incurred as provided in the redevelopment agreement;

(5) the relationship of the redevelopment project to a comprehensive local development strategy, including other major projects undertaken within the municipality;

(6) the need of the redevelopment agreement to the viability of the redevelopment project; and

(7) the degree to which the redevelopment project enhances and promotes job creation and economic development.

2. Section 36 of P.L.1997, c.278 (C.58:10B-28) is amended to read as follows:

C.58:10B-28 Eligibility for reimbursement; certification.

36. a. The provisions of any other law, or rule or regulation adopted pursuant thereto, to the contrary notwithstanding, any developer that enters into a redevelopment agreement pursuant to section 35 of P.L.1997, c.278 (C.58:10B-27), may be eligible for reimbursement of up to 75% of the costs of the remediation of the subject real property pursuant to the provisions of this section upon the commencement of a business operation, or the completion of the construction of one or more new residences, within a redevelopment project.

b. To be eligible for reimbursement of the costs of remediation, a developer shall submit an application, in writing, to the director for review and certification of the reimbursement. The director shall review the request for the reimbursement upon receipt of an application therefor, and shall approve or deny the application for certification on a timely basis. The director shall

also make a finding of the occupancy rate of the property subject to the redevelopment agreement in the frequency set forth in the redevelopment agreement as provided in section 35 of P.L.1997, c.278 (C.58:10B-27).

The director shall certify a developer to be eligible for the reimbursement if the director finds that:

(1) residential construction is complete, or a place of business is located, in the area subject to the redevelopment agreement that has generated new tax revenues;

(2) the developer had entered into a memorandum of agreement with the Commissioner of Environmental Protection, after the developer entered into the redevelopment agreement, for the remediation of contamination located on the site of the redevelopment project pursuant to section 37 of P.L.1997, c.278 (C.58:10B-29) and the developer is in compliance with the memorandum of agreement; and

(3) the costs of the remediation were actually and reasonably incurred. In making this finding the director may consult with the Department of Environment Protection.

c. When filing an application for certification for a reimbursement pursuant to this section, the developer shall submit to the director a certification of the total remediation costs incurred by the developer for the remediation of the subject property located at the site of the redevelopment project as provided in the redevelopment agreement, information concerning the occupancy rate of the buildings or other work areas located on the property subject to the redevelopment agreement, and such other information as the director deems necessary in order to make the certifications and findings pursuant to this section.

3. Section 38 of P.L.1997, c.278 (C.58:10B-30) is amended to read as follows:

C.58:10B-30 Brownfield Site Reimbursement Fund.

38. a. There is created in the Department of the Treasury a special fund to be known as the Brownfield Site Reimbursement Fund. Moneys in the fund shall be dedicated to the purpose of reimbursing a developer who enters into a redevelopment agreement pursuant to section 35 of P.L.1997, c.278 (C.58:10B-27) and is certified for reimbursement pursuant to section 36 of P.L.1997, c.278 (C.58:10B-28). A special account within the fund shall be created for each developer upon approval of a certification pursuant to section 36 of P.L.1997, c.278 (C.58:10B-28). The Legislature shall annually appropriate the entire balance of the fund for the purposes of reimbursement of remediation costs as provided in section 39 of P.L.1997, c.278 (C.58:10B-31).

b. The fund shall be credited with an amount from the General Fund, determined sufficient by the Commissioner of Commerce and Economic Development, to provide the negotiated reimbursement to the developer. Moneys credited to the fund shall be an amount that equals the percent of the remediation costs expected to be reimbursed pursuant to the redevelopment agreement. In estimating the amount of new State taxes that is anticipated to be derived from a redevelopment project pursuant to section 35 of P.L.1997, c.278 (C.58:10B-27), the Commissioner of Commerce and Economic Development and the State Treasurer shall consider taxes from the following: the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), "The Savings Institution Tax Act," P.L.1973, c.31 (C.54:10D-1 et seq.), the tax imposed on marine insurance companies pursuant to R.S.54:16-1 et seq., the tax imposed on fire insurance companies pursuant to R.S.54:17-4 et al., the tax imposed on insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities gross receipts tax and public utility excise tax imposed pursuant to P.L.1940, c.4, and P.L.1940, c.5 (C.54:30A-16 et seq. and C.54:30A-49 et seq.), the tax derived from net profits from business, a distributive share of partnership income, or a prorata share of S corporation income under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at the site of a redevelopment project that is required to collect the tax pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase of materials used for the construction of new residences at the site of a redevelopment project, or the portion of the fee imposed pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) derived from the sale of real property at the site of the redevelopment project and paid to the State Treasurer for use by the State, that is not credited to the "Shore Protection Fund" or the "Neighborhood Preservation Nonlapsing Revolving Fund" pursuant to section 4 of P.L.1968, c.49 (C.46:15-8).

4. This act shall take effect immediately.

Approved October 22, 2002.

CHAPTER 88

AN ACT concerning marriage licenses and amending R.S.26:8-27, R.S.26:8-47 and R.S.37:1-17.

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

1. R.S.26:8-27 is amended to read as follows:

Inquiries to applicants for marriage license.

26:8-27. The department shall issue to each local registrar and to city clerks of cities of the first class, the form and substance of the several inquiries to be made of applicants for a marriage license and their witnesses for the purpose of ascertaining whether any legal impediment to any proposed marriage exists.

The form shall not contain any inquiries or information which concerns the race of an applicant for a marriage license.

2. R.S.26:8-47 is amended to read as follows:

Preparation of forms for marriage licenses, certificates.

26:8-47. The department shall cause to be prepared blank forms of certificates of marriages and marriage licenses corresponding to the requirements of R.S.37:1-7 and R.S.37:1-17. The forms, together with such sections of the laws concerning marriages and such instructions and explanations thereof as the department may deem useful to persons having duties to perform under such laws shall be printed and supplied upon request therefor to the local registrars and to the city clerks of cities of the first class.

All certificates of marriages and marriage licenses shall be written upon the said blanks or blanks approved by the department and shall not contain any inquiries or information which concerns the race of an applicant for a marriage license.

3. R.S.37:1-17 is amended to read as follows:

Marriage license; information provided.

37:1-17. On the marriage license shall be the form for the certificate of marriage in quadruplicate, to which the licensing officer shall have set forth particularly therein the name, age, parentage, birthplace, residence, Social Security number and condition (whether single, widowed or divorced) of each of the married persons, and the names and county of birth of their parents. The Social Security number shall be kept confidential and may only be released for child support enforcement purposes, and shall not be considered a public record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.). The person by whom or the religious society, institution, or organization by or before which, the marriage was solemnized, shall personally or by legally authorized agent subscribe where indicated on the form the date and place of the marriage.

Each certificate of marriage shall also contain the signature and residence of at least two witnesses who were present at the marriage ceremony.

4. This act shall take effect 90 days following enactment.

Approved October 24, 2002.

CHAPTER 89

AN ACT allowing persons to volunteer for placement on the list of persons to be excluded from permitted racetracks and licensed off-track wagering facilities and from engaging in account wagering, and supplementing P.L.1940, c.17 (C.5:5-22 et seq.).

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

C.5:5-65.1 List of persons voluntarily excluded from certain racetracks and off-track wagering facilities.

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

b. The commission shall promulgate regulations to: (1) establish procedures for placements on, and removals from, the list of self-excluded persons; (2) establish procedures for the transmittal to the permitted racetracks, licensed off-track wagering facilities and the account wagering system of identifying information concerning persons on the self-exclusion list; and (3) require permitted racetracks, licensed off-track wagering facilities and the account wagering system to establish procedures designed, at a minimum, to remove persons on the self-exclusion list from targeted mailings or other forms of advertising or promotions and deny such persons access to credit, complementaries, check cashing privileges, club programs, and other similar benefits.

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

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

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

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

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

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

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

b. Money or a thing of value which has been obtained by, or is owed to, a person on the self-exclusion list from a permitted racetrack, licensed off-track wagering facility or account wagering system as a result of wagers made by that person shall be subject to forfeiture by order of the executive director of the commission, following notice to the person on the self-exclusion list and opportunity to be heard.

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

c. In a proceeding brought by the commission against a live racing permit holder, the off-track wagering licensee or the account wagering licensee for a willful violation of the commission's self-exclusion regulations, the commission may order in addition to a permit or license suspension, a fine not to exceed $5,000 per wagering incident, the forfeiture of money or a thing

of value obtained by the permit holder, off-track wagering licensee or account wagering licensee from a person on the self-exclusion list and other remedial conditions the commission deems appropriate. Money or a thing of value so forfeited shall be disposed of in the same manner as money or a thing of value forfeited pursuant to subsection b. of this section.

3. This act shall take effect immediately but shall be inoperative until the 60th day after enactment.

Approved November 4, 2002.

CHAPTER 90

AN ACT concerning the awarding of school facilities contracts by a board of education and amending N.J.S.18A:18A-4.

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

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

Contract awarded by board of education resolution; disqualification conditions.

18A:18A-4. a. Every contract for the provision or performance of any goods or services, the cost of which in the aggregate exceeds the bid threshold, shall be awarded only by resolution of the board of education to the lowest responsible bidder after public advertising for bids and bidding therefor, except as is provided otherwise in this chapter or specifically by any other law.

The board of education may, by resolution approved by a majority of the board of education and subject to subsections b. and c. of this section, disqualify a bidder who would otherwise be determined to be the lowest responsible bidder, if the board of education finds that any board or, in the case of a contract for a school facilities project, the New Jersey Economic Development Authority, has had prior negative experience with the bidder within the past 10 years, as reported in a contractor evaluation submitted pursuant to N.J.S. 18A:18A-15 or in a school facilities project performance evaluation submitted pursuant to regulations of the Department of the Treasury or section 62 of P.L.2000, c.72 (C.18A:7G-36), as appropriate.

b. As used in this section, "prior negative experience" means any of the following:

(1) the bidder has been found, through either court adjudication, arbitration, mediation, or other contractually stipulated alternate dispute resolution

mechanism, to have: failed to provide or perform goods or services; or failed to complete the contract in a timely manner; or otherwise performed unsatisfactorily under a prior contract with a board of education or, in the case of a school facilities project, with the New Jersey Economic Development Authority;

(2) the bidder defaulted on a contract, thereby requiring a board of education or, in the case of a school facilities project, the New Jersey Economic Development Authority, to utilize the services of another contractor to provide the goods or perform the services or to correct or complete the contract;

(3) the bidder defaulted on a contract, thereby requiring a board of education or, in the case of a school facilities project, the New Jersey Economic Development Authority, to look to the bidder's surety for completion of the contract or tender of the costs of completion; or

(4) the bidder is debarred or suspended from contracting with any of the agencies or departments of the executive branch of the State of New Jersey at the time of the contract award, whether or not the action was based on experience with a board of education or, in the case of a school facilities project, with the New Jersey Economic Development Authority.

c. The following conditions apply if the board of education is contemplating a disqualification based on prior negative experience:

(1) The existence of any of the indicators of prior negative experience set forth in this section shall not require that a bidder be disqualified. In each instance, the decision to disqualify shall be made within the discretion of the board of education and shall be rendered in the best interests of the board of education.

(2) All mitigating factors shall be considered in determining the seriousness of the prior negative experience and in deciding whether disqualification is warranted.

(3) The bidder shall be furnished by the board of education with a written notice (a) stating that a disqualification is being considered; (b) setting forth the reason for the disqualification; and (c) indicating that the bidder shall be accorded an opportunity for a hearing before the board of education if the bidder so requests within a stated period of time. At the hearing, the bidder shall show good cause why the bidder should not be disqualified by presenting documents and testimony. If the board of education determines that good cause has not been shown by the bidder, it may vote to find the bidder lacking in responsibility and, thus, disqualified.

(4) Disqualification shall be for a reasonable, defined period of time which shall not exceed five years.

(5) A disqualification, other than a disqualification pursuant to which a board of education is prohibited by law from entering into a contract with a bidder, may be voided or the period thereof may be reduced, in the discretion

of the board of education, upon the submission of a good faith application under oath, supported by documentary evidence, setting forth substantial and appropriate grounds for the granting of relief, such as reversal of a judgment, or actual change of ownership, management or control of the bidder.

(6) An opportunity for a hearing need not be offered to a bidder whose disqualification is based on its suspension or debarment by an agency or department of the executive branch of the State of New Jersey. The term of such a disqualification shall be concurrent with the term of the suspension or debarment by the State agency or department.

d. The purchase of text books and materials that exceed the bid threshold and are approved by a board of education pursuant to N.J.S.18A:34-1 shall not require the further adoption of a resolution for purchase.

2. This act shall take effect 90 days after enactment.

Approved November 4, 2002.

CHAPTER 91

AN ACT concerning meeting notices of certain public bodies and supplementing P.L.1975, c.231 (C.10:4-6 et seq.).

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

C.10:4-9.1 Electronic notice of meeting of public body; terms defined.

1. In addition to the notice requirements of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), a public body may provide electronic notice of any meeting of the public body through the Internet.

As used in this section, "electronic notice" means advance notice available to the public via electronic transmission of at least 48 hours, giving the time, date, location and, to the extent known, the agenda of any regular, special or rescheduled meeting, which notice shall accurately state whether formal action may or may not be taken at such meeting.

As used in this section, "Internet" means the international computer network of both federal and non-federal interoperable packet switched data networks.

C.10:4-9.2 Construction of act.

2. Nothing in this act shall be construed as affecting or superseding the adequate notice requirements that are imposed by the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.) and no electronic notice issued pursuant

to this act shall be deemed to substitute for, or be considered in lieu of, such adequate notice.

3. This act shall take effect immediately.

Approved November 4, 2002.

CHAPTER 92

AN ACT concerning pupil identification information on classroom materials 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:36-36 Pupil information, certain, classroom materials; rules.

1. a. A pupil in a public school shall not be required to supply information regarding the pupil's race, ethnicity, migrant status or economically disadvantaged status on any materials distributed in class.

b. Materials distributed to a pupil in a public school shall not include any obvious indicators of the pupil's race, ethnicity, migrant status or economically disadvantaged status; except that the school district may use identification numbers or other methods of identification after the collection of the materials

c. The State Board of Education 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.

2. This act shall take effect on the 180th day after enactment, but the Commissioner of Education may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved November 7, 2002.

CHAPTER 93

AN ACT concerning paydays falling on nonwork days and amending P.L.1965, c.173.

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

1. Section 2 of P.L.1965, c.173 (C.34:11-4.2) is amended to read as follows:

C.34:11-4.2 Time and mode of payment; paydays.

2. Except as otherwise provided by law, every employer shall pay the full amount of wages due to his employees at least twice during each calendar month, on regular paydays designated in advance by the employer, in lawful money of the United States or with checks on banks where suitable arrangements are made for the cashing of such checks by employees without difficulty and for the full amount for which they are drawn. An employer may establish regular paydays less frequently than semimonthly for bona fide executive, supervisory and other special classifications of employees provided that the employee shall be paid in full at least once each calendar month on a regularly established schedule.

If a regular payday falls on a nonwork day, that is, a day on which the workplace of an employee is not open for business, payment shall be made on the immediately preceding work day, except where it is otherwise provided for in a collective bargaining agreement.

The end of the pay period for which payment is made on a regular payday shall be not more than 10 working days before such regular payday, provided that if the regular payday falls on a nonwork day payment shall be made on the preceding work day.

2. This act shall take effect on the 90th day following enactment.

Approved November 7, 2002.

CHAPTER 94

AN ACT exempting pay for election board work on election day from the calculation of unemployment benefits and amending R.S.43:21-4 and R.S.43:21-19.

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

1. R.S.43:21-4 is amended to read as follows:

Benefit eligibility conditions.

43:21-4. Benefit eligibility conditions. An unemployed individual shall be eligible to receive benefits with respect to any week only if:

(a) The individual has filed a claim at an unemployment insurance claims office and thereafter continues to report at an employment service office or unemployment insurance claims office, as directed by the division in accordance with such regulations as the division may prescribe, except that the division may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs, and as to such other types of cases or situations with respect to which the division finds that compliance with such requirements would be oppressive, or would be inconsistent with the purpose of this act; provided that no such regulation shall conflict with subsection (a) of R.S.43:21-3.

(b) The individual has made a claim for benefits in accordance with the provisions of subsection (a) of R.S.43:21-6.

(c) (1) The individual is able to work, and is available for work, and has demonstrated to be actively seeking work, except as hereinafter provided in this subsection or in subsection (f) of this section.

(2) The director may modify the requirement of actively seeking work if such modification of this requirement is warranted by economic conditions.

(3) No individual, who is otherwise eligible, shall be deemed ineligible, or unavailable for work, because the individual is on vacation, without pay, during said week, if said vacation is not the result of the individual's own action as distinguished from any collective action of a collective bargaining agent or other action beyond the individual's control.

(4) (A) Subject to such limitations and conditions as the division may prescribe, an individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible because the individual is attending a training program approved for the individual by the division to enhance the individual's employment opportunities or because the individual failed or refused to accept work while attending such program.

(B) For the purpose of this paragraph (4), any training program shall be regarded as approved by the division for the individual if the program and the individual meet the following requirements:

(i) The training is for a labor demand occupation and is likely to enhance the individual's marketable skills and earning power;

(ii) The training is provided by a competent and reliable private or public entity approved by the Commissioner of Labor pursuant to the provisions of section 8 of the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-8);

(iii) The individual can reasonably be expected to complete the program, either during or after the period of benefits;

(iv) The training does not include on the job training or other training under which the individual is paid by an employer for work performed by the individual during the time that the individual receives benefits; and

(v) The individual enrolls in vocational training, remedial education or a combination of both on a full-time basis.

(C) If the requirements of subparagraph (B) of this paragraph (4) are met, the division shall not withhold approval of the training program for the individual for any of the following reasons:

(i) The training includes remedial basic skills education necessary for the individual to successfully complete the vocational component of the training;

(ii) The training is provided in connection with a program under which the individual may obtain a college degree, including a post-graduate degree;

(iii) The length of the training period under the program; or

(iv) The lack of a prior guarantee of employment upon completion of the training.

(D) For the purpose of this paragraph (4), "labor demand occupation" means an occupation for which there is or is likely to be an excess of demand over supply for adequately trained workers, including, but not limited to, an occupation designated as a labor demand occupation by the New Jersey Occupational Information Coordinating Committee pursuant to the provisions of subsection h. of section 1 of P.L.1987, c.457 (C.34:1A-76) or section 12 of P.L.1992, c.43 (C.34:1A-78).

(5) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely by reason of the individual's attendance before a court in response to a summons for service on a jury.

(6) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely by reason of the individual's attendance at the funeral of an immediate family member, provided that the duration of the attendance does not extend beyond a two-day period.

For purposes of this paragraph, "immediate family member" includes any of the following individuals: father, mother, mother-in-law, father-in-law, grandmother, grandfather, grandchild, spouse, child, foster child, sister or brother of the unemployed individual and any relatives of the unemployed individual residing in the unemployed individual's household.

(7) No individual, who is otherwise eligible, shall be deemed ineligible or unavailable for work with respect to any week because, during that week, the individual fails or refuses to accept work while the individual is participating on a full-time basis in self-employment assistance activities authorized by

the division, whether or not the individual is receiving a self-employment allowance during that week.

(8) Any individual who is determined to be likely to exhaust regular benefits and need reemployment services based on information obtained by the worker profiling system shall not be eligible to receive benefits if the individual fails to participate in available reemployment services to which the individual is referred by the division or in similar services, unless the division determines that:

(A) The individual has completed the reemployment services; or

(B) There is justifiable cause for the failure to participate, which shall include participation in employment and training, self-employment assistance activities or other activities authorized by the division to assist reemployment or enhance the marketable skills and earning power of the individual and which shall include any other circumstance indicated pursuant to this section in which an individual is not required to be available for and actively seeking work to receive benefits.

(9) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely by reason of the individual's work as a board worker for a county board of elections on an election day.

(d) With respect to any benefit year commencing before January 1, 2002, the individual has been totally or partially unemployed for a waiting period of one week in the benefit year which includes that week. When benefits become payable with respect to the third consecutive week next following the waiting period, the individual shall be eligible to receive benefits as appropriate with respect to the waiting period. No week shall be counted as a week of unemployment for the purposes of this subsection:

(1) If benefits have been paid, or are payable with respect thereto; provided that the requirements of this paragraph shall be waived with respect to any benefits paid or payable for a waiting period as provided in this subsection;

(2) If it has constituted a waiting period week under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.);

(3) Unless the individual fulfills the requirements of subsections (a) and (c) of this section;

(4) If with respect thereto, claimant was disqualified for benefits in accordance with the provisions of subsection (d) of R.S.43:21-5.

The waiting period provided by this subsection shall not apply to benefit years commencing on or after January 1, 2002. An individual whose total benefit amount was reduced by the application of the waiting period to a claim which occurred on or after January 1, 2002 and before the effective date of P.L.2002, c.13, shall be permitted to file a claim for the additional benefits attributable to the waiting period in the form and manner prescribed by the division, but not later than the 180th day following the effective date of

P.L.2002, c.13 unless the division determines that there is good cause for a later filing.

(e) (1) (Deleted by amendment, P.L.2001, c.17).

(2) With respect to benefit years commencing on or after January 1, 1996 and before January 7, 2001, except as otherwise provided in paragraph (3) of this subsection, the individual has, during his base year as defined in subsection (c) of R.S.43:21-19:

(A) Established at least 20 base weeks as defined in paragraph (2) of subsection (t) of R.S.43:21-19; or

(B) f the individual has not met the requirements of subparagraph (A) of this paragraph (2), earned remuneration not less than an amount 12 times the Statewide average weekly remuneration paid to workers, as determined under R.S.43:21-3(c), which amount shall be adjusted to the next higher multiple of $100.00 if not already a multiple thereof; or

(C) If the individual has not met the requirements of subparagraph (A) or (B) of this paragraph (2), earned remuneration not less than an amount 1,000 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 $100.00 if not already a multiple thereof.

(3) With respect to benefit years commencing before January 7, 2001, notwithstanding the provisions of paragraph (2) of this subsection, an unemployed individual claiming benefits on the basis of service performed in the production and harvesting of agricultural crops shall, subject to the limitations of subsection (i) of R.S.43:21-19, be eligible to receive benefits if during his base year, as defined in subsection (c) of R.S.43:21-19, the individual:

(A) Has established at least 20 base weeks as defined in paragraph (2) of subsection (t) of R.S.43:21-19; or

(B) Has earned 12 times the Statewide average weekly remuneration paid to workers, as determined under R.S.43:21-3(c), raised to the next higher multiple of $100.00 if not already a multiple thereof, or more; or

(C) Has performed at least 770 hours of service in the production and harvesting of agricultural crops.

(4) With respect to benefit years commencing on or after January 7, 2001, except as otherwise provided in paragraph (5) of this subsection, the individual has, during his base year as defined in subsection (c) of R.S.43:21-19:

(A) Established at least 20 base weeks as defined in paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

(B) If the individual has not met the requirements of subparagraph (A) of this paragraph (4), earned remuneration not less than an amount 1,000 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 $100 if not already a multiple thereof.

(5) With respect to benefit years commencing on or after January 7, 2001, notwithstanding the provisions of paragraph (4) of this subsection, an unemployed individual claiming benefits on the basis of service performed in the production and harvesting of agricultural crops shall, subject to the limitations of subsection (i) of R.S.43:21-19, be eligible to receive benefits if during his base year, as defined in subsection (c) of R.S.43:21-19, the individual:

(A) Has established at least 20 base weeks as defined in paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

(B) Has earned remuneration not less than an amount 1,000 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 $100 if not already a multiple thereof; or

(C) Has performed at least 770 hours of service in the production and harvesting of agricultural crops.

(6) The individual applying for benefits in any successive benefit year has earned at least six times his previous weekly benefit amount and has had four weeks of employment since the beginning of the immediately preceding benefit year. This provision shall be in addition to the earnings requirements specified in paragraph (2), (3), (4) or (5) of this subsection, as applicable.

(f) (1) The individual has suffered any accident or sickness not compensable under the workers' compensation law, R.S.34:15-1 et seq. and resulting in the individual's total disability to perform any work for remuneration, and would be eligible to receive benefits under this chapter (R.S.43:21-1 et seq.) (without regard to the maximum amount of benefits payable during any benefit year) except for the inability to work and has furnished notice and proof of claim to the division, in accordance with its rules and regulations, and payment is not precluded by the provisions of R.S.43:21-3(d); provided, however, that benefits paid under this subsection (f) shall be computed on the basis of only those base year wages earned by the claimant as a "covered individual," as defined in R.S.43:21-27(b); provided further that no benefits shall be payable under this subsection to any individual:

(A) For any period during which such individual is not under the care of a legally licensed physician, dentist, optometrist, podiatrist, practicing psychologist or chiropractor;

(B) (Deleted by amendment, P.L.1980, c.90.)

(C) For any period of disability due to willfully or intentionally self-inflicted injury, or to injuries sustained in the perpetration by the individual of a crime of the first, second or third degree;

(D) For any week with respect to which or a part of which the individual has received or is seeking benefits under any unemployment compensation or disability benefits law of any other state or of the United States; provided that if the appropriate agency of such other state or the United States finally determines that the individual is not entitled to such benefits, this disqualification shall not apply;

(E) For any week with respect to which or part of which the individual has received or is seeking disability benefits under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.);

(F) For any period of disability commencing while such individual is a "covered individual," as defined in subsection (b) of section 3 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-27).

(2) Benefit payments under this subsection (f) shall be charged to and paid from the State disability benefits fund established by the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), and shall not be charged to any employer account in computing any employer's experience rate for contributions payable under this chapter.

(g) Benefits based on service in employment defined in subparagraphs (B) and (C) of R.S.43:21-19 (i)(1) shall be payable in the same amount and on the terms and subject to the same conditions as benefits payable on the basis of other service subject to the "unemployment compensation law"; except that, notwithstanding any other provisions of the "unemployment compensation law":

(1) With respect to service performed after December 31, 1977, in an instructional research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

(2) With respect to weeks of unemployment beginning after September 3, 1982, on the basis of service performed in any other capacity for an educational institution, benefits shall not be paid on the basis of such services to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such

services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that if benefits are denied to any individual under this paragraph (2) and the individual was not offered an opportunity to perform these services for the educational institution for the second of any academic years or terms, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this clause;

(3) With respect to those services described in paragraphs (1) and (2) above, benefits shall not be paid on the basis of such services to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such period or holiday recess;

(4) With respect to any services described in paragraphs (1) and (2) above, benefits shall not be paid as specified in paragraphs (1), (2), and (3) above to any individual who performed those services in an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing those services to one or more educational institutions.

(h) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sports seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

(i) (1) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time the services were performed and was lawfully present for the purpose of performing the services or otherwise was permanently residing in the United States under color of law at the time the services were performed (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and Nationality Act (8 U.S.C. s.1101 et seq.)); provided that any modifications of the provisions of section 3304(a)(14) of the Federal Unemployment Tax Act (26 U.S.C. s.3304 (a)(14)), as provided by Pub.L.94-566, which specify other conditions or other effective dates than stated herein for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under State law as

a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, shall be deemed applicable under the provisions of this section.

(2) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(3) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of alien status shall be made except upon a preponderance of the evidence.

(j) Notwithstanding any other provision of this chapter, the director may, to the extent that it may be deemed efficient and economical, provide for consolidated administration by one or more representatives or deputies of claims made pursuant to subsection (f) of this section with those made pursuant to Article III (State plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).

2. R.S.43:21-19 is amended to read as follows:

Definitions.

43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et seq.), unless the context clearly requires otherwise:

(a) (1) "Annual payroll" means the total amount of wages paid during a calendar year (regardless of when earned) by an employer for employment.

(2) "Average annual payroll" means the average of the annual payrolls of any employer for the last three or five preceding calendar years, whichever average is higher, except that any year or years throughout which an employer has had no "annual payroll" because of military service shall be deleted from the reckoning; the "average annual payroll" in such case is to be determined on the basis of the prior three or five calendar years in each of which the employer had an "annual payroll" in the operation of his business, if the employer resumes his business within 12 months after separation, discharge or release from such service, under conditions other than dishonorable, and makes application to have his "average annual payroll" determined on the basis of such deletion within 12 months after he resumes his business; provided, however, that "average annual payroll" solely for the purposes of paragraph (3) of subsection (e) of R.S.43:21-7 means the average of the annual payrolls of any employer on which he paid contributions to the State disability benefits fund for the last three or five preceding calendar years, whichever average is higher; provided further that only those wages be included on which employer contributions have been paid on or before January 31 (or the next succeeding day if such January 31 is a Saturday or Sunday) immediately preceding the

beginning of the 12-month period for which the employer's contribution rate is computed.

(b) "Benefits" means the money payments payable to an individual, as provided in this chapter (R.S.43:21-1 et seq.), with respect to his unemployment.

(c) (1) "Base year" with respect to benefit years commencing on or after July 1, 1986, shall mean the first four of the last five completed calendar quarters immediately preceding an individual's benefit year.

With respect to a benefit year commencing on or after July 1, 1995, if an individual does not have sufficient qualifying weeks or wages in his base year to qualify for benefits, the individual shall have the option of designating that his base year shall be the "alternative base year," which means the last four completed calendar quarters immediately preceding the individual's benefit year; except that, with respect to a benefit year commencing on or after October 1, 1995, if the individual also does not have sufficient qualifying weeks or wages in the last four completed calendar quarters immediately preceding his benefit year to qualify for benefits, "alternative base year" means the last three completed calendar quarters immediately preceding his benefit year and, of the calendar quarter in which the benefit year commences, the portion of the quarter which occurs before the commencing of the benefit year.

The division shall inform the individual of his options under this section as amended by P.L.1995, c.234. If information regarding weeks and wages for the calendar quarter or quarters immediately preceding the benefit year is not available to the division from the regular quarterly reports of wage information and the division is not able to obtain the information using other means pursuant to State or federal law, the division may base the determination of eligibility for benefits on the affidavit of an individual with respect to weeks and wages for that calendar quarter. The individual shall furnish payroll documentation, if available, in support of the affidavit. A determination of benefits based on an alternative base year shall be adjusted when the quarterly report of wage information from the employer is received if that information causes a change in the determination.

(2) With respect to a benefit year commencing on or after June 1, 1990 for an individual who immediately preceding the benefit year was subject to a disability compensable under the provisions of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), "base year" shall mean the first four of the last five completed calendar quarters immediately preceding the individual's period of disability, if the employment held by the individual immediately preceding the period of disability is no longer available at the conclusion of that period and the individual files a valid claim for unemployment benefits after the conclusion of that period. For the purposes of this paragraph, "period of disability" means the period defined as a period of disability by section 3 of the "Temporary Disability Benefits Law," P.L.1948, c.110

(C.43:21-27). An individual who files a claim under the provisions of this paragraph (2) shall not be regarded as having left work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

(3) With respect to a benefit year commencing on or after June 1, 1990 for an individual who immediately preceding the benefit year was subject to a disability compensable under the provisions of the workers' compensation law (chapter 15 of Title 34 of the Revised Statutes), "base year" shall mean the first four of the last five completed calendar quarters immediately preceding the individual's period of disability, if the period of disability was not longer than two years, if the employment held by the individual immediately preceding the period of disability is no longer available at the conclusion of that period and if the individual files a valid claim for unemployment benefits after the conclusion of that period. For the purposes of this paragraph, "period of disability" means the period from the time at which the individual becomes unable to work because of the compensable disability until the time that the individual becomes able to resume work and continue work on a permanent basis. An individual who files a claim under the provisions of this paragraph (3) shall not be regarded as having left work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

(d) "Benefit year" with respect to any individual means the 364 consecutive calendar days beginning with the day on, or as of, which he first files a valid claim for benefits, and thereafter beginning with the day on, or as of, which the individual next files a valid claim for benefits after the termination of his last preceding benefit year. Any claim for benefits made in accordance with subsection (a) of R.S.43:21-6 shall be deemed to be a "valid claim" for the purpose of this subsection if (1) he is unemployed for the week in which, or as of which, he files a claim for benefits; and (2) he has fulfilled the conditions imposed by subsection (e) of R.S.43:21-4.

(e) (1) "Division" means the Division of Unemployment and Temporary Disability Insurance of the Department of Labor, and any transaction or exercise of authority by the director of the division thereunder, or under this chapter (R.S.43:21-1 et seq.), shall be deemed to be performed by the division.

(2) "Controller" means the Office of the Assistant Commissioner for Finance and Controller of the Department of Labor, established by the 1982 Reorganization Plan of the Department of Labor.

(f) "Contributions" means the money payments to the State Unemployment Compensation Fund, required by R.S.43:21-7. "Payments in lieu of contributions" means the money payments to the State Unemployment Compensation Fund by employers electing or required to make payments in lieu of contributions, as provided in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-7.3).

(g) "Employing unit" means the State or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions or any individual or type of organization, 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, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all the purposes of this chapter (R.S.43:21-1 et seq.). Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this chapter (R.S.43:21-1 et seq.), whether such individual was hired or paid directly by such employing unit or by such agent or employee; provided the employing unit had actual or constructive knowledge of the work.

(h) "Employer" means:

(1) Any employing unit which in either the current or the preceding calendar year paid remuneration for employment in the amount of $1,000.00 or more;

(2) Any employing unit (whether or not an employing unit at the time of acquisition) which acquired the organization, trade or business, or substantially all the assets thereof, of another which, at the time of such acquisition, was an employer subject to this chapter (R.S.43:21-1 et seq.);

(3) Any employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another employing unit and which, if treated as a single unit with such other employing unit, would be an employer under paragraph (1) of this subsection;

(4) Any employing unit which together with one or more other employing units is owned or controlled (by legally enforceable means or otherwise), directly or indirectly by the same interests, or which owns or controls one or more other employing units (by legally enforceable means or otherwise), and which, if treated as a single unit with such other employing unit or interest, would be an employer under paragraph (1) of this subsection;

(5) Any employing unit for which service in employment as defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is performed after December 31, 1977;

(6) Any employing unit for which service in employment as defined in R.S.43:21-19 (i) (1) (c) is performed after December 31, 1971 and which

in either the current or the preceding calendar year paid remuneration for employment in the amount of $1,000.00 or more;

(7) Any employing unit not an employer by reason of any other paragraph of this subsection (h) for which, within either the current or preceding calendar year, service is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or which, as a condition for approval of the "unemployment compensation law" for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required pursuant to such act to be an employer under this chapter (R.S.43:21-1 et seq.);

(8) (Deleted by amendment; P.L.1977, c.307.)

(9) (Deleted by amendment; P.L.1977, c.307.)

(10) (Deleted by amendment; P.L.1977, c.307.)

(11) Any employing unit subject to the provisions of the Federal Unemployment Tax Act within either the current or the preceding calendar year, except for employment hereinafter excluded under paragraph (7) of subsection (i) of this section;

(12) Any employing unit for which agricultural labor in employment as defined in R.S.43:21-19 (i) (1) (i) is performed after December 31, 1977;

(13) Any employing unit for which domestic service in employment as defined in R.S.43:21-19 (i) (1) (J) is performed after December 31, 1977;

(14) Any employing unit which having become an employer under the "unemployment compensation law" (R.S.43:21-1 et seq.), has not under R.S.43:21-8 ceased to be an employer; or for the effective period of its election pursuant to R.S.43:21-8, any other employing unit which has elected to become fully subject to this chapter (R.S.43:21-1 et seq.).

(i) (1) "Employment" means:

(A) Any service performed prior to January 1, 1972, which was employment as defined in the "unemployment compensation law" (R.S.43:21-1 et seq.) prior to such date, and, subject to the other provisions of this subsection, service performed on or after January 1, 1972, including service in interstate commerce, performed for remuneration or under any contract of hire, written or oral, express or implied.

(B) (i) Service performed after December 31, 1971 by an individual in the employ of this State or any of its instrumentalities or in the employ of this State and one or more other states or their instrumentalities for a hospital or institution of higher education located in this State, if such service is not excluded from "employment" under paragraph (D) below.

(ii) Service performed after December 31, 1977, in the employ of this State or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of the foregoing and one or more other states or political

subdivisions, if such service is not excluded from "employment" under paragraph (D) below.

(C) Service performed after December 31, 1971 by an individual in the employ of a religious, charitable, educational, or other organization, which is excluded from "employment" as defined in the Federal Unemployment Tax Act, solely by reason of section 3306 (c) (8) of that act, if such service is not excluded from "employment" under paragraph (D) below.

(D) For the purposes of paragraphs (B) and (C), the term "employment" does not apply to services performed

(i) In the employ of (I) a church or convention or association of churches, or (II) an organization, or school which is operated primarily for religious purposes and which is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(ii) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(iii) Prior to January 1, 1978, in the employ of a school which is not an institution of higher education, and after December 31, 1977, in the employ of a governmental entity referred to in R.S.43:21-19 (i) (1) (B), if such service is performed by an individual in the exercise of duties

(aa) as an elected official;

(bb) as a member of a legislative body, or a member of the judiciary, of a state or political subdivision;

(cc) as a member of the State National Guard or Air National Guard;

(dd) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(ee) in a position which, under or pursuant to the laws of this State, is designated as a major nontenured policy making or advisory position, or a policy making or advisory position, the performance of the duties of which ordinarily does not require more than eight hours per week; or

(iv) By an individual receiving rehabilitation or remunerative work in a facility conducted for the purpose of carrying out a program of rehabilitation of individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market;

(v) By an individual receiving work-relief or work-training as part of an unemployment work-relief or work-training program assisted in whole or in part by any federal agency or an agency of a state or political subdivision thereof; or

(vi) Prior to January 1, 1978, for a hospital in a State prison or other State correctional institution by an inmate of the prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution.

(E) The term "employment" shall include the services of an individual who is a citizen of the United States, performed outside the United States after December 31, 1971 (except in Canada and in the case of the Virgin Islands, after December 31, 1971) and prior to January 1 of the year following the year in which the U.S. Secretary of Labor approves the unemployment compensation law of the Virgin Islands, under section 3304 (a) of the Internal Revenue Code of 1986 (26 U.S.C. s.3304 (a)) in the employ of an American employer (other than the service which is deemed employment under the provisions of R.S.43:21-19 (i) (2) or (5) or the parallel provisions of another state's unemployment compensation law), if

(i) The American employer's principal place of business in the United States is located in this State; or

(ii) The American employer has no place of business in the United States, but (I) the American employer is an individual who is a resident of this State; or (II) the American employer is a corporation which is organized under the laws of this State; or (III) the American employer is a partnership or trust and the number of partners or trustees who are residents of this State is greater than the number who are residents of another state; or

(iii) None of the criteria of divisions (i) and (ii) of this subparagraph (E) is met but the American employer has elected to become an employer subject to the "unemployment compensation law" (R.S.43:21-1 et seq.) in this State, or the American employer having failed to elect to become an employer in any state, the individual has filed a claim for benefits, based on such service, under the law of this State;

(iv) An "American employer," for the purposes of this subparagraph (E), means (I) an individual who is a resident of the United States; or (II) a partnership, if two-thirds or more of the partners are residents of the United States; or (III) a trust, if all the trustees are residents of the United States; or (IV) a corporation organized under the laws of the United States or of any state.

(F) Notwithstanding R.S.43:21-19 (i) (2), all service performed after January 1, 1972 by an officer or member of the crew of an American vessel or American aircraft on or in connection with such vessel or aircraft, if the operating office from which the operations of such vessel or aircraft operating within, or within and without, the United States are ordinarily and regularly supervised, managed, directed, and controlled, is within this State.

(G) Notwithstanding any other provision of this subsection, service in this State with respect to which the taxes required to be paid under any federal law imposing a tax against which credit may be taken for contributions required

to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under the "unemployment compensation law" (R.S.43:21-1 et seq.).

(H) The term "United States" when used in a geographical sense in subsection R.S.43:21-19 (i) includes the states, the District of Columbia, the Commonwealth of Puerto Rico and, effective on the day after the day on which the U.S. Secretary of Labor approves for the first time under section 3304 (a) of the Internal Revenue Code of 1986 (26 U.S.C. s.3304 (a)) an unemployment compensation law submitted to the Secretary by the Virgin Islands for such approval, the Virgin Islands.

(I) (i) Service performed after December 31, 1977 in agricultural labor in a calendar year for an entity which is an employer as defined in the "unemployment compensation law," (R.S.43:21-1 et seq.) as of January 1 of such year; or for an employing unit which

(aa) during any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of $20,000.00 or more for individuals employed in agricultural labor, or

(bb) for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor 10 or more individuals, regardless of whether they were employed at the same moment in time.

(ii) for the purposes of this subsection any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other entity shall be treated as an employee of such crew leader

(aa) if such crew leader holds a certification of registration under the Migrant and Seasonal Agricultural Worker Protection Act, Pub.L.97-470 (29 U.S.C. s.1801 et seq.), or P.L.1971, c.192 (C.34:8A-7 et seq.); or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

(bb) if such individual is not an employee of such other person for whom services were performed.

(iii) For the purposes of subparagraph (I) (i) in the case of any individual who is furnished by a crew leader to perform service in agricultural labor or any other entity and who is not treated as an employee of such crew leader under (I) (ii)

(aa) such other entity and not the crew leader shall be treated as the employer of such individual; and

(bb) such other entity shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his own behalf or on behalf

of such other entity) for the service in agricultural labor performed for such other entity.

(iv) For the purpose of subparagraph (I)(ii), the term "crew leader" means an individual who

(aa) furnishes individuals to perform service in agricultural labor for any other entity;

(bb) pays (either on his own behalf or on behalf of such other entity) the individuals so furnished by him for the service in agricultural labor performed by them; and

(cc) has not entered into a written agreement with such other entity under which such individual is designated as an employee of such other entity.

(J) Domestic service after December 31, 1977 performed in the private home of an employing unit which paid cash remuneration of $1,000.00 or more to one or more individuals for such domestic service in any calendar quarter in the current or preceding calendar year.

(2) The term "employment" shall include an individual's entire service performed within or both within and without this State if:

(A) The service is localized in this State; or

(B) The service is not localized in any state but some of the service is performed in this State, and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State; or (ii) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

(3) Services performed within this State but not covered under paragraph (2) of this subsection shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.) if contributions are not required and paid with respect to such services under an unemployment compensation law of any other state or of the federal government.

(4) Services not covered under paragraph (2) of this subsection and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.) if the individual performing such services is a resident of this State and the employing unit for whom such services are performed files with the division an election that the entire service of such individual shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.).

(5) Service shall be deemed to be localized within a state if:

(A) The service is performed entirely within such state; or

(B) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service

within the state; for example, is temporary or transitory in nature or consists of isolated transactions.

(6) Services performed by an individual for remuneration shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.) unless and until it is shown to the satisfaction of the division that:

(A) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his contract of service and in fact; and

(B) Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(C) Such individual is customarily engaged in an independently established trade, occupation, profession or business.

(7) Provided that such services are also exempt under the Federal Unemployment Tax Act, as amended, or that contributions with respect to such services are not required to be paid into a state unemployment fund as a condition for a tax offset credit against the tax imposed by the Federal Unemployment Tax Act, as amended, the term "employment" shall not include:

(A) Agricultural labor performed prior to January 1, 1978; and after December 31, 1977, only if performed in a calendar year for an entity which is not an employer as defined in the "unemployment compensation law," (R.S.43:21-1 et seq.) as of January 1 of such calendar year; or unless performed for an employing unit which

(i) during a calendar quarter in either the current or the preceding calendar year paid remuneration in cash of $20,000.00 or more to individuals employed in agricultural labor, or

(ii) for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor 10 or more individuals, regardless of whether they were employed at the same moment in time;

(B) Domestic service in a private home performed prior to January 1, 1978; and after December 31, 1977, unless performed in the private home of an employing unit which paid cash remuneration of $1,000.00 or more to one or more individuals for such domestic service in any calendar quarter in the current or preceding calendar year;

(C) Service performed by an individual in the employ of his son, daughter or spouse, and service performed by a child under the age of 18 in the employ of his father or mother;

(D) Service performed prior to January 1, 1978, in the employ of this State or of any political subdivision thereof or of any instrumentality of this State or its political subdivisions, except as provided in R.S.43:21-19 (i) (1) (B)

above, and service in the employ of the South Jersey Port Corporation or its successors;

(E) Service performed in the employ of any other state or its political subdivisions or of an instrumentality of any other state or states or their political subdivisions to the extent that such instrumentality is with respect to such service exempt under the Constitution of the United States from the tax imposed under the Federal Unemployment Tax Act, as amended, except as provided in R.S.43:21-19 (i) (1) (B) above;

(F) Service performed in the employ of the United States Government or of any instrumentality of the United States except under the Constitution of the United States from the contributions imposed by the "unemployment compensation law," except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this act shall be applicable to such instrumentalities, and to service performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services; provided that if this State shall not be certified for any year by the Secretary of Labor of the United States under section 3304 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.3304), the payments required of such instrumentalities with respect to such year shall be refunded by the division from the fund in the same manner and within the same period as is provided in R.S.43:21-14 (f) with respect to contributions erroneously paid to or collected by the division;

(G) Services performed in the employ of fraternal beneficiary societies, orders, or associations operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association, or their dependents;

(H) Services performed as a member of the board of directors, a board of trustees, a board of managers, or a committee of any bank, building and loan, or savings and loan association, incorporated or organized under the laws of this State or of the United States, where such services do not constitute the principal employment of the individual;

(I) Service with respect to which unemployment insurance is payable under an unemployment insurance program established by an Act of Congress;

(J) Service performed by agents of mutual fund brokers or dealers in the sale of mutual funds or other securities, by agents of insurance companies, exclusive of industrial insurance agents or by agents of investment companies, if the compensation to such agents for such services is wholly on a commission basis;

(K) Services performed by real estate salesmen or brokers who are compensated wholly on a commission basis;

(L) Services performed in the employ of any veterans' organization chartered by Act of Congress or of any auxiliary thereof, no part of the net earnings of which organization, or auxiliary thereof, inures to the benefit of any private shareholder or individual;

(M) Service performed for or in behalf of the owner or operator of any theater, ballroom, amusement hall or other place of entertainment, not in excess of 10 weeks in any calendar year for the same owner or operator, by any leader or musician of a band or orchestra, commonly called a "name band," entertainer, vaudeville artist, actor, actress, singer or other entertainer;

(N) Services performed after January 1, 1973 by an individual for a labor union organization, known and recognized as a union local, as a member of a committee or committees reimbursed by the union local for time lost from regular employment, or as a part-time officer of a union local and the remuneration for such services is less than $1,000.00 in a calendar year;

(O) Services performed in the sale or distribution of merchandise by home-to-home salespersons or in-the-home demonstrators whose remuneration consists wholly of commissions or commissions and bonuses;

(P) Service performed in the employ of a foreign government, including service as a consular, nondiplomatic representative, or other officer or employee;

(Q) Service performed in the employ of an instrumentality wholly owned by a foreign government if (i) the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof, and (ii) the division finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar services performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(R) Service in the employ of an international organization entitled to enjoy the privileges, exemptions and immunities under the International Organizations Immunities Act (22 U.S.C. s.288 et seq.);

(S) Service covered by an election duly approved by an agency charged with the administration of any other state or federal unemployment compensation or employment security law, in accordance with an arrangement pursuant to R.S.43:21-21 during the effective period of such election;

(T) Service performed in the employ of a school, college, or university if such service is performed (i) by a student enrolled at such school, college, or university on a full-time basis in an educational program or completing such educational program leading to a degree at any of the severally recognized

levels, or (ii) by the spouse of such a student, if such spouse is advised at the time such spouse commences to perform such service that (I) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and (II) such employment will not be covered by any program of unemployment insurance;

(U) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(V) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital; service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and regularly attending classes in a nurses' training school approved under the laws of this State; and service performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school approved pursuant to the laws of this State;

(W) Services performed after the effective date of this amendatory act by agents of mutual benefit associations if the compensation to such agents for such services is wholly on a commission basis;

(X) Services performed by operators of motor vehicles weighing 18,000 pounds or more, licensed for commercial use and used for the highway movement of motor freight, who own their equipment or who lease or finance the purchase of their equipment through an entity which is not owned or controlled directly or indirectly by the entity for which the services were performed and who were compensated by receiving a percentage of the gross revenue generated by the transportation move or by a schedule of payment based on the distance and weight of the transportation move;

(Y) Services performed by a certified shorthand reporter certified pursuant to P.L.1940, c.175 (C.45:15B-1 et seq.), provided to a third party by the reporter who is referred to the third party pursuant to an agreement with another certified shorthand reporter or shorthand reporting service, on a freelance basis, compensation for which is based upon a fee per transcript page, flat attendance fee, or other flat minimum fee, or combination thereof, set forth in the agreement;

(Z) Services performed, using facilities provided by a travel agent, by a person, commonly known as an outside travel agent, who acts as an

independent contractor, is paid on a commission basis, sets his own work schedule and receives no benefits, sick leave, vacation or other leave from the travel agent owning the facilities.

(8) If one-half or more of the services in any pay period performed by an individual for an employing unit constitutes employment, all the services of such individual shall be deemed to be employment; but if more than one-half of the service in any pay period performed by an individual for an employing unit does not constitute employment, then none of the service of such individual shall be deemed to be employment. As used in this paragraph, the term "pay period" means a period of not more than 31 consecutive days for which a payment for service is ordinarily made by an employing unit to individuals in its employ.

(9) Services performed by the owner of a limousine franchise (franchisee) shall not be deemed to be employment subject to the "unemployment compensation law," R.S.43:21-1 et seq., with regard to the franchisor if:

(A) The limousine franchisee is incorporated;

(B) The franchisee is subject to regulation by the Interstate Commerce Commission;

(C) The limousine franchise exists pursuant to a written franchise arrangement between the franchisee and the franchisor as defined by section 3 of P.L.1971, c.356 (C.56:10-3); and

(D) The franchisee registers with the Department of Labor and receives an employer registration number.

(j) "Employment office" means a free public employment office, or branch thereof operated by this State or maintained as a part of a State-controlled system of public employment offices.

(k) (Deleted by amendment, P.L.1984, c.24.)

(l) "State" includes, in addition to the states of the United States of America, the District of Columbia, the Virgin Islands and Puerto Rico.

(m) "Unemployment."

(1) An individual shall be deemed "unemployed" for any week during which:

(A) The individual is not engaged in full-time work and with respect to which his remuneration is less than his weekly benefit rate, including any week during which he is on vacation without pay; provided such vacation is not the result of the individual's voluntary action, except that for benefit years commencing on or after July 1, 1984, an officer of a corporation, or a person who has more than a 5% equitable or debt interest in the corporation, whose claim for benefits is based on wages with that corporation shall not be deemed to be unemployed in any week during the individual's term of office or ownership in the corporation; or

(B) The individual is eligible for and receiving a self-employment assistance allowance pursuant to the requirements of P.L.1995, c.394 (C.43:21-67 et al.).

(2) The term "remuneration" with respect to any individual for benefit years commencing on or after July 1, 1961, and as used in this subsection, shall include only that part of the same which in any week exceeds 20% of his weekly benefit rate (fractional parts of a dollar omitted) or $5.00, whichever is the larger, and shall not include any moneys paid to an individual by a county board of elections for work as a board worker on an election day.

(3) An individual's week of unemployment shall be deemed to commence only after the individual has filed a claim at an unemployment insurance claims office, except as the division may by regulation otherwise prescribe.

(n) "Unemployment compensation administration fund" means the unemployment compensation administration fund established by this chapter (R.S.43:21-1 et seq.), from which administrative expenses under this chapter (R.S.43:21-1 et seq.) shall be paid.

(o) "Wages" means remuneration paid by employers for employment. If a worker receives gratuities regularly in the course of his employment from other than his employer, his "wages" shall also include the gratuities so received, if reported in writing to his employer in accordance with regulations of the division, and if not so reported, his "wages" shall be determined in accordance with the minimum wage rates prescribed under any labor law or regulation of this State or of the United States, or the amount of remuneration actually received by the employee from his employer, whichever is the higher.

(p) "Remuneration" means all compensation for personal services, including commission and bonuses and the cash value of all compensation in any medium other than cash.

(q) "Week" means for benefit years commencing on or after October 1, 1984, the calendar week ending at midnight Saturday, or as the division may by regulation prescribe.

(r) "Calendar quarter" means the period of three consecutive calendar months ending March 31, June 30, September 30, or December 31.

(s) "Investment company" means any company as defined in subsection a. of section 1 of P.L.1938, c.322 (C.17:16A-1).

(t) (1) (Deleted by amendment, P.L.2001, c.17).

(2) "Base week," commencing on or after January 1, 1996 and before January 1 2001, means:

(A) Any calendar week during which the individual earned in employment from an employer remuneration not less than an amount which is 20% of the Statewide average weekly remuneration defined in subsection (c) of R.S.43:21-3 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 subparagraph (A) is in employment with more than one employer, the individual may in that calendar week establish a base week with respect to each of the employers from whom the individual earns remuneration equal to not less than the amount defined in this subparagraph (A) during that week; or

(B) If the individual does not establish in his base year 20 or more base weeks as defined in subparagraph (A) of this paragraph (2), any calendar week of an individual's base year during which the individual earned in employment from an 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 subparagraph (B) is in employment with more than one employer, the individual may in that calendar week establish a base week with respect to each of the employers from whom the individual earns remuneration not less than the amount defined in this subparagraph (B) during that week.

(3) "Base week," commencing on or after January 1, 2001, means any calendar week during which the individual earned in employment from an 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 (3) is in employment with more than one employer, the individual may in that calendar week establish a base week with respect to each of the employers from whom the individual earns remuneration equal to not less than the amount defined in this paragraph (3) during that week.

(u) "Average weekly wage" means the amount derived by dividing an individual's total wages received during his base year base weeks (as defined in subsection (t) of this section) from that most recent base year employer with whom he has established at least 20 base weeks, by the number of base weeks in which such wages were earned. In the event that such claimant had no employer in his base year with whom he had established at least 20 base weeks, then such individual's average weekly wage shall be computed as if all of his base week wages were received from one employer and as if all his base weeks of employment had been performed in the employ of one employer.

For the purpose of computing the average weekly wage, the monetary alternative in subparagraph (B) of paragraph (2) of subsection (e) of R.S.43:21-4 shall only apply in those instances where the individual did not have at least

20 base weeks in the base year. For benefit years commencing on or after July 1, 1986, "average weekly wage" means the amount derived by dividing an individual's total base year wages by the number of base weeks worked by the individual during the base year; provided that for the purpose of computing the average weekly wage, the maximum number of base weeks used in the divisor shall be 52.

(v) "Initial determination" means, subject to the provisions of R.S.43:21-6(b)(2) and (3), a determination of benefit rights as measured by an eligible individual's base year employment with a single employer covering all periods of employment with that employer during the base year. For benefit years commencing prior to July 1, 1986, subject to the provisions of R.S.43:21-3(d)(3), if an individual has been in employment in his base year with more than one employer, no benefits shall be paid to that individual under any successive initial determination until his benefit rights have been exhausted under the next preceding initial determination.

(w) "Last date of employment" means the last calendar day in the base year of an individual on which he performed services in employment for a given employer.

(x) "Most recent base year employer" means that employer with whom the individual most recently, in point of time, performed service in employment in the base year.

(y) (1) "Educational institution" means any public or other nonprofit institution (including an institution of higher education):

(A) In which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor or teacher;

(B) Which is approved, licensed or issued a permit to operate as a school by the State Department of Education or other government agency that is authorized within the State to approve, license or issue a permit for the operation of a school; and

(C) Which offers courses of study or training which may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

(2) "Institution of higher education" means an educational institution which:

(A) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) Is legally authorized in this State to provide a program of education beyond high school;

(C) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies,

or a program of training to prepare students for gainful employment in a recognized occupation; and

(D) Is a public or other nonprofit institution.

Notwithstanding any of the foregoing provisions of this subsection, all colleges and universities in this State are institutions of higher education for purposes of this section.

(z) "Hospital" means an institution which has been licensed, certified or approved under the law of this State as a hospital.

3. This act shall take effect immediately.

Approved November 8, 2002.

CHAPTER 95

AN ACT concerning certain penalties for prevailing wage violations and amending P.L.1963, c.150.

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

1. Section 11 of P.L.1963, c.150 (C.34:11-56.35) is amended to read as follows:

C.34:11-56.35 Penalties.

11. Any employer who willfully hinders or delays the commissioner in the performance of his duties in the enforcement of this act, or fails to make, keep, and preserve any records as required under the provisions of this act, or falsifies any such record, or refuses to make any such record accessible to the commissioner upon demand, or refuses to furnish a sworn statement of such record or any other information required for the proper enforcement of this act to the commissioner upon demand, or pays or agrees to pay wages at a rate less than the rate applicable under this act or otherwise violates any provision of this act or of any regulation or order issued under this act shall be guilty of a disorderly persons offense and shall, upon conviction therefor, be fined not less than $100.00 nor more than $1,000 or be imprisoned for not less than 10 nor more than 90 days, or by both such fine and imprisonment. Each week, in any day of which a worker is paid less than the rate applicable to him under this act and each worker so paid, shall constitute a separate offense.

As an alternative to or in addition to any other sanctions provided by law for violations of any provision of P.L.1963, c.150 (C.34:11-56.25 et seq.),

when the Commissioner of Labor finds that an employer has violated that act, the commissioner is authorized to assess and collect administrative penalties, up to a maximum of $2,500 for a first violation and up to a maximum of $5,000 for each subsequent violation, specified in a schedule of penalties to be promulgated as a rule or regulation by the commissioner in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). When determining the amount of the penalty imposed because of a violation, the commissioner shall consider factors which include the history of previous violations by the employer, the seriousness of the violation, the good faith of the employer and the size of the employer's business. No administrative penalty shall be levied pursuant to this section unless the Commissioner of Labor provides the alleged violator with notification of the violation and of the amount of the penalty by certified mail and an opportunity to request a hearing before the commissioner or his designee within 15 days following the receipt of the notice. If a hearing is requested, the commissioner shall issue a final order upon such hearing and a finding that a violation has occurred. If no hearing is requested, the notice shall become a final order upon expiration of the 15-day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. Any penalty imposed pursuant to this section may be recovered with costs in a summary proceeding commenced by the commissioner pursuant to the "Penalty Enforcement Law of 1999", P.L.1999, c.274 (C.2A:58-10 et seq.). Any sum collected as a fine or penalty pursuant to this section shall be applied toward enforcement and administration costs of the Division of Workplace Standards in the Department of Labor.

2. This act shall take effect immediately.

Approved November 11, 2002.

CHAPTER 96

AN ACT concerning the Higher Education Capital Improvement Fund and amending P.L.1999, c.217.

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

1. 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 Commission on 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.

2. This act shall take effect immediately.

Approved November 11, 2002.

CHAPTER 97

AN ACT concerning the feeding of black bears and supplementing Title 23 of the Revised Statutes.

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

C.23:2A-14 Intentional feeding of black bears prohibited; violations, penalties.

1. a. No person shall:

(1) feed, give, place, expose, deposit, distribute or scatter any edible material or attractant with the intention of feeding, attracting or enticing a black bear; or

(2) store pet food, garbage or other bear attractants in a manner that will result in bear feedings when black bear are known to frequent the area.

b. Subsection a. of this section shall not apply in the case of an unintentional feeding of a black bear. "Unintentional feeding"means using or placing any material for a purpose other than to attract or entice black bears but which results in the attraction or enticement of a black bear, and shall include but need not be limited to the use and placement of bait for deer in accordance with section 1 of P.L.1997, c.424 (C.23:4-24.4) and the State Fish and Game Code.

c. (1) If any person violates subsection a. of this section, the department may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation or violations and the court may proceed in the action in a summary manner.

(2) Any person who violates the provisions of subsection a. of this section shall be liable to a civil penalty of up to $1,000 for each offense, to 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 any case before a court of competent jurisdiction wherein injunctive relief has been requested. Civil penalties recovered for violations hereof shall be remitted as provided in R.S.23:10-19. The Superior Court and municipal court shall have jurisdiction to enforce the "Penalty Enforcement Law of 1999."

If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

No person shall be assessed a civil penalty pursuant to this paragraph unless the person has first been issued a prior written warning for a violation of subsection a. of this section.

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

d. The provisions of this section shall be enforced by all municipal police officers, the State Police, and law enforcement officers with the Division of Fish and Wildlife and the Division of Parks and Forestry in the Department of Environmental Protection.

e. Nothing in this section shall be construed to restrict in any way the attraction, capture, or taking of black bears by or at the direction of the Division of Fish and Wildlife for management or research purposes.

2. This act shall take effect immediately.

Approved November 13, 2002.

CHAPTER 98

AN ACT concerning the sharing of textbooks between school districts and supplementing chapter 34 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:34-3 Statewide textbook bank, creation; database.

1. a. Notwithstanding any other law to the contrary, the Department of Education shall coordinate the sharing of textbooks among school districts by creating a Statewide textbook bank. The Department of Education shall create and maintain a database of all textbooks that will be discarded by each school district. The textbook bank database shall be made available on the Department of Education's website and a list of all available textbooks shall be sent to each school district periodically.

b. Each school district shall notify the Department of Education of any textbooks the district intends to discard. The Department of Education shall within 14 days of receiving notification from the school district of the intent to dispose of the textbooks, list the textbooks in the textbook bank database. School districts shall retain the textbooks to be discarded for a period of 120 days after the district has notified the Department of Education.

c. Districts acquiring textbooks using the textbook bank database are responsible for all costs associated with receiving them from the donating district.

d. The department shall make the textbook bank database available for use by nonpublic schools.

C.18A:34-4 Guidelines on useful life of certain textbooks.

2. a. The Department of Education shall develop and disseminate to school districts, guidelines on the useful life of textbooks in the core curriculum content standards subject areas. Textbooks exceeding the useful life guidelines established by the department shall be exempt from the provisions of section 1 of this act.

b. The provisions of section 1 of this act shall not apply to textbooks that are worn out or useless due to damage or mutilation.

3. This act shall take effect on the 180th day after enactment, but the Commissioner of Education may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved November 13, 2002.

CHAPTER 99

AN ACT concerning earthquake endorsements to certain insurance policies.

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

C.17:36-5.38 Earthquake damage endorsement, availability through homeowners' insurance policy.

1. Every insurer that is authorized to transact the business of homeowners' insurance in this State and that offers coverage for earthquake damage by endorsement to those homeowners' insurance policies shall inform insureds at the time of renewal of a homeowners' insurance policy, and applicants at the time of application for a homeowners' insurance policy, of the availability of an endorsement to the policy covering earthquake damage.

C.17:36-5.39 Earthquake damage endorsement, availability through commercial fire, extended coverage insurance policy.

2. Every insurer that is authorized to transact the business of commercial fire and extended coverage insurance in this State and that offers coverage for earthquake damage by endorsement to those commercial fire and extended coverage insurance policies shall inform insureds at the time of renewal of a commercial fire and extended coverage insurance policy, and applicants at the time of application for a commercial fire and extended coverage insurance policy, of the availability of an endorsement to the policy covering earthquake damage.

C.17:36-5.40 Immunity from liability for informing insureds of endorsement.

3. Notwithstanding any other provision of law to the contrary, no person, including, but not limited to, an insurer and an insurance producer, as defined in section 3 of P.L.2001, c.210 (C.17:22A-28), shall be liable in an action for damages on account of the election or non-election by an applicant or insured of the earthquake endorsement as a result of the requirement to inform the applicant or insured of the availability of the earthquake endorsement pursuant to sections 1 and 2 of this act, unless the person causes damage by a willful, wanton or grossly negligent act of commission or omission.

C.17:36-5.41 Provision of notice to applicants, insureds.

4. a. Every insurer, subject to the provisions of sections 1 and 2 of this act, shall provide a notice, prepared by the commissioner pursuant to subsection b. of this section, to applicants and insureds with the offer required to be made pursuant to sections 1 and 2 of this act.

b. The commissioner shall prepare a notice to be distributed pursuant to subsection a. of this section that sets forth the ratio of earthquake damage claims to the premiums written for such coverage over the preceding five calendar years in New Jersey and any other information regarding earthquake coverage that the commissioner deems relevant.

5. This act shall take effect on the 90th day following enactment.

Approved November 14, 2002.

CHAPTER 100

AN ACT concerning the statute of limitations for fraudulent conveyance actions and amending R.S.25:2-31.

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

1. R.S.25:2-31 is amended to read as follows:

Extinguishment of cause of action.

25:2-31. Extinguishment of cause of action.

A cause of action with respect to a fraudulent transfer or obligation under this article is extinguished unless action is brought:

a. Under subsection a. of R.S.25:2-25, within four years after the transfer was made or the obligation was incurred or, if later, within one year after the transfer or obligation was discovered by the claimant;

b. Under subsection b. of R.S.25:2-25 or subsection a. of R.S.25:2-27, within four years after the transfer was made or the obligation was incurred; or

c. Under subsection b. of R.S.25:2-27, within one year after the transfer was made or the obligation was incurred.

2. This act shall take effect immediately.

Approved November 18, 2002.

CHAPTER 101

AN ACT prohibiting the electronic printing of complete credit card numbers on certain sales receipts.

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

C.56:11-42 Electronic printing of credit card numbers on sales receipts, regulated.

1. No retail sales establishment shall print electronically more than the last five digits of a customer's credit card account number or the expiration date of that credit card upon any sales receipt provided at the point of sale to the customer, except that the provisions of this section shall not apply to any sales receipt in which the sole means of recording the customer's credit card number is by handwriting or by an imprint or copy of the credit card.

C.56:11-43 Rules, regulations.

2. The Attorney General of the State of New Jersey shall adopt those rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the purposes of this act.

3. This act shall take effect on January 1, 2004.

Approved November 18, 2002.

CHAPTER 102

AN ACT concerning surgical debarking or silencing of dogs, supplementing Title 4 of the Revised Statutes, and amending P.L.1941, c.151 and R.S.4:22-26.

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

C.4:19-38 Debarking silencing of dog, certain circumstances; third degree crime.

1. A person who surgically debarks or silences a dog, or causes the surgical debarking or silencing of a dog, for reasons other than to protect the life or health of the dog as deemed necessary by a duly licensed veterinarian shall be guilty of a crime of the third degree.

C.4:19-39 Duly licensed veterinarian permitted to debark, silence dog; penalty.

2. No person other than a duly licensed veterinarian may surgically debark or silence a dog. A person who violates this section shall be guilty of a crime of the third degree.

C.4:19-40 Seizure, forteiture of dog at time of arrest of violator.

3. a. A dog that has been surgically debarked or silenced may be seized at the time of arrest of a person charged with violating section 1 or 2 of P.L.2002, c.102 (C.4:19-38 or C.4:19-39), or at any time thereafter, and, upon seizure and pending final determination of the charges, shall be kept and cared for in a humane manner by an appropriate and qualified individual or entity as directed by the court.

b. If a person is found guilty of violating section 1 or 2 of P.L.2002, c.102 (C.4:19-38 or C.4:19-39), the court may order forfeiture of a dog seized pursuant to subsection a. of this section for such disposition as the court deems appropriate.

c. The costs of sheltering, feeding, caring for, and treating a dog seized pursuant to subsection a. or forfeited pursuant to subsection b. of this section, including any veterinary expenses incurred for the provision of any of those services and any other reasonably related expenses incurred, shall be borne by the person found guilty of violating section 1 or 2 of P.L.2002, c.102 (C.4:19-38 or C.4:19-39).

C.4:19-41 Statement filed by veterinarian.

4. Whenever a duly licensed veterinarian surgically debarks or silences a dog, the veterinarian shall prepare and file a written statement with the State Department of Health and Senior Services setting forth the veterinary basis for administering the surgery and providing the name and address of the owner, keeper or harborer of the debarked or silenced dog. A veterinarian who fails to comply with the provisions of this section shall be subject to disciplinary action by the State Board of Veterinary Medical Examiners.

C.4:19-42 Issuance of license, determination as to whether dog surgically debarked, silenced.

5. a. No municipal clerk or other official designated by the governing body of any municipality to license dogs therein shall grant any such license and official metal registration tag for any dog unless the owner thereof when applying for the license and registration tag indicates whether the dog has been surgically debarked or silenced.

b. A person who knowingly provides false information on a dog license application as to whether a dog has been surgically debarked or silenced shall be guilty of a disorderly persons offense.

c. The municipal clerk or other official designated by the governing body of any municipality to license dogs therein may, upon request of any law enforcement officer or municipal animal control officer, provide notice thereto of the name and address of any person indicating on a dog license application the possession of a surgically debarked or silenced dog.

C.4:19-43 Information provided to prospective owner.

6. An owner, keeper or harborer of a dog that has been surgically debarked or silenced shall, prior to selling or donating the dog, inform the prospective owner that the dog has been surgically debarked or silenced. A person who violates this section shall be guilty of a petty disorderly persons offense.

7. Section 5 of P.L.1941, c.151 (C.4:19-15.5) is amended to read as follows:

C.4:19-15.5 Application for dog license, information requested, preservation.

5. The application shall state the breed, sex, age, color and markings of the dog for which license and registration are sought, whether it is of a long- or short-haired variety, and whether it has been surgically debarked or silenced; also the name, street and post-office address of the owner and the person who shall keep or harbor such dog. The information on the application and the registration number issued for the dog shall be preserved for a period of three years by the clerk or other local official designated to license dogs in the municipality. In addition, the clerk or other local official shall forward to the State Department of Health and Senior Services each month, on forms furnished by the department an accurate account of registration numbers issued or otherwise disposed of. Registration numbers shall be issued in the order of the applications.

8. R.S.4:22-26 is amended to read as follows:

Penalty for acts constituting cruelty in general.

4:22-26. A person who shall:

a. Overdrive, overload, drive when overloaded, overwork, deprive of necessary sustenance, abuse, or needlessly kill, torment, torture, maim, hang, unnecessarily or cruelly beat, needlessly mutilate, or cruelly kill a living animal or creature;

b. Cause or procure any such acts enumerated in subsection a. of this section to be done;

c. Inflict unnecessary cruelty upon a 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 his possession sheep or cattle, which he claims to own, marked contrary to this subsection unless they were bought in market or of a stranger;

t. Abandon a domesticated animal;

u. For amusement or gain, cause, allow, or permit the fighting or baiting of a living animal or creature;

v. Own, possess, keep, train, promote, purchase, or knowingly sell a living animal or creature for the purpose of fighting or baiting that animal or creature;

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. 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; or

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) --

Shall forfeit and pay a sum not to exceed $250, except in the case of a violation of subsection t. a mandatory sum of $500, and $1,000 if the violation occurs on or near a roadway, and in the case of a violation of subsection x. or y. a sum not to exceed $1,000 for each domestic dog or cat fur or fur or hair product or domestic dog or cat carcass or meat product, 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.

9.This act shall take effect immediately.

Approved November 20, 2002.

CHAPTER 103

AN ACT concerning thoroughbred breeder awards and amending P.L.1940, c.17 and P.L.1971, c.137.

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

1. Section 46 of P.L.1940, c.17 (C.5:5-66) is amended to read as follows:

C.5:5-66 Disposition of undistributed deposits.

46. Every permitholder engaged in the business of conducting horse race meetings under this act, except the New Jersey Sports and Exposition Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.), shall make disposition of the deposits remaining undistributed pursuant to section 44 of P.L.1940, c.17 (C.5:5-64) as follows:

a. In the case of harness races:

(1) On a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), pay to the commission, at the time and in the manner prescribed by the commission, 1.25% of so much of the total contributions to all parimutuel pools conducted or made on any and every horse race, except that for pools where the patron is required to select two horses, the permitholder shall pay 2.25% of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall pay 5.25% of the total contributions;

(2) Hold and set aside in an account designated as a special trust account 1.15% of such total contributions in all pools, to be used and distributed as hereinafter provided and as provided in section 5 of P.L.1967, c.40 (C.5:5-88), for the following purposes and no other:

(a) 37% thereof to increase purses and grant awards for starting horses, as provided or as may be provided by rules of the New Jersey Racing Commission, with payment to be made in the same manner as payment of other purses and awards;

(b) 55% thereof for the establishment of a Sire Stakes Program for standardbred horses, with payment to be made to the Department of Agriculture for administration as hereinbefore provided;

(c) 5% thereof to the Sire Stakes Program for purse supplements designed to improve and promote the standardbred breeding industry in New Jersey by increasing purses for owners of horses that are sired by a New Jersey registered stallion and are eligible to participate in the Sire Stakes Program. The Sire Stakes Program board of trustees shall consult with the Standardbred Breeders' and Owners' Association of New Jersey before disbursing money for purse supplements;

(d) 3% thereof for other New Jersey horse breeding and promotion conducted by the New Jersey Department of Agriculture.

(3) Retain 7.7875%, or in the case of races on a charity racing day 7.20%, of so much of such total contributions for his own uses and purposes. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall retain 8.7575%, or in the case of races on a charity racing day 7.70%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 11.6675%, or in the case of races on a charity racing day 9.20%, of the total contributions. Each permitholder shall contribute out of its 11.6675% or 9.20% share of pools, where the patron is required to select three or more horses, a sum deemed necessary by the racing commission, to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of said commission.

(4) Distribute as purse money and for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey 7.69375%, or in the case of races on a charity racing day 7.40%, of such total contributions. Expenditures for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey shall not exceed 3.2% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the Standardbred Breeders' and Owners' Association of New Jersey and the tracks. Notwithstanding the foregoing, for pools where the patron is required to select two or more horses, the permitholder shall distribute as purse money 8.42875%, or in the case of races on a charity racing day 7.90%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 10.63375%, or in the case of races on a charity racing day 9.40%, of the total contributions. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, each permitholder shall retain out of the 10.63375% or 9.40% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other

testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of said commission.

(5) In the case of races on a racing day other than a charity racing day, distribute to the Standardbred Breeders' and Owners' Association of New Jersey for the administration of a health benefits program for horsemen .29375% of such total contributions, except that for pools where the patron is required to select two or more horses, the amount shall be .52875%, and for pools where the patron is required to select three or more horses, the amount shall be 1.23375%.

(6) In the case of races on a racing day other than a charity racing day, distribute to the Sire Stakes Program for standardbred horses .05% of such total contributions, except that for pools where the patron is required to select two or more horses, the amount shall be .09%, and for pools where the patron is required to select three or more horses, the amount shall be .21%.

(7) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .025% of such total contributions, except that for pools where the patron is required to select two or more horses, the amount shall be.045%, and for pools where the patron is required to select three or more horses, the amount shall be .105%.

Except as otherwise provided by law, no admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from any permitholder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

b. In the case of running races:

(1) Where the amount derived from the parimutuel handle, excluding the handle derived from intertrack wagering, does not exceed $1 million per day based on such contributions accumulated and averaged during the calendar year, the permitholder shall:

(a) On a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), pay to the commission, at the time and in the manner prescribed by the commission, .30% of so much of the total contributions to all parimutuel pools conducted or made on any and every horse race, except that for pools where the patron is required to select three or more horses, the permitholder shall pay 1.30% of the total contributions.

(b) Hold and set aside in an account designated as a special trust account .05%of such total contributions to be used and distributed for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration, as provided in section 5 of P.L.1967, c.40 (C.5:5-88).

(c) Retain 9.991%, or in the case of races on a charity racing day 9.85%, of such total contributions for his own uses and purposes. For pools where the patron is required to select two horses, the permitholder shall retain 11.061%, or in the case of races on a charity racing day 10.92%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 13.941%, or in the case of races on a charity racing day 13.33%, of the total contributions. Each permitholder shall contribute out of its 13.941% or 13.33% share of pools, where the patron is required to select three or more horses, a sum deemed necessary by the racing commission, to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(d) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association 6.141%, or in the case of races on a charity racing day 6.00%, of such contributions. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall distribute as purse money 7.071%, or in the case of races on a charity racing day 6.93%, of such contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 9.631%, or in the case of races on a charity racing day 9.02%, of the total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association shall not exceed 2.5% of the sum available for distribution as purse money from all parimutuel pools. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Thoroughbred Horsemen's Association and the permitholder. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, each permitholder shall retain out of the 9.631% or 9.02% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(e) Deduct and set aside in a special trust account for the establishment and support by the commission of the thoroughbred breeding industry in New Jersey .8% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be 1.3%. The money in the special trust account shall be used to: (i) improve purses for closed races; (ii) provide awards to owners and breeders of registered New Jersey bred horses who earn portions of purses in open and closed races at New Jersey race tracks or in closed races at an out-of-State track as part of a multi-state event to promote thoroughbred breeding, and to owners of stallions posted on the official stallion

roster of the Thoroughbred Breeders' Association of New Jersey, which sire such New Jersey bred money earners; and (iii) provide awards to the New Jersey Thoroughbred Breeders' Association for programs beneficial to thoroughbred breeding in this State. The New Jersey thoroughbred award program shall be administered and disbursed by the Thoroughbred Breeders' Association of New Jersey subject to the approval of the commission. The special trust account to be established pursuant to this paragraph shall be separate and apart from the special trust account established and maintained pursuant to subparagraph (b) of this paragraph.

(f) (Deleted by amendment, P.L.1986, c.19.)

(g) In the case of races on a racing day other than a charity racing day, distribute to the Thoroughbred Breeders' Association of New Jersey .012% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be .052%.

(h) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .006% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be .026%.

(i) (Deleted by amendment, P.L.2002, c.103).

(j) Except as otherwise provided by law, not be subject to an admission or amusement tax, excise tax, license or horse racing fee of any kind by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

(2) Where the amount derived from the parimutuel handle, excluding the handle derived from intertrack wagering, exceeds $1 million per day based on such contributions accumulated and averaged during the calendar year, the permitholder shall:

(a) On a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), pay to the commission, at the time and in the manner prescribed by the commission, .50% of so much of the total contributions to all parimutuel pools conducted or made on any and every horse race.

(b) Hold and set aside in an account designated as a special trust account .05%of such total contributions to be used and distributed for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration, as provided in section 5 of P.L.1967, c.40 (C.5:5-88).

(c) Retain 9.305%, or in the case of races on a charity racing day 9.07%, of such total contributions for his own uses and purposes. For pools where the patron is required to select two horses, the permitholder shall retain 10.375%,

or in the case of races on a charity racing day 10.14%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 13.545%, or in the case of races on a charity racing day 13.31%, of the total contributions. Each permitholder shall contribute out of its 13.545% or 13.31% share of pools, where the patron is required to select three or more horses, a sum deemed necessary by the racing commission, to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(d) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association 6.815%, or in the case of races on a charity racing day 6.58%, of such contributions. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall distribute as purse money 7.745%, or in the case of races on a charity racing day 7.51%, of such contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 10.085%, or in the case of races on a charity racing day 9.85%, of the total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association shall not exceed 2.5% of the sum available for distribution as purse money from all parimutuel pools. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Thoroughbred Horsemen's Association and the permitholder. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, each permitholder shall retain out of the 10.085% or 9.85% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(e) Deduct and set aside in a special trust account for the establishment and support by the commission of the thoroughbred breeding industry in New Jersey .8% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be 1.29%. The money in the special trust account shall be used to: (i) improve purses for closed races; (ii) provide awards to owners and breeders of registered New Jersey bred horses who earn portions of purses in open and closed races at New Jersey race tracks or in closed races at an out-of-State track as part of a multi-state event to promote thoroughbred breeding, and to owners of stallions posted on the official stallion roster of the Thoroughbred Breeders' Association of New Jersey, which sire such New Jersey bred money earners; and (iii) provide awards to the New Jersey Thoroughbred Breeders' Association for programs

beneficial to thoroughbred breeding in this State. The New Jersey thoroughbred award program shall be administered and disbursed by the Thoroughbred Breeders' Association of New Jersey subject to the approval of the commission. The special trust account to be established pursuant to this paragraph shall be separate and apart from the special trust account established and maintained pursuant to subparagraph (b) of this paragraph.

(f) (Deleted by amendment, P.L.1986, c.19.)

(g) In the case of races on a racing day other than a charity racing day, distribute to the Thoroughbred Breeders' Association of New Jersey .02% of such total contributions.

(h) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

(i) (Deleted by amendment, P.L.2002, c.103).

(j) Except as otherwise provided by law, not be subject to an admission or amusement tax, excise tax, license or horse racing fee of any kind from any permitholder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

2. Section 7 of P.L.1971, c.137 (C.5:10-7) is amended to read as follows:

C.5:10-7 Authority race permit.

7. a. The authority is hereby authorized, licensed and empowered to apply to the Racing Commission for a permit or permits to hold and conduct, at any of the projects set forth in paragraphs (1) and (5) of subsection a. of section 6 of P.L.1971, c.137 (C.5:10-6), horse race meetings for stake, purse or reward, and to provide a place or places on the race meeting grounds or enclosure for wagering by patrons on the results of such horse races by the parimutuel system, and to receive charges and collect all revenues, receipts and other sums from the ownership and operation thereof; provided that only the authority through its employees shall conduct such horse race meetings and wagering and the authority is expressly prohibited from placing in the control of any other person, firm or corporation the conduct of such horse race meetings, or wagering.

b. Except as otherwise provided in this section, such horse race meetings and parimutuel wagering shall be conducted by the authority in the manner and subject to compliance with the standards set forth in P.L.1940, c.17 (C.5:5-22 et seq.) and the rules, regulations and conditions prescribed by the Racing Commission thereunder for the conduct of horse race meetings and for parimutuel betting at such meetings.

c. Application for said permit or permits shall be on such forms and shall include such accompanying data as the Racing Commission shall prescribe for other applicants. The Racing Commission shall proceed to review and

act on any such application within 30 days after its filing and the Racing Commission is authorized in its sole discretion to determine whether a permit shall be granted to the authority. If, after such review, the Racing Commission acts favorably on such application, a permit shall be granted to the authority without any further approval and shall remain in force and effect so long as any bonds or notes of the authority remain outstanding, the provisions of any other law to the contrary notwithstanding. In granting a permit to the authority to conduct a horse race meeting, the Racing Commission shall not be subject to any limitation as to the number of tracks authorized for the conduct of horse race meetings pursuant to any provision of P.L.1940, c.17 (C.5:5-22 et seq.). Said permit shall set forth the dates to be allotted to the authority for its initial horse race meetings. Thereafter application for dates for horse race meetings by the authority and the allotment thereof by the Racing Commission, including the renewal of the same dates theretofore allotted, shall be governed by the applicable provisions of P.L.1940, c.17 (C.5:5-22 et seq.). Notwithstanding the provisions of any other law to the contrary, the Racing Commission shall allot annually to the authority (1) for the Meadowlands Complex, in the case of harness racing, not less than 100 racing days, and in the case of running racing, not less than 56 racing days, if and to the extent that application is made therefor, and (2) for any other project which is set forth in paragraph (5) of subsection a. of section 6 of P.L.1971, c.137 (C.5:10-6), and which was previously operated by a permitholder other than the authority, racing days shall be limited, in type of racing and amount of days, to those allotted by the Racing Commission to the prior permitholder for the year 1985, as of December 13, 1984; except that the authority may apply to the Racing Commission for an extension of the number and type of racing days pursuant to section 2 of P.L.1984, c.247 (C.5:5-43.1).

d. No hearing, referendum or other election or proceeding, and no payment, surety or cash bond or other deposit, shall be required for the authority to hold or conduct the horse race meetings with parimutuel wagering herein authorized.

e. The authority shall determine the amount of the admission fee for the races and all matters relating to the collection thereof.

f. Distribution of sums deposited in parimutuel pools to winners thereof shall be in accordance with the provisions of section 44 of P.L.1940, c.17 (C.5:5-64) pertaining thereto. The authority shall make disposition of the deposits remaining undistributed as follows:

(1) In the case of harness races:

(a) Hold and set aside in an account designated as a special trust account 1% of such total contributions in all pools, to be used and distributed as hereinafter provided and as provided in section 5 of P.L.1967, c.40, for the following purposes and no other:

(i) 42 1/2% thereof to increase purses and grant awards for starting horses, as provided or as may be provided by rules of the New Jersey Racing Commission, with payment to be made in the same manner as payment of other purses and awards;

(ii) 49% thereof for the establishment of a Sire Stakes Program for standardbred horses, with payment to be made to the Department of Agriculture for administration as hereinbefore provided;

(iii) 5 1/2% thereof to the Sire Stakes Program for purse supplements designed to improve and promote the standardbred breeding industry in New Jersey by increasing purses for owners of horses that are sired by a New Jersey registered stallion and are eligible to participate in the Sire Stakes Program. The Sire Stakes Program board of trustees shall consult with the Standardbred Breeders' and Owners' Association of New Jersey before disbursing money for purse supplements;

(iv) 3% thereof for other New Jersey horse breeding and promotion conducted by the New Jersey Department of Agriculture.

Payment of the sums held and set aside pursuant to subparagraphs (iii) and (iv) shall be made to the commission every seventh day of any and every race meeting in the amount then due, as determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require.

(b) Distribute as purse money and for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey 5.1175%, or in the case of races on a charity racing day 5%, of such total contributions. Expenditures for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey shall not exceed 3.5% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the Standardbred Breeders' and Owners' Association of New Jersey and the authority. Notwithstanding the foregoing, for pools where the patron is required to select two or more horses, the authority shall distribute as purse money 5.6175%, or in the case of races on a charity racing day 5.5%, of the total contributions and for pools where the patron is required to select three or more horses, the authority shall distribute as purse money 7.1175%, or in the case of races on a charity racing day 7%, of the total contributions. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, the authority shall retain out of the 7.1175% or 7% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the

commission shall deem proper and necessary and which shall be subject to the regulation and control of said commission.

(c) In the case of races on a racing day other than a charity racing day, distribute to the Standardbred Breeders' and Owners' Association of New Jersey for the administration of a health benefits program for horsemen .1175% of such total contributions.

(d) In the case of races on a racing day other than a charity racing day, distribute to the Sire Stakes Program for standardbred horses .02% of such total contributions.

(e) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

(2) In the case of running races:

(a) Hold and set aside in an account designated as a special trust account .05% of such total contributions, to be used and distributed for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration, as provided in section 5 of P.L.1967, c.40 (C.5:5-88).

(b) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association 4.475%, or in the case of races on a charity racing day 4.24%, of such total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association shall not exceed 2.9% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Thoroughbred Horsemen's Association and the authority. Notwithstanding the foregoing, for pools where the patron is required to select three or more horses, the authority shall distribute as purse money 7.475%, or in the case of races on a charity racing day 7.24%, of the total contributions.

(c) Deduct and set aside in a special trust account established pursuant to section 46b.(1)(e) and 46b.(2)(e) of P.L.1940, c.17 (C.5:5-66) for the establishment and support by the commission of the thoroughbred breeding industry in New Jersey .1% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be .6%. The money in the special trust account shall be used to: (i) improve purses for closed races; (ii) provide awards to owners and breeders of registered New Jersey bred horses who earn portions of purses in open and closed races at New Jersey race tracks or in closed races at an out-of-State track as part of a multi-state event to promote thoroughbred breeding, and to owners of stallions posted on the official stallion roster of the Thoroughbred Breeders' Association of New Jersey, which sire such New Jersey bred money earners;

and (iii) provide awards to the New Jersey Thoroughbred Breeders' Association for programs beneficial to thoroughbred breeding in this State. The New Jersey thoroughbred award program shall be administered and disbursed by the Thoroughbred Breeders' Association of New Jersey subject to the approval of the commission. The special trust account to be established pursuant to this paragraph shall be separate and apart from the special trust account established and maintained pursuant to subparagraph (a) of this paragraph.

(d) In the case of races on a racing day other than a charity racing day, distribute to the Thoroughbred Breeders' Association of New Jersey .02% of such total contributions.

(e) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

Payment of the sums held and set aside pursuant to subparagraphs (a) and (c) of this subsection shall be made to the commission every seventh day of any and every race meeting in the amount then due, as determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require.

In addition to the amounts above, in the case of races on a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), an amount equal to 1/2 of 1% of all parimutuel pools shall be paid to the commission at the time and in the manner prescribed by the commission.

All amounts remaining in parimutuel pools, including the breaks, after such distribution and payments shall constitute revenues of the authority. Except as otherwise expressly provided in this section 7, the authority shall not be required to make any payments to the Racing Commission or others in connection with contributions to parimutuel pools.

In the event that a written agreement between the authority and the respective horsemen's associations shall require the distribution of additional sums of money to increase purses or contributions to the special trust accounts hereinabove provided, or both, any such distribution to be made in the year 1981 shall be made by the authority only from, and to the extent of, available moneys from the preceding year set aside for such purpose, after application of the authority's revenues, moneys or other funds as provided in subsection c.(1), (2), (3), (4), (5), (6) and (7) of section 6 of P.L.1971, c.137 (C.5:10-6).

g. All sums held by the authority for payment of outstanding parimutuel tickets not claimed by the person or persons entitled thereto within the time provided by law shall be paid upon the expiration of such time, without further obligation to such ticketholder, as follows:

(1) In the case of running and harness races, beginning July 1, 1997 50% of those sums shall be paid to the Racing Commission for deposit in the general fund of the State and disposition in accordance with section 4 of P.L.1997, c.29 (C.5:5-68.1);

(2) In the case of running races, 50% of those sums shall be paid to the commission and set aside in the special trust account established pursuant to section 46b.(1)(e) and section 46b.(2)(e) of P.L.1940, c.17 (C.5:5-66); and

(3) In the case of harness races, 25% of those sums shall be retained by the permitholder to supplement purses for sire stakes races on which there is parimutuel wagering, and 25% shall be retained by the permitholder to supplement overnight purses.

h. No admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from the authority by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

i. Any horse race meeting and the parimutuel system of wagering upon the results of horse races held at such race meeting shall not under any circumstances, if conducted as provided in the act and in conformity thereto, be held or construed to be unlawful, other statutes of the State to the contrary notwithstanding.

j. Each employee of the authority engaged in the conducting of horse race meetings shall obtain the appropriate license from the Racing Commission, subject to the same terms and conditions as is required of similar employees of other permitholders. The Racing Commission may suspend any member of the authority upon approval of the Governor and the license of any employee of the authority in connection with the conducting of horse race meetings, pending a hearing by the Racing Commission, for any violation of the New Jersey laws regulating horse racing or any rule or regulation of the commission. Such hearing shall be held and conducted in the manner provided in said laws.

3. This act shall take effect immediately.

Approved November 22, 2002.

CHAPTER 104

AN ACT requiring criminal history record background checks for health care professionals, supplementing Title 45 of the Revised Statutes, amending P.L.1997, c.100 and repealing section 18 of P.L.1997, c.331.

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

C.45:1-28 Definitions relative to criminal history background checks for health care professionals.

1. As used in this act:

"Applicant" means an applicant for licensure or other authorization to engage in a health care profession.

"Board" means a professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Health care professional" means a health care professional who is licensed or otherwise authorized, pursuant to Title 45 or Title 52 of the Revised Statutes, to practice a health care profession that is regulated by one of the following boards or by the Director of the Division of Consumer Affairs: 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 Optometrists, the Board of Pharmacy of the State of New Jersey, the State Board of Chiropractic Examiners, the Acupuncture Examining Board, the State Board of Physical Therapy, the State Board of Respiratory Care, the Orthotics and Prosthetics Board of Examiners, the State Board of Psychological Examiners, the State Board of Social Work Examiners, the State Board of Veterinary Medical Examiners, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology and Speech-Language Pathology Advisory Committee, the State Board of Marriage and Family Therapy Examiners, the Occupational Therapy Advisory Council or the Certified Psychoanalysts Advisory Committee.

Health care professional shall not include a nurse aide or personal care assistant who is required to undergo a criminal history record background check pursuant to section 2 of P.L.1997, c.100 (C.26:2H-83) or a homemaker-home health aide who is required to undergo a criminal history record background check pursuant to section 7 of P.L.1997, c.100 (C.45:11-24.3).

C.45:1-29 Criminal history record background check required for licensure of health care professional.

2. a. A professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety or the director who regulates the practice of a health care professional, as applicable, shall not issue an initial license or other authorization to practice a health care profession that is regulated by that board or the director to any applicant therefor unless the board or director, as applicable, first determines, consistent with

section 8 of P.L.1978, c.73 (C.45:1-21), that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which may disqualify the applicant from being licensed or otherwise authorized to practice as a health care professional.

C.45:1-30 Submission of information by applicant.

3. a. An applicant who is required to undergo a criminal history record background check pursuant to section 2 of this act shall submit to the director that individual's name, address and fingerprints taken on standard fingerprint cards by a State or municipal law enforcement agency or by a private entity under contract with the State. The director is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required pursuant to this act.

b. Upon receipt of the criminal history record information for an applicant from the Federal Bureau of Investigation or the Division of State Police, the director shall immediately notify the board, as applicable.

c. If an applicant refuses to consent to, or cooperate in, the securing of a criminal history record background check, the board or director, as applicable, shall not issue a license or other authorization to the applicant and shall notify the applicant of that denial.

C.45:1-31 Applicant to assume cost.

4. An applicant shall be required to assume the cost of the criminal history record background check conducted pursuant to sections 1 through 3 of this act and section 14 of P.L.1997, c.100 (C.53:1-20.9a), in accordance with procedures determined by regulation of the director.

5. Section 14 of P.L.1997, c.100 (C.53:1-20.9a) is amended to read as follows:

C.53:1-20.9a Applicant background check for certain health care professionals.

14. a. In accordance with the provisions of sections 2 through 6 and sections 7 through 13 of P.L.1997, c.100 (C.26:2H-83 through 87 and C.45:11-24.3 through 24.9) and P.L.2002, c.104 (C.45:1-28 et al.), the Division of State Police in the Department of Law and Public Safety shall conduct a criminal history record background check, including a name and fingerprint identification check, of:

(1) each applicant for nurse aide or personal care assistant certification submitted to the Department of Health and Senior Services and of each applicant for homemaker-home health aide certification submitted to the New Jersey Board of Nursing in the Division of Consumer Affairs;

(2) each nurse aide or personal care assistant certified by the Department of Health and Senior Services and each homemaker-home health aide certified by the New Jersey Board of Nursing, as required pursuant to P.L.1997, c.100 (C.26:2H-83 et al.); and

(3) each applicant for licensure or other authorization to engage in a health care profession who is required to undergo a criminal history record background check pursuant to P.L.2002, c.104 (C.45:1-28 et al.).

b. For the purpose of conducting a criminal history record background check pursuant to subsection a. of this section, the Division of State Police shall examine its own files and arrange for a similar examination by federal authorities. The division shall immediately forward the information obtained as a result of conducting the check to: the Commissioner of Health and Senior Services, in the case of an applicant for nurse aide or personal care assistant certification or a certified nurse aide or personal care assistant; the New Jersey Board of Nursing in the Division of Consumer Affairs in the Department of Law and Public Safety, in the case of an applicant for homemaker-home health aide certification or a certified homemaker-home health aide; and the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, in the case of an applicant for licensure or other authorization to practice as a health care professional as defined in section 1 of P.L.2002, c.104 (C.45:1-28).

C.45:1-32 Rules, regulations.

6. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

Repealer.

7. Section 18 of P.L.1997, c.331 (C.45:2D-18) is repealed.

8. This act shall take effect on the 365thday after enactment, but the Director of the Division of Consumer Affairs in the Department of Law and Public Safety may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved November 22, 2002.

CHAPTER 105

AN ACT concerning low-level radioactive waste, amending P.L.1987, c.333 and P.L.1991, c.166, and repealing 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.1987, c.333 (C.13:1E-179) is amended to read as follows:

C.13:1E-179 Definitions.

3. As used in this act:

"Class of low-level radioactive waste" means a designation of low-level radioactive waste by the United States Nuclear Regulatory Commission based on the concentration of specific radionuclides in the waste;

"Commission" means the Northeast Interstate Low-Level Radioactive Waste Commission created pursuant to Article IV of P.L.1983, c.329 (C.32:31-5);

"Department" means the Department of Environmental Protection;

"Disposal" means the isolation of low-level radioactive waste from the biosphere for the hazardous life of the waste;

"Facility" means the land, buildings, equipment, and improvements used or developed for the treatment, storage, or disposal of the low-level radioactive wastes generated within the party states to the Northeast Interstate Low-Level Radioactive Waste Management Compact;

"Low-level radioactive waste" means radioactive waste that (1) is neither high-level waste nor spent fuel, nor by-product material as defined in paragraph (2) of subsection (e) of 42 U.S.C. s.2014; and (2) is classified by the federal government as low-level waste, consistent with existing law; but does not include waste generated as a result of atomic energy defense activities of the federal government, as defined in the "Low-Level Radioactive Waste Policy Act," Pub.L.96-573 (42 U.S.C. s.2021b et seq.) and the "Low-Level Radioactive Waste Policy Amendments Act of 1985," Pub.L.99-240 (42 U.S.C. s.2021b et seq.) or federal research and development activities;

"Plan" means the Low-Level Radioactive Waste Disposal Plan adopted by the department pursuant to section 10 of P.L.1987, c.333 (C.13:1E-186);

"Region" means the geographical area encompassed by the combined jurisdictions of the party states to the Northeast Interstate Low-Level Radioactive Waste Management Compact;

"Site" means both the physical location with a buffer zone and the technology employed to isolate low-level radioactive waste at that location; and

"Generator" means any person, association, public utility, hospital, clinic, research laboratory, corporation, society, radiopharmaceutical facility, academic facility, or nuclear medical research facility that produces low-level radioactive waste, or any other entity identified by the board that produces low-level

radioactive waste, or that is licensed by the United States Nuclear Regulatory Commission to use, possess, handle or dispose of radioactive materials.

2. Section 5 of P.L.1991, c.166 (C.13:1E-181.3) is amended to read as follows:

C.13:1E-181.3 Low-Level Radioactive Waste Disposal Facility Fund.

5. a. The Low-level Radioactive Waste Disposal Facility Fund is established as a nonlapsing revolving fund in the Department of Environmental Protection. The fund shall be administered by the department, and shall be credited with all fees collected pursuant to section 3 of P.L.1991, c.166 (C.13:1E-181.1) prior to the effective date of P.L.2002, c.105. Moneys in the fund shall be used by the department to perform the functions for which it is responsible under the provisions of P.L.1987, c.333 (C.13:1E-177 et seq.), the "Low-Level Radioactive Waste Policy Act," Pub.L.96-573 (42 U.S.C. s.2021b et seq.) and the "Low-Level Radioactive Waste Policy Amendments Act of 1985," Pub.L.99-240 (42 U.S.C.s.2021b et seq.). The expenditure of moneys in the fund shall be subject to the approval of the Director of the Division of Budget and Accounting in the Department of the Treasury. In the event that additional expenditures are not otherwise required, any moneys remaining in the fund shall be returned to generators in the same proportion in which the fees were assessed and paid.

b. The department shall cause an annual audit to be made of the fund and all expenditures of moneys from the fund. The audit shall include a determination of the extent to which the expenditures directly relate to costs incurred in the implementation of the relevant provisions of P.L.1987, c.333 (C.13:1E-177 et seq.), the "Low-Level Radioactive Waste Policy Act," Pub.L.96-573 (42 U.S.C.s.2021b et seq.), and the "Low-Level Radioactive Waste Policy Amendments Act of 1985," Pub.L.99-240 (42 U.S.C. s.2021b et seq.), including, but not limited to, salaries and administrative expenses. Each annual audit shall be subject to review by the State Auditor, and shall be transmitted to the presiding officer of each House of the Legislature and to the respective chairpersons of the Senate Environment Committee and the Assembly Environment and Solid Waste Committee, or their successors.

3. Section 10 of P.L.1987, c.333 (C.13:1E-186) is amended to read as follows:

C.13:1E-186 Low-Level Radioactive Waste Disposal Plan.

10. a. The department shall review the regional management plan developed by the Northeast Interstate Low-Level Radioactive Waste Commission pursuant to Article V of P.L.1983, c.329 (C.32:31-6), and revise and update the Low-Level Radioactive Waste Disposal Plan when, in the discretion of the

department, changes in the amount or class of low-level radioactive waste generated in the region, or technological advances in the means of managing, storing, transporting, or disposing of low-level radioactive waste, so require.

b. The plan shall include, but need not be limited to:

(1) A current inventory of all low-level radioactive waste generators within the region;

(2) A current inventory of the sources, volumes, classes, and hazardous life of the low-level radioactive wastes generated within the region;

(3) Projections of the volumes, classes, and hazardous life of the low-level radioactive wastes which are expected to be generated in the region during the next 20 years; and

(4) An analysis of transportation routes and transportation costs from low-level radioactive waste generators in the region to out-of-State processing and disposal sites.

c. (Deleted by amendment, P.L.2002, c.105).

d. The department shall establish and maintain a public information program which addresses:

(1) The nature and dimension of the low-level radioactive waste disposal problem;

(2) The need for the proper and expeditious siting of a regional low-level radioactive waste disposal facility or the need to develop other disposal or management options that will be used to manage the State's low-level radioactive waste; and

(3) The necessity and opportunities for public participation as provided herein.

e. (Deleted by amendment, P.L.2002, c.105).

4. Section 15 of P.L.1987, c.333 (C.13:1E-191) is amended to read as follows:

C.13:1E-191 Reward for information.

15. a. Any person who supplies any information which proximately results in the arrest and conviction of any other person for the illegal treatment, transport, storage or disposal of low-level radioactive waste shall be awarded one-half of any penalty collected as a result thereof.

b. The Attorney General shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), such rules and regulations as are necessary to implement this section.

5. Section 22 of P.L.1987, c.333 (C.13:1E-198) is amended to read as follows:

C.13:1E-198 Rules, regulations.

22. The department shall, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt such rules and regulations as may be necessary to implement the provisions of P.L.1987, c.333 (C.13:1E-177 et seq.)

Repealer.

6. The following are repealed:

Section 2 of P.L.1987, c.333 (C.13:1E-178);

Sections 4 through 9 inclusive of P.L.1987, c.333 (C.13:1E-180 through 13:1E-185);

Sections 11 through 14 inclusive of P.L.1987, c.333 (C.13:1E-187 through 13:1E-190);

Sections 16 through 21 inclusive of P.L.1987, c.333 (C.13:1E-192 through 13:1E-197); and

Sections 3 and 4 of P.L.1991, c.166 (C.13:1E-181.1 and 13:1E-181.2).

7. This act shall take effect immediately.

Approved December 2, 2002.

CHAPTER 106

AN ACT concerning the recycling and reuse of used computers, supplementing P.L.1970, c.39 (C.13:1E-1 et seq.), and amending P.L.1991, c.521.

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

C.13:1E-208 Findings, declarations relative to recycling, reuse of used computers.

1. The Legislature finds and declares that as computers have become more popular, many innovative programs have been developed throughout the nation to recover those being discarded; that the recycling of used computers represents one electronic by-product that may create new opportunities in the evolving re-manufacturing industry, in which private firms recapture household appliances and old electronic equipment; that during the course of the past ten years, personal computer sales have increased enormously, and surveys reveal that up to 25 percent of American households now own at least one personal computer; and that with the proliferation of personal computers and the continuously emerging computer technologies, computer recycling has evolved, and with it programs of reuse and recycling of such component parts as metal and plastic.

The Legislature further finds and declares that approximately every year two computers will be discarded for every three manufactured in this country, thereby contributing approximately 200,000 tons of old electronic equipment to the nation's solid waste stream; that while many used computers may end up in the trash, others may be taken home by employees or donated to friends or schools; that there are several dozen computer recycling programs throughout the United States, with numerous others sprouting up to serve social service community organizations; and that keyboards, circuit boards, monitors and other computer components and accessories can become obsolete just with the advent of new processing chips.

The Legislature further finds and declares that, to date, over 25 million personal computers had been discarded globally; that this number is expected to increase to 150 million by the end of the decade; that it has been estimated that between 50 and 70 million computers alone have been disposed of between 1992 and 1996; that at landfill disposal "tipping fees" of $50.00 per ton, the discarded computers would cost more than $100 million, not including the potential cleanup costs of any hazardous materials that the computers may leach into the environment; and that the disposal of used computers in an environmentally-sound manner as solid waste is costly.

The Legislature further finds and declares that computers contain numerous heavy metals; that cathode ray tubes (CRTs), commonly known as "monitors," have high levels of lead in the glass, as well as mercury, cadmium, and phosphorous in the vacuum tubes; that CRTs are also found in television sets; that the CRT comprises about two-thirds of the weight of a typical computer workstation; that the lead in a monitor is about eight percent by weight, and the glass more than 18 pounds in a typical 17-inch monitor; and that both of these items may be recycled.

The Legislature therefore determines that it is in the public interest to limit and eventually reduce the volume of used computer monitors entering New Jersey's solid waste stream; and that the State, through the Department of Environmental Protection, in conjunction with the manufacturers, retailers and distributors of computers and other electronic equipment, should seek to develop an environmentally-sound strategy for the proper management, recycling and reuse of used computers.

C.13:1E-209 DEP educational materials on computer recycling and reuse.

2. a. The Department of Environmental Protection, pursuant to state and Federal law, and in consultation with manufacturers, retailers and distributors of computers and other electronic equipment, and environmental groups, and with the cooperation of the Department of Education, shall prepare educational materials relating to the reclamation, recycling or reuse of used computer monitors and used consumer electronics.

b. The materials shall promote the values of recycling used computer monitors and other used consumer electronics, such as television sets and other cathode ray tubes mercury lamps; provide information on the environmentally-sound disposal of such items; and encourage the reuse of all cathode ray tubes found in consumer electronics.

C.13:1E-210 Distribution of educational materials by DOE.

3. The Department of Education shall distribute the educational materials prepared by the Department of Environmental Protection pursuant to section 2 of P.L.2002, c.106 (C.13:1E-209) to each school district in the State. Local school boards are encouraged to integrate these educational materials into the curricula whenever possible, and to otherwise make them available to elementary and secondary school children for extracurricular activities and to their parents.

C.13:1E-211 DEP evaluation demonstration project; report.

4. a. The Department of Environmental Protection, pursuant to State and federal law, and in consultation with manufacturers, retailers and distributors of computers and other electronic equipment, and environmental groups, shall organize and coordinate a cooperative public-private demonstration project to evaluate the practicability and feasibility of requiring the Statewide mandatory source separation and recycling of used computer monitors, used consumer electronic equipment or used television sets or other cathode ray tube-containing devices, found to be of particular concern to the department, as a means of encouraging the recycling rather than disposal of these items.

b. The department shall investigate the availability of, and apply for, funds available from the federal government, or any private or public source, to finance the costs of the demonstration project.

c. The department shall prepare and submit a report to the Governor, to the Legislature, and to the Chairmen of the Senate Environment Committee and the Assembly Environment and Solid Waste Committee or their successor committees no later than two years following the effective date of this act. The report shall describe the progress of the demonstration project and shall include recommendations for further administrative or legislative action.

C.13:1E-212 Rules, regulations.

5. The Commissioner of Environmental Protection shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement this act.

6. Section 16 of P.L.1991, c.521 (C.13:1E-99.74) is amended to read as follows:

C.13:1E-99.74 Adoption of district household hazardous waste management plan.

16. Whenever a county prepares and adopts a district household hazardous waste management plan, the commissioner may require the plan to be adopted as an amendment to the district solid waste management plan required pursuant to the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.). Any district household hazardous waste management plan adopted by a county shall be subject to approval by the department.

a. Each district household hazardous waste management plan, subject to approval by the department, shall identify the county strategy or strategies for the collection and disposal of household hazardous waste, which shall, at a minimum:

(1) provide for the collection and disposal of used mercuric oxide batteries, nickel-cadmium rechargeable batteries and sealed lead rechargeable batteries at least once every 90 days;

(2) be consistent with the provisions of the district recycling plan required pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13);

(3) designate, if necessary, one or more collection sites within the county for household hazardous waste collection and disposal; and

(4) include such other information as may be prescribed in rules or regulations of the department.

b. A district household hazardous waste management plan, subject to approval by the department, may provide for the collection and disposal of any used dry cell batteries, cathode ray tubes from used computer monitors or television sets.

c. Household hazardous waste shall be collected, stored and transported in accordance with all applicable standards for such wastes adopted as rules or regulations by the department pursuant to P.L.1970, c.39, or as prescribed under any other applicable federal or State law.

d. The department may use a portion of the moneys available in the State Recycling Fund pursuant to paragraph (2) of subsection b. of section 5 of P.L.1981, c.278 (C.13:1E-96) for the purposes of providing to counties technical assistance and training in proper used dry cell battery management.

7. This act shall take effect immediately.

Approved December 2, 2002.

CHAPTER 107

AN ACT concerning notice of certain public utility shutoffs and supplementing Title 48 of the Revised Statutes.

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

C.48:2-24.2 Notice of certain utility service discontinuance to chief law enforcement officer.

1. a. Any public utility as defined in R.S.48:2-13, which discontinues gas, electric or water service to a multifamily housing unit customer for safety related purposes, shall provide written or verbal notice of the discontinuance to the chief law enforcement officer of the municipality in which the customer's premises are located or the Superintendent of the State Police, as appropriate, within 12 hours after the utility discontinues service to the customer, except that if service has been fully restored to the customer prior to the expiration of the 12 hours, the utility shall not be required to provide notice pursuant to this subsection.

For the purposes of this section, "multifamily housing unit customer" means a customer who resides in housing in which three or more units of dwelling space are occupied, or are intended to be occupied, by three or more persons who live independently of one another.

b. The notice required by subsection a. of this section shall include the name of the customer and the address of the premises where service was discontinued provided that such information is available to the public utility.

2. This act shall take effect on the 90th day following enactment.

Approved December 2, 2002.

CHAPTER 108

AN ACT clarifying certain provisions of P.L.2002, c.43, amending and supplementing P.L.2002, c.43 (C.52:27BBB-1 et seq.).

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

C.52:27BBB-2.1 Findings, declarations relative to "Municipal Rehabilitation and Economic Recovery Act."

1. The Legislature finds and declares that:

a. The court decision striking certain provisions of P.L.2002, c.43 requires the Legislature to clarify its intent in approving that act;

b. The court's interpretation of P.L.2002, c.43 is contrary to the intent of the Legislature and as a result, amendatory legislation removing any question regarding the intent, scope and applicability of that act is appropriate;

c. It is also important to clarify and expand upon a legislative intent of focusing redevelopment efforts in qualified municipalities by ensuring that the expenditure of public dollars for development and redevelopment is coordinated with the expenditure of public dollars supporting schools and educational efforts in such municipalities; and

d. Given the magnitude of the State's investment in a qualified municipality, it is incumbent upon the State to take the appropriate steps necessary to ensure effective governance at the school district level in addition to effective governance at the municipal level. Not only will limited school district oversight ensure the coordinated expenditures of public funds, it will ensure that the proposed local tax levy to support the district's schools will not further burden the municipal tax base. Additionally, this oversight will assist the district in improving the quality of education provided to students in the municipality. Enhancing educational quality will, in turn, assist housing revitalization by attracting new families to the community and preventing flight of current residents. It will also serve to attract new businesses and potential employers because the community can offer better-prepared graduates to the workforce.

2. Section 2 of P.L.2002, c.43 (C.52:27BBB-2) is amended to read as follows:

C.52:27BBB-2 Findings, declarations relative to municipal rehabilitation and economic recovery.

2. The Legislature finds and declares that:

a. There exists in certain municipalities a continuing state of fiscal distress which endures despite the imposition of a series of measures authorized pursuant to law;

b. Economically impoverished, those municipalities have a history of high crime rates, including arson, that has necessitated the maintenance of large police and fire departments, at enormous taxpayer cost in municipalities without a sound tax base;

c. The past fifty years have witnessed the depopulation of those municipalities characterized by such problems;

d. Spending power on the part of residents of these municipalities is severely limited and local businesses thereby suffer from the lack of an indigenous client base so that rebuilding the fortunes of city residents in order to recreate a viable urban economy will require a considerable period of time;

e. Notwithstanding the prosperity which has been experienced elsewhere throughout New Jersey in recent years, the unemployment rate in these municipalities is substantially higher than that of most other municipalities;

f. While the rest of New Jersey has enjoyed increased land values, the ratable base in these municipalities has declined steadily during the 1990's,

marked by their low equalized value per capita which can be about one-half that of other cities;

g. Coupled with this economic deprivation, many of these municipalities are characterized by a lack of internal audit controls, accountability and oversight, evidenced by the fact that although real estate taxes comprise over two-thirds of locally generated revenues, many of these municipalities do not rigorously enforce collection and receive but a portion of their levy;

h. Although the State has experienced a period of tremendous prosperity and economic growth over the past few years, such municipalities continue to languish without any obvious signs of improvement;

i. These municipalities have experienced a substantial budget deficit for many years which has only been addressed through extraordinary payments of State aid;

j. While State aid dollars which have been directed toward such municipalities have served to address their structural deficits, they have not, and cannot, function as an economic impetus toward the rebuilding of those municipalities;

k. Because a significant proportion of the population of such municipalities lacks adequate health insurance coverage, causing many to seek basic care in municipal emergency rooms, municipal hospitals are heavily dependent upon State assistance commonly referred to as "charity care" for reimbursement. Such health services are crucial to the overall health of the infrastructure and social growth and stability of qualified municipalities. Moreover, the demand for such health services has necessitated planning for a major expansion of medical school programs within qualified municipalities;

l. Given the high crime rates in these municipalities, if economic recovery is to be successful, it is vital that municipal residents feel that their basic safety is assured; accordingly, the State will continue to commit to assist such municipalities in maintaining not less than that number of police officers employed by the municipality at the time of the determination by the commissioner that the municipality fulfills the definition of a qualified municipality and in creating working relationships between State agencies, local law enforcement and the community to identify and develop strategies to improve the quality of life and the security of residents in qualified municipalities;

m. In order to ensure the long-term economic viability of such municipalities, it is critical that the Legislature encourage, to the extent possible, the production of market-rate housing within the municipality so as to expand the local tax base and provide a greater diversity of income levels among municipal inhabitants;

n. When faced with analogous situations, other states have employed extraordinary measures to provide leadership and oversight for struggling

cities and the necessary tools to spur an economic revival within those cities; and

o. In light of the dire needs faced by such municipalities and the lack of progress in addressing those needs either governmentally or through private sector initiative, and given the successful interventions on the part of other states in analogous circumstances, it is incumbent upon the State to take exceptional measures, on an interim basis, to rectify certain governance issues faced by such municipalities and to strategically invest those sums of money necessary in order to assure the long-term financial viability of these municipalities.

3. Section 3 of P.L.2002, c.43 (C.52:27BBB-3) is amended to read as follows:

C.52:27BBB-3 Definitions relative to municipal rehabilitation and economic recovery.

3. As used in this act:

"Authority" means the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.).

"Board" means the State Economic Recovery Board established pursuant to section 36 of P.L.2002, c.43 (C.52:27BBB-36).

"Chief operating officer" means that person appointed pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) responsible for reorganizing governmental operations of a qualified municipality in order to assure the delivery of essential municipal services and the professional administration of that municipal government.

"Commissioner" means the Commissioner of Community Affairs.

"Contiguous with" means within.

"Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

"Economic recovery term" means the period commencing with the expiration of the term of the chief operating officer and terminating five years thereafter.

"In consultation with" means with consideration of the input of, or the advice of, the mayor, governing body, chief operating officer or director, as the case may be, without regard to the form or manner of the consultation.

"Local Finance Board" means the Local Finance Board of the Division of Local Government Services in the Department of Community Affairs.

"Mayor" means the mayor or chief executive officer of the municipality, as appropriate to the form of government.

"Project" means: (1) (a) acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility, including water transmission facilities or other improvement, whether or not

in existence or under construction, (b) purchase and installation of equipment and machinery, (c) acquisition and improvement of real estate and the extension or provision of utilities, access roads and other appurtenant facilities; and (2) (a) the acquisition, financing, or refinancing of inventory, raw materials, supplies, work in process, or stock in trade, or (b) the financing, refinancing or consolidation of secured or unsecured debt, borrowings, or obligations, or (c) the provision of financing for any other expense incurred in the ordinary course of business; all of which are to be used or occupied by any person in any enterprise promoting employment, either for the manufacturing, processing or assembly of materials or products, or for research or office purposes, including, but not limited to, medical and other professional facilities, or for industrial, recreational, hotel or motel facilities, public utility and warehousing, or for commercial and service purposes, including, but not limited to, retail outlets, retail shopping centers, restaurant and retail food outlets, and any and all other employment promoting enterprises, including, but not limited to, motion picture and television studios and facilities and commercial fishing facilities, commercial facilities for recreational fishermen, fishing vessels, aquaculture facilities and marketing facilities for fish and fish products and (d) acquisition of an equity interest in, including capital stock of, any corporation; or any combination of the above, which the authority determines will: (i) tend to maintain or provide gainful employment opportunities within and for the people of the State, or (ii) aid, assist and encourage the economic development or redevelopment of any political subdivision of the State, or (iii) maintain or increase the tax base of the State or of any political subdivision of the State, or (iv) maintain or diversify and expand employment promoting enterprises within the State; and (3) the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of an energy saving improvement or pollution control project which the authority determines will tend to reduce the consumption in a building devoted to industrial or commercial purposes, or in an office building, of nonrenewable sources of energy or to reduce, abate or prevent environmental pollution within the State; and (4) the acquisition, construction, reconstruction, repair, alteration, improvement, extension, development, financing or refinancing of infrastructure and transportation facilities or improvements related to economic development and of cultural, recreational and tourism facilities or improvements related to economic development and of capital facilities for primary and secondary schools and of mixed use projects consisting of housing and commercial development; and (5) the establishment, acquisition, construction, rehabilitation, improvement, and ownership of port facilities as defined in section 3 of P.L.1997, c.150 (C.34:1B-146). Project may also include: reimbursement to any person for costs in connection with any project, or the refinancing of any project or portion thereof, if such actions are determined by the authority

to be necessary and in the public interest to maintain employment and the tax base of any political subdivision and likely to facilitate improvements or the completion of the project; and developing property and any construction, reconstruction, improvement, alteration, equipment or maintenance or repair, or planning and designing in connection therewith. For the purpose of carrying out mixed use projects consisting of both housing and commercial development, the authority may enter into agreements with the New Jersey Housing and Mortgage Finance Agency for loan guarantees for any such project in accordance with the provisions of P.L.1995, c.359 (C.55:14K-64 et al.), and for that purpose shall allocate to the New Jersey Housing and Mortgage Finance Agency, under such agreements, funding available pursuant to subsection a. of section 4 of P.L.1992, c.16 (C.34:1B-7.13). "Project" shall not include a school facilities project.

"Qualified municipality" means a municipality: (1) that has been subject to the supervision of a financial review board pursuant to the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.) for at least one year; (2) that has been subject to the supervision of the Local Finance Board pursuant to the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.) for at least one year; and (3) which, according to its most recently adopted municipal budget, is dependent upon State aid and other State revenues for not less than 55 percent of its total budget.

"Regional Impact Council" or "council" means that body established pursuant to section 39 of P.L.2002, c.43 (C.52:27BBB-39).

"Rehabilitation term" means that period during which the qualified municipality is under the direction of the chief operating officer appointed pursuant to section 7 of P.L.2002, c.43 (C.52:27BBB-7).

"Special arbitrator" means that judge designated by the Chief Justice pursuant to section 5 of P.L.2002, c.43 (C.52:27BBB-5).

"State supervision" means supervision pursuant to Article 4 of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-54 et seq.).

"Treasurer" or "State treasurer" means the Treasurer of the State of New Jersey.

"Under rehabilitation and economic recovery" means that period which coincides with the rehabilitation term and the economic recovery term.

4. Section 4 of P.L.2002, c.43 (C.52:27BBB-4) is amended to read as follows:

C.52:27BBB-4 Notification to qualified municipality.

4. Within 30 days of the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.), and thereafter within 30 days of the deadline for the adoption of municipal

budgets pursuant to the "Local Budget Law," N.J.S.40A:4-1 for each calendar or State fiscal year, as appropriate to the budget adoption schedule, the commissioner shall make a determination regarding which municipalities fulfill the definition of a qualified municipality pursuant to P.L.2002, c.108 (C. 52:27BBB-2.1 et al) and shall notify the Governor, the State Treasurer, the mayor and each member of the governing body of each qualified municipality that the municipality is subject to the provisions of the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.). The date of the notification shall be considered the date a municipality is designated as a qualified municipality. In addition, the commissioner shall notify:

a. the county executive, county manager, the freeholder director or chairperson, as appropriate to the form of government, and each member of the board of chosen freeholders of each county in which is situated a qualified municipality;

b. the Chief Justice of the New Jersey Supreme Court;

c. each member of the Senate and General Assembly; and

d. the Commissioner of Education. If the commissioner determines that any school district which is contiguous with the qualified municipality is subject to level II or level III monitoring pursuant to section 14 of P.L.1975, c.212 (C.18A:7A-14), the commissioner shall forthwith notify the Governor and the board of education of the school district that the school district is subject to the provisions of sections 67 and 68 of P.L.2002, c.43 (C.52:27BBB-63 and 64).

Any designation of a qualified municipality made pursuant to P.L.2002, c.43 (C.52:27BBB-1 et seq.) prior to the enactment of P.L.2002, c.108 (C. 52:27BBB-2.1 et al) is continued.

5. Section 6 of P.L.2002, c.43 (C.52:27BBB-6) is amended to read as follows:

C.52:27BBB-6 Municipality deemed under rehabilitation and economic recovery; term.

6. a. Upon the appointment of a chief operating officer pursuant to section 7 of P.L.2002, c.43 (C.52:27BBB-7), a qualified municipality shall be under rehabilitation and economic recovery. This period shall begin with the assumption of job responsibilities by the chief operating officer pursuant to this section and terminate five years following the end of the term of the chief operating officer. The period corresponding with the term of the chief operating officer shall be referred to hereinafter as the rehabilitation term. The period commencing with the expiration of the term of the chief operating officer and terminating five years thereafter shall be referred to hereinafter as the economic recovery term.

b. During the economic recovery term, the mayor shall exercise those powers delegated to the mayor pursuant to the form of government, the charter and the administrative code of the municipality, and those powers delegated to the mayor under general law. In addition, during the economic recovery term, the mayor shall retain the power to veto the minutes of any independent board or authority, including, but not limited to, the housing authority, parking authority, redevelopment authority, planning board and board of adjustment.

While the municipality is under rehabilitation and economic recovery, the mayor shall retain the power to make those appointments to municipal authorities, boards or commissions, as the case may be, which is otherwise allocated to the mayor pursuant to law.

The mayor may retain staff for the purpose of advising the mayor and aiding in the performance of constituent services.

c. Upon the assumption of job responsibilities by the chief operating officer, the financial review board created pursuant to section 5 of P.L.1999, c.156 (C.52:27D-118.30a) to oversee the finances of the municipality shall cease to function and the municipality shall cease to be under supervision pursuant to Article 4 of P.L.1947, c.151 (C.52:27BB-54 et seq.).

All outstanding debts or obligations incurred by a qualified municipality or the New Jersey Housing and Mortgage Finance Agency established pursuant to section 4 of the "New Jersey Housing and Mortgage Finance Agency Law of 1983," P.L.1983, c.530 (C.55:14K-4) and secured by a right of first refusal on municipally-owned property as of 10 days following a determination by the commissioner that the municipality fulfills the definition of a qualified municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4), with any subsidiary of that agency with jurisdiction in a qualified municipality, other than those debts or obligations represented by bonds or other negotiable instruments, are forgiven.

Notwithstanding the termination of the financial review board and supervision, all memorandums of understanding entered into by the municipality as a condition of receiving assistance under P.L.1987, c.75 (C.52:27D-118.24 et seq.) that require the municipality to implement any government, administrative, operational efficiency or oversight measures necessary for the fiscal recovery of the municipality as recommended by the director and approved by the Local Finance Board shall continue to have full force and effect.

6. Section 7 of P.L.2002, c.43 (C.52:27BBB-7) is amended to read as follows:

C.52:27BBB-7 Appointment of chief operating officer; terms.

7. a. Upon receiving notification by the Commissioner of Community Affairs pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4), the Governor shall appoint the chief operating officer in consultation with the mayor and the governing body. The chief operating officer shall serve at the pleasure of the Governor. The chief operating officer shall be qualified by training and experience for the position and shall have at least 10 years of experience in the management or supervision of government activities, three years of which may be substituted by an advanced degree in business, law, or public administration.

b. Pending the appointment of a chief operating officer or, in the event of the death, resignation, removal or inability of the chief operating officer to discharge the duties of that office, the functions, powers and duties of the chief operating officer shall devolve upon the director, for the time being, until a chief operating officer is appointed or is able to discharge the duties of that office. In the event that the chief operating officer does not serve out the chief operating officer's term of office for any reason, a successor shall be chosen by the Governor.

c. The term of the chief operating officer shall terminate five years following the assumption of duties on the part of the chief operating officer. The chief operating officer may be hired as a State employee in the unclassified service of Title 11A, Civil Service, of the New Jersey Statutes or may be hired under contract, as provided hereunder. Notwithstanding any other provision of law, no person so appointed shall acquire tenure.

If the chief operating officer is hired under contract, the person hired shall meet the qualifications set forth herein, and it shall be clear from the contract that the position is full-time and that the job site shall be at the principal offices of the municipality. If, for any reason, a person engaged under contract is unable to fulfill the job responsibilities of chief operating officer, the selection process shall be recommenced in accordance with the provisions of this section.

If the chief operating officer is hired under contract, the contract shall be available for public inspection in the office of the municipal clerk.

d. Subject to the approval of the commissioner, the salary, benefits and costs of the chief operating officer shall be fixed by the board and adjusted from time to time as the board deems appropriate. The salary level and benefits shall be comparable to that of the director of any public authority or agency with jurisdiction in the qualified municipality. The salary, benefits, and costs of the chief operating officer shall be an expense of the State.

7. Section 36 of P.L.2002, c.43 (C.52:27BBB-36) is amended to read as follows:

C.52:27BBB-36 State Economic Recovery Board created for qualified municipality.

36. a. In order to facilitate the rehabilitation and economic recovery of each qualified municipality, there is created a subsidiary corporation of the New Jersey Economic Development Authority, which shall be known as the State Economic Recovery Board for (insert name of qualified municipality). The board shall operate for the period during which the municipality is under rehabilitation and economic recovery and for a period of two years thereafter. Any outstanding debts or obligations which remain at the termination of board operation shall be assumed by the authority and any accounts payable to the board shall be due and payable to the authority.

b. The board shall consist of 15 voting members, as follows: the mayor of the qualified municipality; a representative of the municipal governing body selected by the governing body; the chief operating officer; the State Treasurer; the Commissioner of Community Affairs; the chairperson of the authority; a representative of the regional impact council selected by the council; the director of the board of chosen freeholders of the county in which the qualified municipality is situated, as provided hereunder, all of whom shall serve ex officio and may select a designee to serve in their stead; one public member chosen by the Governor, based on the recommendation of the Senate President and one public member chosen by the Governor, based on the recommendation of the Assembly Speaker; and five public members to be appointed by the Governor, to include one representative of organized labor and one representing the business community. Of the public members appointed by the Governor, at least three shall be municipal residents. The board shall include two nonvoting ex officio legislative members to be chosen by the Governor, one of whom shall be selected based on the recommendation of the Senate President and the other upon the recommendation of the Speaker of the General Assembly. These members shall be advisory members, appointed solely for the purpose of developing and facilitating legislation to assist the board in fulfilling its statutory mission, and may not exercise any of the executive powers delegated to the board. In addition, the Senior Community Builder in the State office of the federal Department of Housing and Urban Development shall serve as an ex officio, non-voting member of the board.

A majority of the entire authorized voting membership of the board shall constitute a quorum at any meeting thereof.

c. Each public member shall serve for a term of five years. Vacancies in the public membership of the board shall be filled in the same manner as the original appointments are made and a member may be eligible for reappointment. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Each ex officio member shall serve for the period during which the municipality is under rehabilitation and economic recovery and for a period of two years thereafter.

The Governor shall designate the chairperson of the board.

d. The board shall be appointed as expeditiously as possible upon the determination by the commissioner that the municipality fulfills the definition of a qualified municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) and shall convene not later than 30 days following that determination for its organizational meeting. Thereafter, the board shall meet regularly and on not less than a quarterly basis. At its first organizational meeting, the board shall appoint one of the public members to serve as its designee on the New Jersey Economic Development Authority pursuant to section 4 of P.L.1974, c.80 as amended by section 69 of P.L.2002, c.43 (C.34:1B-4).

e. The voting authority of the director of the county board of chosen freeholders shall not become effective until the filing with the Secretary of State of an agreement entered into by the chief operating officer, acting on behalf of the municipality, and the county, detailing the financial commitment of the county to the redevelopment of the infrastructure of the municipality which shall include improvements or other economic benefits totalling not less than $20 million and a proposed construction schedule for the completion thereof.

8. Section 39 of P.L.2002, c.43 (C.52:27BBB-39) is amended to read as follows:

C.52:27BBB-39 Regional impact council.

39. a. There is established for each qualified municipality a regional impact council to serve for that period during which the municipality is under rehabilitation and economic recovery. The council shall consist of: the mayor of the qualified municipality or his or her designee; the mayor of any municipality in the county in which the qualified municipality is situated which on or before the determination by the commissioner that the municipality fulfills the definition of a qualified municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) has participated in a regional collaborative established to further the strategic revitalization of the qualified municipality or the mayor's designee; the director of the board of chosen freeholders of the county in which the qualified municipality is situated or his or her designee; the director of the Office of State Planning or his or her designee; one representative of the New Jersey Regional Coalition, to be appointed as provided hereinafter; and four public members, two of whom shall be appointed by the Governor, one of whom shall be appointed by the Senate President and one of whom shall be appointed by the Speaker of the General Assembly. In the event that a regional collaborative has not been established in the county in which the qualified municipality is situated, the regional impact council shall include the mayor of each municipality that borders on the qualified municipality.

The four public members shall include at least one member of the faith-based community within the region; one member of the business community; one member of the higher education community; and one member of the labor community within the region.

b. Within 30 days of a determination by the commissioner that a municipality fulfills the definition of a qualified municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4), the New Jersey Regional Coalition shall submit to the Governor three nominees for consideration, from which the Governor may choose. If the organization does not submit three nominees for consideration at any time required, the Governor may appoint a member of the Governor's choice.

c. No member of the council shall receive a salary for service on the council but shall be reimbursed for reasonable and necessary expenses associated with serving on the council.

d. A majority of the members of the council shall choose one of the members to serve as the chair. Each member of the council shall serve for a two-year term and, upon expiration of that term, may be reappointed. Vacancies among the membership shall be filled in the same manner in which the original appointment was made.

e. The council shall select an appropriate location or locations in which to meet. The council may adopt its own bylaws and procedures that are not inconsistent with P.L.2002, c.43 (C.52:27BBB-1 et al.).

f. The council shall be eligible for and may employ a consultant and such staff as it deems necessary, to the extent that funds are made available pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) or other sources. The council may call upon the commissioner for such assistance as it deems necessary.

g. The council may hold public hearings at the call of the chair and pursuant to the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

9. Section 45 of P.L.2002, c.43 (C.52:27BBB-44) is amended to read as follows:

C.52:27BBB-44 Project list.

45. a. The board shall prepare and submit a project list, as provided hereunder. The list shall be consistent with the strategic revitalization plan and capital improvement and infrastructure plans for the qualified municipality to the extent practicable and shall include a series of projects which are prioritized according to their importance in revitalizing the qualified municipality.

Following a determination by the commissioner that a municipality fulfills the definition of a qualified municipality pursuant to section 4 of P.L.2002,

c.43 (C.52:27BBB-4) and the preparation of the plans mentioned above, the capital and infrastructure needs shall be assessed and projects shall be anticipated over a three-year period. The bond moneys authorized to be issued pursuant to section 47 of P.L.2002, c.43 (C.52:27BBB-46) shall be expended over a three-year period.

The board shall adopt each project list by a majority of those members present. In the event that the board selects to rescind a project from the list, such a vote shall be by a two-thirds vote of the fully authorized membership thereof.

Each project list shall be submitted to the Commission on Capital Budgeting and Planning, the Chairperson of the Senate Appropriations Committee and the Chairperson of the Assembly Appropriations Committee, or their successors, and the Legislative Budget and Finance Officer, on or before March 1 of each year.

b. The President of the Senate and the Speaker of the General Assembly shall cause the date of submission of the project list to be entered upon the Senate Journal and the Minutes of the General Assembly.

c. On or before March 1 of each year, the board shall submit a report of general project categories and proposed projects thereunder to be financed in the ensuing fiscal year, including therewith a description of the projects, the county or counties within which they are to be located, a distinction between State, local and private projects, and the amount estimated to be expended on each project. This report shall be known as the "Annual Qualified Municipality Capital and Economic Recovery Program" for the upcoming fiscal year. The program shall be consistent with, and reflective of, the goals and priorities of the Strategic Revitalization Plan, capital improvement and infrastructure plan, and the program shall include an explanation which demonstrates how it is consistent with, and reflective of, the goals and priorities.

d. On or before August 1 of each year, the board shall also submit a "Qualified Municipality Capital and Economic Recovery Financial Plan" designed to implement the financing of the proposed projects. The financial plan shall contain an enumeration of the bonds, notes or other obligations of the authority which the authority intends to issue, including the amounts thereof and the conditions therefor.

In addition, the plan shall contain proposed amounts to be appropriated and expended, as well as amounts for which the authority anticipates to obligate during the ensuing fiscal year for any future expenditures.

10. Section 54 of P.L.2002, c.43 (C.52:27BBB-53) is amended to read as follows:

C.52:27BBB-53 Definitions relative to open for business incentives.

54. As used in this section and section 55 of P.L.2002, c.43 (C.52:27BBB-54):

a. "Business facility" means any factory, mill, plant, refinery, warehouse, building, complex of buildings or structural components of buildings, and all machinery, equipment and personal property located within a qualified municipality, used in connection with the operation of the business of a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), and all facility preparation and start-up costs of the taxpayer for the business facility which it capitalizes for federal income tax purposes.

b. "Business relocation or business expansion property" means improvements to real property and tangible personal property, but only if that improvement or personal property is constructed or purchased and placed in service or use by the taxpayer, for use as a component part of a new or expanded business facility located in a qualified municipality.

(1) Business relocation or business expansion property shall include only:

(a) improvements to real property placed in service or use as a business facility by the taxpayer on or after the notification of the Governor by the commissioner pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) that the municipality in which the property is situated fulfills the definition of a qualified municipality;

(b) tangible personal property placed in service or use by the taxpayer on or after the notification of the Governor by the commissioner pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) that the municipality in which the property is situated fulfills the definition of a qualified municipality, with respect to which depreciation, or amortization in lieu of depreciation, is allowable in determining the corporation business tax liability of the taxpayer under P.L.1945, c.162, and which has a remaining recovery period of three or more years at the time the property is placed in service or use in a qualified municipality; or

(c) tangible personal property owned and used by the taxpayer at a business location outside a qualified municipality which is moved into a qualified municipality on or after the notification of the Governor by the commissioner pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) that the municipality in which the property is situated fulfills the definition of a qualified municipality, for use as a component part of a new or expanded business facility located in the qualified municipality; provided that the property is depreciable or amortizable personal property for income tax purposes, and has a remaining recovery period of three or more years at the time the property is placed in service or use in a qualified municipality.

(2) Property purchased for business relocation or expansion shall not include:

(a) repair costs, including materials used in the repair, unless for federal income tax purposes, the cost of the repair must be capitalized and not expensed;

(b) airplanes;

(c) property which is primarily used outside a qualified municipality with that use being determined based upon the amount of time the property is actually used both within and without the qualified municipality;

(d) property which is acquired incident to the purchase of the stock or assets of the seller.

(3) Property shall be deemed to have been purchased prior to a specified date only if:

(a) the physical construction, reconstruction or erection of the property was begun prior to the specified date, or such property was constructed, reconstructed, erected or acquired pursuant to a written contract as existing and binding on the purchase prior to the specified date; or

(b) the machinery or equipment was owned by the taxpayer prior to the specified date, or was acquired by the taxpayer pursuant to a binding purchase contract which was in effect prior to the specified date.

c. "Business relocation or expansion" means capital investment in a new or expanded business facility in a qualified municipality.

d. "Controlled group" means one or more chains of corporations connected through stock ownership with a common parent corporation if stock possessing at least 50% of the voting power of all classes of stock of each of the corporations is owned directly or indirectly by one or more of the corporations; and the common parent owns directly stock possessing at least 50% of the voting power of all classes of stock of at least one of the other corporations.

e. "Director" means the Director of the Division of Taxation in the Department of the Treasury.

f. "Expanded business facility" means any business facility, other than a new business facility, resulting from acquisition, construction, reconstruction, installation or erection of improvements or additions to existing property if such improvements or additions are purchased on or after the effective date of rehabilitation and economic recovery.

g. "Incentive payment" means: the amount of tax owed by a taxpayer for a privilege period, as computed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), multiplied by a fraction, the numerator of which is the average value of the taxpayer's business relocation or business expansion property within a qualified municipality during the period covered by its report, and the denominator of which is the average value of all the taxpayer's real and tangible personal property in New Jersey during such period which result is multiplied by 96 percent; provided, however, that for the purpose of determining average value, the provisions with respect to depreciation as set forth in

subparagraph (F) of paragraph (2) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4) shall be taken into account for arriving at such value; and provided further that incentive payments shall be made for a period not to exceed 10 years, commencing on the date of a taxpayer's first acquisition of business relocation or business expansion property in the qualified municipality following the notification of the Governor by the commissioner pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) that the municipality in which the property is situated fulfills the definition of a qualified municipality.

h. "New business facility" means a business facility which:

(1) is employed by a taxpayer in the conduct of a business which is or will be taxable under P.L.1945, c.162 (C.54:10A-1 et seq.). A business facility shall not be considered a new business facility in the hands of a taxpayer if the taxpayer's only activity with respect to the facility is to lease it to another person;

(2) is purchased by a taxpayer and is placed in service or use on or after the effective date of rehabilitation and economic recovery;

(3) was not purchased by a taxpayer from a related person; and

(4) was not in service or use during the 90-day period immediately prior to transfer of the title to the facility.

i. "Partnership" means a syndicate, group, pool, joint venture or other unincorporated organization through or by means of which any business, financial operation or venture is carried on, and which is not a trust or estate, a corporation or a sole proprietorship. The term "partner" includes a member in such a syndicate, group, pool, joint venture or organization.

j. "Purchase" means, with respect to the determination of whether business relocation or business expansion property was purchased, any acquisition of property, including an acquisition pursuant to a lease, but only if:

(1) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of deductions under section 267 or subsection (b) of section 707 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.267 or s.707;

(2) the property is not acquired by one member of a controlled group from another member of the same controlled group; and

(3) the basis of the property for federal income tax purposes, in the hands of the person acquiring it, is not determined:

(a) in whole or in part by reference to the federal adjusted basis of such property in the hands of the person from whom it was acquired; or

(b) under subsection (e) of section 1014 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1014.

k. "Related person" means:

(1) a corporation, partnership, association or trust controlled by the taxpayer;

(2) an individual, corporation, partnership, association or trust that is in control of the taxpayer;

(3) a corporation, partnership, association or trust controlled by an individual, corporation, partnership, association or trust that is in control of the taxpayer; or

(4) a member of the same controlled group as the taxpayer.

11. Section 60 of P.L.2002, c.43 (C.52:27BBB-58) is amended to read as follows:

C.52:27BBB-58 Affirmative action program on EDA projects.

60. In order to fulfill its obligation to establish an affirmative action program for the hiring of minority and female workers employed in the performance of construction contracts undertaken in connection with a project undertaken or financed by the authority pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) in a qualified municipality, the authority shall comply with all requirements for pre-apprenticeship and apprenticeship applicable to the authority in that qualified municipality on or after the determination by the commissioner that the municipality fulfills the definition of a qualified municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4).

12. Section 66 of P.L.2002, c.43 (C.52:27BBB-62) is amended to read as follows:

C.52:27BBB-62 Moratorium on regional contribution agreements.

66. Upon the date upon which the commissioner determines that the municipality fulfills the definition of a qualified municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) and during the rehabilitation term, there shall be a moratorium on regional contribution agreements pursuant to P.L.1985, c.222 (C.52:27D-301 et al.) in any qualified municipality.

13. Section 67 of P.L.2002, c.43 (C.52:27BBB-63) is amended to read as follows:

C.52:27BBB-63 Membership of board of education in qualified municipality increased; appointments; terms.

67. a. The membership of the board of education serving in a school district which is contiguous with a qualified municipality and which is subject to level II monitoring or level III monitoring pursuant to section 14 of P.L.1975, c.212 (C.18A:7A-14) shall be increased as set forth in this section in order to ensure the State's and the municipality's ability to participate in the activities of the board. Board members appointed by the Governor or mayor shall be voting members of the board and shall have all the rights, powers and privileges of a member of the board. Members appointed by the Governor or mayor shall

serve at the pleasure of the Governor or mayor, as appropriate. Any vacancy in the membership appointed by the Governor or mayor shall be filled in the same manner as the original appointment, but for the unexpired term only. The first members appointed by the Governor shall serve for a term commencing upon appointment and qualification and ending three years from the date that the number of members of the board returns to the number on the board prior to the designation of the qualified municipality. Members appointed thereafter shall serve for a term of three years as provided in this section.

In order to ensure substantial local representation on any such board, in no case shall the number of the positions appointed by the mayor and elected by the voters, combined, constitute less than a majority of the total positions on the board. This section shall not apply to State-operated school districts established pursuant to P.L.1987, c.399 (C. 18A:7A-34 et seq.).

b. The membership of a type I board of education in a qualified municipality consisting of five members shall be temporarily increased to include two additional members to be appointed by the Governor upon receipt of notification by the Commissioner of Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of three years, as set forth in subsection a. of this section. The first two positions on the board, the terms of which expire after the designation of a qualified municipality, shall be abolished upon expiration of their terms and shall not be filled by mayoral appointments so that the total membership of the board returns to five members. The Governor shall continue to make appointments to fill the positions held by the gubernatorial appointees, when their terms expire or when a vacancy occurs, until after the tenth year following the designation of the qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, vacancies resulting from the expiration of a term, or for any other reason, in any position on the board filled by gubernatorial appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

c. The membership of a type I board of education in a qualified municipality consisting of seven members shall be temporarily increased to include three additional members to be appointed by the Governor upon receipt of notification by the Commissioner of Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of three years, as set forth in subsection a. of this section. The first three positions on the board, the terms of which expire after the designation of a qualified municipality, shall be abolished upon expiration of their terms and shall not be filled by mayoral appointments so that the total membership of the board returns to seven members. The Governor shall continue to make appointments to fill the positions held by gubernatorial appointees, when their terms expire or when a vacancy occurs, until after the tenth year following the designation of the

qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, vacancies resulting from the expiration of a term, or for any other reason, in any position on the board filled by gubernatorial appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

d. The membership of a type I board of education in a qualified municipality consisting of nine members shall be temporarily increased to include three additional members to be appointed by the Governor upon receipt of notification by the Commissioner of Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of three years as set forth in subsection a. of this section. The first three positions on the board, the terms of which expire after the designation of a qualified municipality, shall be abolished upon expiration of their terms and shall not be filled by mayoral appointments so that the total membership of the board returns to nine members. The Governor shall continue to make appointments to fill the positions held by gubernatorial appointees, when their terms expire or when a vacancy occurs, until after the tenth year following the designation of the qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, vacancies resulting from the expiration of a term, or for any other reason, in any position on the board filled by gubernatorial appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

e. The membership of a type II board of education in a qualified municipality consisting of three members shall be temporarily increased to include one additional member to be appointed by the Governor upon receipt of notification by the Commissioner of Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of three years as set forth in subsection a. of this section. The first position on the board, the term of which expires after the designation of a qualified municipality, shall be abolished upon expiration of its term and shall not be filled in the same manner as provided before the designation of the qualified municipality so that the total membership of the board returns to three members. The Governor shall continue to make appointments to fill the position held by a gubernatorial appointee when the term expires or when a vacancy occurs, until after the tenth year following the designation of the qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, a vacancy resulting from the expiration of the term in the position on the board filled by gubernatorial appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

The second position on the board, the term of which expires after the designation of a qualified municipality, shall be abolished upon expiration of its term and shall not be filled in the same manner as provided before the

designation of the qualified municipality. Instead, the vacancy shall be filled by a mayoral appointment as described in subsection a. of this section so that the total membership of the board remains at three. Mayoral appointees shall serve for a term of three years. The mayor shall continue to make appointments to fill the position held by a mayoral appointee when the term expires or when a vacancy occurs, until after the tenth year following the designation of the qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, a vacancy resulting from the expiration of the term in the position on the board filled by mayoral appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

f. The membership of a type II board of education in a qualified municipality consisting of five members shall be temporarily increased to include two additional members to be appointed by the Governor upon receipt of notification by the Commissioner of Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of three years as set forth in subsection a. of this section. The first two positions on the board, the terms of which expire after the designation of a qualified municipality, shall be abolished upon expiration of their terms and shall not be filled in the same manner as provided before the designation of the qualified municipality so that the total membership of the board returns to five members. The Governor shall continue to make appointments to fill the positions held by gubernatorial appointees when the terms expire or when a vacancy occurs, until after the tenth year following the designation of the qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, vacancies resulting from the expiration of a term in any position on the board filled by gubernatorial appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

The third position on the board, the term of which expires after the designation of a qualified municipality, shall be abolished upon expiration of its term and shall not be filled in the same manner as provided before the designation of the qualified municipality. Instead, the vacancy shall be filled by a mayoral appointment as described in subsection a. of this section so that the total membership of the board remains at five. Mayoral appointees shall serve for a term of three years. The mayor shall continue to make appointments to fill the position held by a mayoral appointee when the term expires or when a vacancy occurs, until after the tenth year following the designation of the qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, a vacancy resulting from the expiration of the term in the position on the board filled by mayoral appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

g. The membership of a type II board of education in a qualified municipality consisting of seven members shall be temporarily increased to include three additional members to be appointed by the Governor upon receipt of notification by the Commissioner of Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of three years as set forth in subsection a. of this section. The first three positions on the board, the terms of which expire after the designation of a qualified municipality, shall be abolished upon expiration of their terms and shall not be filled in the same manner as provided before the designation of the qualified municipality so that the total membership of the board returns to seven members. The Governor shall continue to make appointments to fill the positions held by gubernatorial appointees when the terms expire or when a vacancy occurs, until after the tenth year following the designation of the qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, vacancies resulting from the expiration of a term in any position on the board filled by gubernatorial appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

The fourth and fifth positions on the board, the terms of which expire after the designation of a qualified municipality, shall be abolished upon expiration of their terms and shall not be filled in the same manner as provided before the designation of the qualified municipality. Instead, the vacancies shall be filled by mayoral appointments as described in subsection a. of this section so that the total membership of the board remains at seven. Mayoral appointees shall serve for a term of three years. The mayor shall continue to make appointments to fill the positions held by mayoral appointees when the terms expire or when a vacancy occurs, until after the tenth year following the designation of the qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, vacancies resulting from the expiration of a term in any position on the board filled by mayoral appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

h. The membership of a type II board of education in a qualified municipality consisting of nine members shall be temporarily increased to include three additional members to be appointed by the Governor upon receipt of notification by the Commissioner of Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of three years as set forth in subsection a. of this section. The first three positions on the board, the terms of which expire after the designation of a qualified municipality, shall be abolished upon expiration of their terms and shall not be filled in the same manner as provided before the designation of the qualified municipality so that the total membership of the board returns to nine members. The Governor shall continue to make appointments to fill the positions held by gubernatorial

appointees when the terms expire or when a vacancy occurs, until after the tenth year following the designation of the qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, vacancies resulting from the expiration of a term in any position on the board filled by gubernatorial appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

The fourth, fifth and sixth positions on the board, the terms of which expire after the designation of a qualified municipality, shall be abolished upon expiration of their terms and shall not be filled in the same manner as provided before the designation of the qualified municipality. Instead, the vacancies shall be filled by mayoral appointment as described in subsection a. of this section so that the total membership of the board remains at nine. Mayoral appointees shall serve for a term of three years. The mayor shall continue to make appointments to fill the positions held by mayoral appointees when the terms expire or when a vacancy occurs, until after the tenth year following the designation of the qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, vacancies resulting from the expiration of a term in any position on the board filled by mayoral appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

i. At all times the board of education and its membership shall comply with the requirements of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.) and the "School Ethics Act," P.L.1991, c.393 (C.18A:12-21 et seq.), and meet the requirements and qualifications for board membership established pursuant to chapter 12 of Title 18A of the New Jersey Statutes.

14. Section 68 of P.L.2002, c.43 (C.52:27BBB-64) is amended to read as follows:

C.52:27BBB-64 Board of education minutes subject to veto provisions.

68. a. Notwithstanding the provisions of Title 18A or any other law, rule, or regulation to the contrary, the minutes of every meeting of the board of education of a school district contiguous with a qualified municipality subject to level II or level III monitoring and identified by the commissioner pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) shall be subject to the veto provisions set forth in subsection b. of this section. This section shall not apply to State-operated school districts established pursuant to P.L.1987, c.399 (C.18A:7A-34 et seq.).

b. A true copy of the minutes of every meeting of a board of education described in subsection a. of this section shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at that meeting of the board of education shall have force or effect until 15 days after a copy of the minutes shall have been so delivered unless during

that 15-day period the Governor shall approve those minutes, in which case the action shall become effective upon that approval. If, in the 15-day period, the Governor returns the copy of those minutes with a veto of any action taken by the board of education or any member thereof at that meeting, the action shall be null and void and of no effect.

15. Section 8 of P.L.1983, c.530 (C.55:14K-8) is amended to read as follows:

C.55:14K-8 Eligibility for admission to housing projects; termination of tenancy or interest; excessive income; surcarge; disposition.

8. a. Admission to housing projects constructed, improved or rehabilitated under this act shall be limited to families whose gross aggregate family income at the time of admission does not exceed six times the annual rental or carrying charges, including the value or cost to them of heat, light, water, sewerage, parking facilities and cooking fuel, of the dwellings that may be furnished to such families, or seven times those charges if there are three or more dependents. There may be included in the carrying charges to any family for residence in any mutual housing project constructed, improved or rehabilitated with a loan from the agency an amount equal to 6% of the original cash investment of the family in the mutual housing project and, to the extent authorized by the agency where not included in the carrying charges, the value or cost of repainting the apartment and replacing any fixtures or appliances. Notwithstanding the provisions of this section, no family or individual shall be eligible for admission to any housing project constructed, improved or rehabilitated with a loan from the agency, whose gross aggregate family income exceeds such amount as shall be established from time to time by the agency, by rules or regulations promulgated hereunder; except that with respect to any project financed by an agency loan insured or guaranteed by the United States of America or any agency or instrumentality thereof, the agency may adopt the admission standards for such projects then currently utilized or required by the guarantor or insurer.

The provisions of this subsection shall not apply to any housing project situated in a qualified municipality that is constructed, improved or rehabilitated on or after the date upon which the commissioner determines that the municipality fulfills the definition of a qualified municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4).

b. The agency shall by rules and regulations provide for the periodic examination of the income of any person or family residing in any housing project constructed, improved or rehabilitated with a loan from the agency. If the gross aggregate family income of a family residing in a housing project increases and the ratio to the current rental or carrying charges of the dwelling unit becomes greater than the ratio prescribed for admission in subsection

a. of this section but is not more than 25% above the family income so prescribed for admission to the project, the owner or managing agent of the housing project shall permit the family to continue to occupy the unit. The agency or (with the approval of the agency) the housing sponsor of any housing project constructed, improved or rehabilitated with a loan from the agency, may terminate the tenancy or interest of any family residing in the housing project whose gross aggregate family income exceeds by 25% or more the amount prescribed herein and which continues to do so for a period of six months or more; but no tenancy or interest of any such family in any such housing project shall be terminated except upon reasonable notice and opportunity to obtain suitable alternate housing, in accordance with rules and regulations of the agency; and any such family, with the approval of the agency, may be permitted to continue to occupy the unit, subject to payment of a rent or carrying charge surcharge to the housing sponsor in accordance with a schedule of surcharges fixed by the agency. The housing sponsor shall pay the surcharge to the municipality granting tax exemption, but only up to an amount that together with payments made to the municipality in lieu of taxes and for any land taxes equals 25% of the total rents or carrying charges of the housing project for the current and any prior years that the project has been in operation.

The provisions of this subsection shall not apply to any housing project situated in a qualified municipality that is constructed, improved or rehabilitated on or after the date upon which the commissioner determines that the municipality fulfills the definition of a qualified municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4).

c. For projects on which the agency has made a loan and financed the loan with the proceeds of bonds issued prior to January 1, 1973, any remainder of the surcharge, or the total surcharge if tax exemption has not been granted, shall be paid into the housing finance fund securing the bonds issued to finance the project for the use of the agency; for projects financed on or after January 1, 1973, any remainder of the surcharge, or the total surcharge if tax exemption has not been granted, shall be paid to the agency.

d. Any family residing in a mutual housing project required to remove from the project because of excessive income as herein provided shall be discharged from liability on any note, bond or other evidence of indebtedness relating thereto and shall be reimbursed, in accordance with the rules of the agency, for all sums paid by the family to the housing sponsor on account of the purchase of stock or debentures as a condition of occupancy or on account of the acquisition of title for such purpose.

The provisions of this subsection shall not apply to any housing project situated in a qualified municipality that is constructed, improved or rehabilitated on or after the date upon which the commissioner determines that the

municipality fulfills the definition of a qualified municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4).

e. The agency shall establish admission rules and regulations for any housing project financed in whole or in part by loans authorized hereunder which shall provide priority categories for persons displaced by urban renewal projects, highway programs or other public works, persons living in substandard housing, persons and families who, by reason of family income, family size or disabilities, have special needs, elderly persons and families living under conditions violative of minimum health and safety standards.

The provisions of this subsection shall not apply to any housing project situated in a qualified municipality that is constructed, improved or rehabilitated on or after the date upon which the commissioner determines that the municipality fulfills the definition of a qualified municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4).

C.52:27BBB-44.1 Preparation of economic stimulus package for qualified municipality.

16. Upon receipt of notification by the commissioner pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4), the State Treasurer shall prepare an economic stimulus package designed to foster the revitalization of the qualified municipality and submit those recommendations, along with amounts necessary to achieve those revitalization objectives to the Governor, each member of the Senate and General Assembly, and each member of the State Economic Recovery Board for the qualified municipality established pursuant to section 36 of P.L.2002, c.43 (C.52:27BBB-36), within 60 days following the appointment of the last member. The economic stimulus package for the first municipality designated following the effective date of P.L.2002, c.43 (C.52:27BBB-1 et seq.) shall consist of those financing arrangements set forth in Article 5 of P.L.2002, c.43 (C.52:27BBB-44 through 52).

17. This act shall take effect immediately and shall be retroactive to June 30, 2002.

Approved December 4, 2002.

CHAPTER 109

AN ACT concerning certain county pension funds and supplementing chapter 10 of Title 43 of the Revised Statutes.

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

C.43:10-5.5 Definitions relative to certain county pension funds.

1. As used in this act:

"Beneficiary" means any person who, as a result of the death of an active or retired member, has or shall have received a pension pursuant to article 1 of chapter 10 of Title 43 of the Revised Statutes for no less than 24 months. In the case of any beneficiary, the 24-month period shall include the period in which the retirant was entitled to receive a pension.

"Benefit year" means:

(1) The calendar year 2003 for:

(a) All retirants who retired before calendar year 2003; and

(b) All beneficiaries of retirants who retired before calendar year 2003, or of active members who died while in service before calendar 2003; or

(2) The actual calendar year of retirement for:

(a) All members who retired on or after January 1, 2003; and

(b) All beneficiaries of retirants who retired on or after January 1, 2003, or of active members who died while in active service on or after January 1, 2003.

"Benefit year index" means the index of the benefit year.

"Calendar year" means the 12-month period beginning January 1 and ending December 31.

"Employer" means the county in which a pension fund has been created pursuant to article 1 of chapter 10 of Title 43 of the Revised Statutes.

"Index" means the annual average over a 12-month period, beginning September 1 and ending August 31, of the Consumer Price Index for Urban Wage Earners and Clerical Workers, All Items Series A (1967=100), as published by the Bureau of Labor Statistics in the United States Department of Labor. If the reference base of the index is changed, the index used to determine the Consumer Price Index as defined herein will be the index converted to the new base by standard statistical methods. The annual average index so calculated shall be the index for the calendar year in which the 12-month period ends.

"Retirant" means any former employee included in the membership of the pension fund established under article 1 of chapter 10 of Title 43 of the Revised Statutes, who has retired from such employment, and as a result of such employment, has or shall have received a pension from the pension fund for no less than 24 months.

C.43:10-5.6 Election for adjustment of pension benefits.

2. a. A county that is paying pension benefits to retirants or their surviving beneficiaries pursuant to the provisions of article 1 of chapter 10 of Title 43 of the Revised Statutes may elect to make adjustments in accordance with the provisions of this act in the amount of the pension benefits paid in order

to reflect increases in the cost of living and to maintain the purchasing power of the pension benefits by the adoption, and submission to the pension commission, of an appropriate resolution by its board of chosen freeholders.

b. A pension adjustment shall not be made for any retirant or beneficiary who is not receiving the regular, full, monthly pension. The adjustment made shall be effective only on the first day of a month, shall be paid in monthly installments, and shall not be decreased, increased, revoked or repealed except as otherwise provided in this act. No adjustment shall be due to a retirant or beneficiary unless it constitutes a payment for an entire month.

c. In the case of any retirant or beneficiary first becoming eligible to receive an adjustment under the provisions of this act, such adjustment shall be paid beginning in the 25th month in which the retirant or beneficiary is entitled to receive the pension benefit.

43:10-5.7 Determination of change in pension.

3. a. If the board of chosen freeholders has adopted a resolution pursuant to section 2 of this act to adjust the amounts of pension benefits, then on or before October 1 next following the adoption of the resolution and by the same date in each subsequent calendar year, the Director of the Division of Pensions and Benefits of the Department of the Treasury shall review the index and determine the percentum of change in the index from the benefit year index pursuant to the provisions of the "Pension Adjustment Act," P.L.1958, c.143 (C.43:3B-1 et seq.). The percentage of adjustment in the pensions shall be 3/5 of the percentum change. The director shall notify the secretary of the pension commission of the percentage of adjustment in the applicable year.

b. The director shall certify to the pension commission the amounts sufficient to adjust the pensions payable to all eligible retirants and beneficiaries by 3/5 of the percentum of change in the index as such pensions may have been originally granted in accordance with the provisions of article 1 of chapter 10 of Title 43 of the Revised Statutes or increased for certain retirants and beneficiaries in accordance with the provisions of this act. Any adjustment so certified shall apply to all of the months of the following calendar year for eligible retirants and beneficiaries. For those qualifying for the first time, the adjustment shall apply only to those months of the following calendar year in which the retirant or beneficiary is eligible to receive the adjustment.

c. In no instance shall the amount of the pension originally granted and payable to any retirant or beneficiary be reduced as a result of this adjustment.

d. The employer shall bear the cost of the adjustment in the pensions payable to retirants who retired from the employ of such employer and to beneficiaries of active or retired members who were in the employ of the employer at the time of the member's death or retirement. The employer shall appropriate the amount required to make such adjustments in each county

fiscal year, taking into account payments to be made to such retirants or beneficiaries qualifying for this adjustment for the first time in that fiscal year.

e. The adjustment in pensions provided for by this act shall commence provided that there is appropriated the amount certified by the Director of the Division of Pensions and Benefits of the Department of the Treasury to the Director of the State Division of Budget and Accounting as set forth in the "Pension Adjustment Act,"P.L.1958, c.143 (C.43:3B-1 et seq.). The adjustment in pensions shall continue to be paid so long as there shall be appropriated the amount so certified. In the event that the necessary funds are not so appropriated, the adjustment in pensions shall cease; no further payments shall be made by the employer; and a refund shall be made by the pension fund to the employer of any balance unexpended on its account.

C.43:10-5.8 Waiver of right to pension adjustment.

4. Any retirant or beneficiary who is eligible to receive an adjustment to a pension under the provisions of this act may, at any time, waive the right thereto by filing a written notice of waiver with the pension commission. Such waiver may be withdrawn at any time and upon such withdrawal the adjustment in the pension shall commence with the pension payment for the next following month.

C.43:10-5.9 Conditions for termination of adjustment.

5. If legislation is adopted providing for a blanket increase in original pensions or minimum pensions to any group of retirants or beneficiaries eligible for benefits under this act, other than legislation enacted prior to 2003; all adjustments provided under this act shall be terminated on the first of the month when such blanket increases or minimum pensions are payable, except in those instances where the retirant's or beneficiary's original pension plus the adjustments provided under this act will exceed the amounts payable to such retirant or beneficiary as a result of such other legislation; in such event the amount payable under this act shall thereafter be the difference between the new pension payable by the pension fund and the amount which would otherwise have been paid under this act. Any subsequent annual review of amounts payable under this act for such retirants and beneficiaries shall continue to be determined on the basis of the original pension as granted by the retirement system prior to any blanket increase or provision for minimum pension for any group of retirants or beneficiaries eligible for benefits under this act.

C.43:10-5.10 Rules, regulations.

6. The Director of the Division of Pensions and Benefits of the Department of the Treasury shall promulgate such rules and regulations, not inconsistent with the provisions of the "Pension Adjustment Act,"P.L.1958, c.143 (C.43:3B-1 et seq.), and this act, as deemed necessary for the effective operation of this

act. The State Treasurer shall include a report of the operation of this act in the annual report submitted to the Governor and the Legislature regarding all of the operations of the Division of Pensions and Benefits. The secretary of the pension commission shall furnish such information as the director may request for this purpose.

7. This act shall take effect immediately.

Approved December 4, 2002.

CHAPTER 110

AN ACT concerning disabled students at institutions of higher education and supplementing chapter 62 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:62-44 Reasonable substitution of certain courses for certain disabled college students.

1. a. Any student attending a public institution of higher education in the State or an independent institution of higher education which receives direct State aid or a degree-granting post secondary institution whose students are eligible for State tuition grants and scholarships, who is hearing impaired, visually impaired, or learning disabled shall be eligible for reasonable substitution of specific courses required for the completion of degree requirements, provided that:

(1) Documentation is provided that the student's request for substitution of a specific course is related to the disability;

(2) The substitution of a specific course does not constitute a fundamental alteration in the nature of the degree requirements and the specific course is not required for professional certification; and

(3) The specific courses are not offered by a public or independent institution of higher education as requirements for a health professions degree.

b. The Commission on Higher Education may promulgate rules and regulations necessary to carry out the provisions of this act, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), provided that the rules and regulations are not inconsistent with federal rules and regulations.

2. This act shall take effect immediately.

Approved December 11, 2002.

CHAPTER 111

AN ACT concerning probationers and parolees, supplementing Title 30 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:*

C.2A:168-26 Interstate Compact for Adult Offender Supervision.

1. a. The Interstate Compact for Adult Offender Supervision is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION

The Legislature hereby finds and declares the following:

The interstate compact for the supervision of Parolees and Probationers was established in 1937; it is the earliest corrections "compact" established among the states and has not been amended since its adoption for over 62 years;

This compact is the only vehicle for the controlled movement of adult parolees and probationers across state lines, and it currently has jurisdiction over more than a quarter of a million offenders;

The complexities of the compact have become more difficult to administer, and many jurisdictions have expanded supervision expectations to include currently unregulated practices such as victim input, victim notification requirements and sex offender registration;

After hearings, national surveys and a detailed study by a task force appointed by the National Institute of Corrections, the overwhelming recommendation has been to amend the document to bring about an effective management capacity that addresses public safety concerns and offender accountability; and

Upon the adoption of this Interstate Compact for Adult Offender Supervision by all states and territories of the United States, it is the intention of the Legislature to repeal the previous Interstate Compact for the Supervision of Parolees and Probationers.

b. This act shall be known and may be cited as the "Interstate Compact for Adult Offender Supervision."

c. Article I. Purpose. The compacting states to this Interstate Compact recognize that each state is responsible for the supervision of adult offenders

in the community who are authorized pursuant to the bylaws and rules of this compact to travel across state lines both to and from each compacting state in such a manner as to track the location of offenders, transfer supervision authority in an orderly and efficient manner and when necessary return offenders to the originating jurisdictions.

The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C.s.112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

It is the purpose of this compact and the Interstate Commission created hereunder, through means of joint and cooperative action among the compacting states: to provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community; to provide for the effective tracking, supervision and rehabilitation of these offenders by the sending and receiving states; and to equitably distribute the costs, benefits and obligations of the compact among the compacting states.

In addition, this compact will: create an Interstate Commission which will establish uniform procedures to manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies which will promulgate rules to achieve the purpose of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials, and regular reporting of compact activities to heads of state councils, state executive, judicial and legislative branches and criminal justice administrators; monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct non-compliance; and coordinate training and education regarding regulations of interstate movement of offenders for officials involved in such activity.

The compacting states recognize that there is no "right" of any offender to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision subject to the provisions of this compact and bylaws and rules promulgated hereunder.

It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and are therefore public business.

C.2A:168-27 Definitions.

2. Article II. Definitions.

As used in this compact, unless the context clearly requires a different construction:

"Adult" means a person who is 18 years of age or older or a person who is under 18 years of age who either by statute or court order is considered an adult.

"Bylaws" mean those bylaws established by the Interstate Commission for its governance, or for directing or controlling the Interstate Commission's actions or conduct.

"Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the State's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

"Compacting state" means any state which has enacted the enabling legislation for this compact.

"Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact.

"Interstate Commission" means the Interstate Commission for Adult Offender Supervision established by this compact.

"Member" means the commissioner of a compacting state or designee, who shall be a person officially connected with the commissioner.

"Non Compacting state" means any state which has not enacted the enabling legislation for this compact.

"Offender" means an adult placed under, or subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies.

"Person" means any individual, corporation, business enterprise, or other legal entity, either public or private.

"Rules" means acts of the Interstate Commission, duly promulgated pursuant to Article VIII of this compact, substantially affecting interested parties in addition to the Interstate Commission, which shall have the force and effect of law in the compacting states.

"State" means a state of the United States, the District of Columbia and any other territorial possessions of the United States.

"State Council" means the resident members of the State Council for Interstate Adult Offender Supervision created by each state under Article IV of this compact.

C.2A:168-28 The compact commission.

3. Article III. The Compact Commission.

a. The compacting states hereby create the "Interstate Commission for Adult Offender Supervision." The Interstate Commission shall be a body corporate and joint agency of the compacting states. The Interstate Commission shall have all the responsibilities, powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

b. The Interstate Commission shall consist of Commissioners selected and appointed by resident members of a State Council for Interstate Adult Offender Supervision for each state. In addition to the Commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners but who are members of interested organizations. Such non-commissioner members shall include a member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. All non-commissioner members of the Interstate Commission shall be ex-officio (nonvoting) members. The Interstate Commission may provide in its bylaws for such additional, ex-officio, non-voting members as it deems necessary.

c. Each compacting state represented at any meeting of the Interstate Commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

d. The Interstate Commission shall meet at least once each calendar year. The chairman may call additional meetings and, upon the request of 27 or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

e. The Interstate Commission shall establish an Executive Committee which shall include commission officers, members and others as shall be determined by the bylaws. The Executive Committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking or amendment to the Compact. The Executive Committee shall oversee the day-to-day activities managed by the Executive Director and Interstate Commission staff, administer enforcement and compliance with the provisions of the compact, its bylaws and as directed by the Interstate Commission and perform other duties as directed by Commission or set forth in the bylaws.

C.2A:168-29 The State Council.

4. Article IV. The State Council.

a. There is hereby established the New Jersey State Council for Interstate Adult Offender Supervision which shall consist of the following members:

(1) two members of the General Assembly, no more than one of whom shall be of the same political party, appointed by the Speaker of the General Assembly;

(2) two members of the Senate, no more than one of whom shall be of the same political party, appointed by the President of the Senate;

(3) the Administrative Director of the Courts;

(4) the Commissioner of Corrections or his designee;

(5) a law enforcement officer and a representative from a crime victim's organization, each appointed by the Governor with the advice and consent of the Senate; and

(6) the Chairman of the State Parole Board.

b. The Governor shall appoint a compact administrator who shall serve at the pleasure of the Governor. The compact administrator may be a member of the State Council or a State government official with appropriate background and experience. The compact administrator shall be the compact commissioner and presiding officer of the council and shall serve as the New Jersey Commissioner to the Interstate Commission.

c. Members of the Council shall be appointed for terms of four years and the terms of their successors shall be calculated from the expiration of the incumbent's term. Members shall serve until their successors are appointed and have qualified.

d. The State Council shall meet at least twice a year.

e. The State Council shall develop policies concerning the operation of the compact within this State. The State Council may adopt rules, including rules proposed by the commission for adoption by this State, to implement the compact.

f. The State Council shall report annually to the Legislature concerning the activities of the council and the Interstate Commission.

C.2A:168-30 Powers and duties of the interstate commission.

5. Article V. Powers and Duties of the Interstate Commission.

The Interstate Commission shall have the following powers:

a. To adopt a seal and suitable bylaws governing the management and operation of the Interstate Commission;

b. To promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact;

c. To oversee, supervise and coordinate the interstate movement of offenders subject to the terms of this compact and any bylaws adopted and rules promulgated by the compact commission;

d. To enforce compliance with compact provisions, Interstate Commission rules, and bylaws, using all necessary and proper means, including but not limited to, the use of judicial process;

e. To establish and maintain offices;

f. To purchase and maintain insurance and bonds;

g. To borrow, accept, or contract for services of personnel, including, but not limited to, members and their staffs;

h. To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder;

i. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel;

j. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of same;

k. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed;

l. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed;

m. To establish a budget and make expenditures and levy dues as provided in Article X of this compact;

n. To sue and be sued;

o. To provide for dispute resolution among compacting states;

p. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact;

q. To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission;

r. To coordinate education, training and public awareness regarding the interstate movement of offenders for officials involved in such activity; and

s. To establish uniform standards for the reporting, collecting, and exchanging of data.

C.2A:168-31 Organization and operation of the interstate commission.

6. Article VI. Organization and Operation of the Interstate Commission.

a. Bylaws. The Interstate Commission shall, by a majority of the Members, within twelve months of the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact, including, but not limited to:

(1) Establishing the fiscal year of the Interstate Commission.

(2) Establishing an executive committee and such other committees as may be necessary.

(3) Providing reasonable standards and procedures for the establishment of committees, and governing any general or specific delegation of any authority or function of the Interstate Commission.

(4) Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting.

(5) Establishing the titles and responsibilities of the officers of the Interstate Commission.

(6) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Interstate Commission.

Notwithstanding any civil service or other similar laws of any Compacting State, the bylaws shall exclusively govern the personnel policies and programs of the Interstate Commission.

(7) Providing a mechanism for winding up the operations of the Interstate Commission and the equitable return of any surplus funds that may exist upon the termination of the Compact after the payment or reserving of all of its debts and obligations.

(8) Providing transition rules for "start up" administration of the compact.

(9) Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

b. Officers and Staff. The Interstate Commission shall, by a majority of the members, elect from among its members a chairman and a vice chairman, each of whom shall have such authorities and duties as may be specified in the bylaws. The chairman, or in his absence or disability, the vice chairman, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission,

and hire and supervise such other staff as may be authorized by the Interstate Commission, but shall not be a member.

c. Corporate Records of the Interstate Commission. The Interstate Commission shall maintain its corporate books and records in accordance with the bylaws.

d. Qualified Immunity, Defense and Indemnification. The members, officers, executive director and employees of the Interstate Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities; provided, that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of any such person.

The Interstate Commission shall defend the Commissioner of a Compacting State, or his representatives or employees, or the Interstate Commission's representatives or employees, in any civil action seeking to impose liability, arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities; provided, that the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of such person.

The Interstate Commission shall indemnify and hold the Commissioner of a Compacting State, the appointed designee or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities, provided, that the actual or alleged act, error or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

C.2A:168-32 Activities of the interstate commission.

7. Article VII. Activities of the Interstate Commission.

a. The Interstate Commission shall meet and take such actions as are consistent with the provisions of this Compact.

b. Except as otherwise provided in this Compact and unless a greater percentage is required by the bylaws, in order to constitute an act of the Interstate Commission, such act shall have been taken at a meeting of the

Interstate Commission and shall have received an affirmative vote of a majority of the members present.

c. Each Member of the Interstate Commission shall have the right and power to cast a vote to which that Compacting State is entitled and to participate in the business and affairs of the Interstate Commission. A Member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a State Council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The bylaws may provide for Members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone, or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

d. The Interstate Commission shall meet at least once during each calendar year. The chairman of the Interstate Commission may call additional meetings at any time and, upon the request of a majority of the Members, shall call additional meetings.

e. The Interstate Commission's bylaws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating such rules, the Interstate Commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

f. Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the Compact. The Interstate Commission shall promulgate rules consistent with the principles contained in the "Government in the Sunshine Act," 5 U.S.C.s.552(b), as may be amended. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

(1) relate solely to the Interstate Commission's internal personnel practices and procedures;

(2) disclose matters specifically exempted from disclosure by statute;

(3) disclose trade secrets or commercial or financial information which is privileged or confidential;

(4) involve accusing any person of a crime, or formally censuring any person;

(5) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) disclose investigatory records compiled for law enforcement purposes;

(7) disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated entity for the purpose of regulation or supervision of such entity;

(8) disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity; or

(9) specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or proceeding.

g. For every meeting closed pursuant to this provision, the Interstate Commission's chief legal officer shall publicly certify that, in his opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision.

h. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each Member on the question). All documents considered in connection with any action shall be identified in such minutes.

i. The Interstate Commission shall collect standardized data concerning the interstate movement of offenders as directed through its bylaws and rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

C.2A:168-33 Rulemaking functions of the interstate commission.

8. Article VIII. Rulemaking Functions of the Interstate Commission.

a. The Interstate Commission shall promulgate rules in order to effectively and efficiently achieve the purposes of the Compact including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states.

b. Rulemaking shall occur pursuant to the criteria set forth in this Article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C.A. section 551 et seq., and the federal Advisory Committee Act, 5 U.S.C.A. App. 2, section 1 et seq., as may be amended (hereinafter "APA").

c. All rules and amendments shall become binding as of the date specified in each rule or amendment.

d. If a majority of the legislatures of the Compacting States rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any Compacting State.

e. When promulgating a rule, the Interstate Commission shall:

(1) publish the proposed rule stating with particularity the text of the rule which is proposed and the reason for the proposed rule;

(2) allow persons to submit written data, facts, opinions and arguments, which information shall be publicly available;

(3) provide an opportunity for an informal hearing; and

(4) promulgate a final rule and its effective date, if appropriate, based on the rulemaking record.

Not later than sixty days after a rule is promulgated, any interested person may file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence (as defined in the APA) in the rulemaking record, the court shall hold the rule unlawful and set it aside.

f. Subjects to be addressed within 12 months after the first meeting must at a minimum include:

(1) notice to victims and opportunity to be heard;

(2) offender registration and compliance;

(3) violations/returns;

(4) transfer procedures and forms;

(5) eligibility for transfer;

(6) collection of restitution and fees from offenders;

(7) data collection and reporting;

(8) the level of supervision to be provided by the receiving state;

(9) transition rules governing the operation of the compact and the Interstate Commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact; and

(10) Mediation, arbitration and dispute resolution.

g. The existing rules governing the operation of the previous compact superseded by this act shall be null and void twelve months after the first meeting of the Interstate Commission created hereunder.

h. Upon determination by the Interstate Commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule.

C.2A:168-34 Oversight, enforcement and dispute resolution by the interstate commission.

9. Article IX. Oversight, Enforcement and Dispute Resolution by the Interstate Commission.

a. Oversight. The Interstate Commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in Non-compacting States which may significantly affect Compacting States.

The courts and executive agencies in each Compacting State shall enforce this Compact and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent. In any judicial or administrative proceeding in a Compacting State pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Interstate Commission, the Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

b. Dispute Resolution. The Compacting States shall report to the Interstate Commission on issues or activities of concern to them, and cooperate with and support the Interstate Commission in the discharge of its duties and responsibilities.

The Interstate Commission shall attempt to resolve any disputes or other issues which are subject to the Compact and which may arise among Compacting States and Non-compacting States.

The Interstate Commission shall enact a bylaw or promulgate a rule providing for both mediation and binding dispute resolution for disputes among the Compacting States.

c. Enforcement. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in Article XII, section b., of this compact.

C.2A:168-35 Finance.

10. Article X. Finance.

a. The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

b. The Interstate Commission shall levy on and collect an annual assessment from each Compacting State to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each Compacting State and

shall promulgate a rule binding upon all Compacting States which governs said assessment.

c. The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

d. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

e. (1) The Interstate compact for adult offender supervision fund is established as a special fund in the State Treasury. The fund consists of moneys appropriated for the purposes of meeting financial obligations imposed on the State of New Jersey as a result of the State's participation in this compact.

(2) An assessment levied or any other financial obligation imposed under this compact is effective against the State of New Jersey only to the extent that moneys to pay the assessment or meet the financial obligation have been appropriated and deposited in the fund established pursuant to paragraph (1) of this subsection.

C.2A:168-36 Compacting states, effective date and amendment.

11. Article XI. Compacting States, Effective Date and Amendment.

a. Any state, as defined in Article II of this compact, is eligible to become a Compacting State.

b. The Compact shall become effective and binding upon legislative enactment of the Compact into law by no less than 35 of the States. The initial effective date shall be the later of July 1, 2001, or upon enactment into law by the 35th jurisdiction. Thereafter it shall become effective and binding, as to any other Compacting State, upon enactment of the Compact into law by that State. The governors of Non-member states or their designees will be invited to participate in Interstate Commission activities on a non-voting basis prior to adoption of the compact by all states and territories of the United States.

c. Amendments to the Compact may be proposed by the Interstate Commission for enactment by the Compacting States. No amendment shall become effective and binding upon the Interstate Commission and the Compacting States unless and until it is enacted into law by unanimous consent of the Compacting States.

C.2A:168-37 Withdrawal, default, termination and judicial enforcement.

12. Article XII. Withdrawal, Default, Termination and Judicial Enforcement.

a. Withdrawal. Once effective, the Compact shall continue in force and remain binding upon each and every Compacting State; provided, that a Compacting State may withdraw from the Compact ("Withdrawing State") by enacting a statute specifically repealing the statute which enacted the Compact into law.

The effective date of withdrawal is the effective date of the repeal.

The Withdrawing State shall immediately notify the Chairman of the Interstate Commission in writing upon the introduction of legislation repealing this Compact in the Withdrawing State.

The Interstate Commission shall notify the other Compacting States of the Withdrawing State's intent to withdraw within sixty days of its receipt thereof.

The Withdrawing State is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

Reinstatement following withdrawal of any Compacting State shall occur upon the Withdrawing State reenacting the Compact or upon such later date as determined by the Interstate Commission.

b. Default. If the Interstate Commission determines that any Compacting State has at any time defaulted ("Defaulting State") in the performance of any of its obligations or responsibilities under this Compact, the bylaws or any duly promulgated rules, the Interstate Commission may impose any or all of the following penalties:

Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission;

Remedial training and technical assistance as directed by the Interstate Commission; and

Suspension and termination of membership in the compact.

Suspension shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension shall be given by the Interstate Commission to the Governor, the Chief Justice or Chief Judicial Officer of the state; the majority and minority leaders of the defaulting state's legislature, and the State Council.

The grounds for default include, but are not limited to, failure of a Compacting State to perform such obligations or responsibilities imposed upon it by this compact, Interstate Commission bylaws, or duly promulgated

rules. The Interstate Commission shall immediately notify the Defaulting State in writing of the penalty imposed by the Interstate Commission on the Defaulting State pending a cure of the default. The Interstate Commission shall stipulate the conditions and the time period within which the Defaulting State must cure its default. If the Defaulting State fails to cure the default within the time period specified by the Interstate Commission, in addition to any other penalties imposed herein, the Defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Compacting States and all rights, privileges and benefits conferred by this Compact shall be terminated from the effective date of suspension.

Within sixty days of the effective date of termination of a Defaulting State, the Interstate Commission shall notify the Governor, the Chief Justice or Chief Judicial Officer and the Majority and Minority Leaders of the Defaulting State's legislature and the state council of such termination.

The Defaulting State is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

The Interstate Commission shall not bear any costs relating to the Defaulting State unless otherwise mutually agreed upon between the Interstate Commission and the Defaulting State.

Reinstatement following termination of any Compacting State requires both a reenactment of the Compact by the Defaulting State and the approval of the Interstate Commission pursuant to the rules.

c. Judicial Enforcement. The Interstate Commission may, by majority vote of the Members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the Federal District where the Interstate Commission has its offices to enforce compliance with the provisions of the Compact, its duly promulgated rules and bylaws, against any Compacting State in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys fees.

d. Dissolution of Compact. The Compact dissolves effective upon the date of the withdrawal or default of the Compacting State which reduces membership in the Compact to one Compacting State.

Upon the dissolution of this Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be wound up and any surplus funds shall be distributed in accordance with the bylaws.

C.2A:168-38 Severability and construction.

13. Article XIII. Severability and Construction. The provisions of this Compact shall be severable, and if any phrase, clause, sentence or provision

is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

The provisions of this Compact shall be liberally constructed to effectuate its purposes.

C.2A:168-39 Binding effect of compact and other laws.

14. Article XIV. Binding Effect of Compact and Other Laws.

a. Other Laws. Nothing herein prevents the enforcement of any other law of a Compacting State that is not inconsistent with this Compact.

All Compacting States' laws conflicting with this Compact are superseded to the extent of the conflict.

b. Binding Effect of the Compact. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the Compacting States.

All agreements between the Interstate Commission and the Compacting States are binding in accordance with their terms.

Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the Compacting States, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

In the event any provision of this Compact exceeds the constitutional limits imposed on the legislature of any Compacting State, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the Compacting State and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this Compact becomes effective.

15. This act shall take effect immediately.

Approved December 11, 2002.

CHAPTER 112

AN ACT concerning witness fees in workers' compensation cases and amending R.S.34:15-64.

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

1. R.S.34:15-64 is amended to read as follows:

Rules, regulations; fees for witnesses, attorneys.

34:15-64. a. The commissioner, director and the judges of compensation may make such rules and regulations for the conduct of the hearing not inconsistent with the provisions of this chapter as may, in the commissioner's judgment, be necessary. The official conducting any hearing under this chapter may allow to the party in whose favor judgment is entered, costs of witness fees and a reasonable attorney fee, not exceeding 20% of the judgment; and a reasonable fee not exceeding $400 for any one witness, except that the following fees may be allowed for a medical witness:

(1) (a) A fee of not more than $400 paid to an evaluating physician for an opinion regarding the need for medical treatment or for an estimation of permanent disability, if the physician provides the opinion or estimation in a written report; and

(b) An additional fee of not more than $400 paid to the evaluating physician who makes a court appearance to give testimony; or

(2) (a) A fee of not more than $450 paid to a treating physician for the preparation and submission of a report including the entire record of treatment, medical history, opinions regarding diagnosis, prognosis, causal relationships between the treated condition and the claim, the claimant's ability to return to work with or without restrictions, what, if any, restrictions are appropriate, and the anticipated date of return to work, and any recommendations for further treatment; and

(b) (i) An additional fee of not more than $300 per hour, with the total amount not to exceed $2,500, paid to the treating physician who gives testimony concerning causal relationship, ability to work or the need for treatment; or

(ii) An additional fee of not more than $300 per hour, with the total amount not to exceed $1,500, paid to the treating physician who gives a deposition concerning causal relationship, ability to work or the need for treatment.

b. (1) No fee for an evaluating physician pursuant to this section shall be contingent on whether a judgment or award is or is not made in favor of the petitioner.

(2) No evaluating or treating physician shall charge any fee for a report, testimony or deposition in excess of the amount permitted pursuant to the provisions of this section.

c. A fee shall be allowed at the discretion of the judge of compensation when, in the official's judgment, the services of an attorney and medical witnesses are necessary for the proper presentation of the case. In determining a reasonable fee for medical witnesses, the official shall consider (1) the time, personnel, and other cost factors required to conduct the examination; (2) the extent, adequacy and completeness of the medical evaluation; (3) the objective measurement of bodily function and the avoidance of the use of

subjective complaints; and (4) the necessity of a court appearance of the medical witness. When, however, at a reasonable time, prior to any hearing compensation has been offered and the amount then due has been tendered in good faith or paid within 26 weeks from the date of the notification to the employer of an accident or an occupational disease or the employee's final active medical treatment or within 26 weeks after the employee's return to work whichever is later or within 26 weeks after employer's notification of the employee's death, the reasonable allowance for attorney fee shall be based upon only that part of the judgment or award in excess of the amount of compensation, theretofore offered, tendered in good faith or paid. When the amount of the judgment, or when that part of the judgment or award in excess of compensation, offered, tendered in good faith or paid as aforesaid, is less than $200, an attorney fee may be allowed not in excess of $50.

d. All counsel fees of claimants' attorneys for services performed in matters before the Division of Workers' Compensation, whether or not allowed as part of a judgment, shall be first approved by the judge of compensation before payment. Whenever a judgment or award is made in favor of a petitioner, the judges of compensation or referees of formal hearings shall direct amounts to be deducted for the petitioner's expenses and to be paid directly to the persons entitled to the same, the remainder to be paid directly to the petitioner.

2. This act shall take effect immediately.

Approved December 11, 2002.

CHAPTER 113

AN ACT concerning materials used to pave public highways maintained by local governments and supplementing Title 27 of the Revised Statutes.

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

C.27:1B-25.2 Use of reclaimed asphalt pavement, maximum amount.

1. Notwithstanding any law, rule or regulation to the contrary, counties and municipalities receiving State funds for transportation projects shall permit for public highways under their jurisdiction the use of reclaimed asphalt pavement that constitutes a maximum of 25 percent by weight of the total pavement mixture for base and intermediate pavement courses and a maximum of 15 percent by weight of the total pavement mixture for surface pavement courses.

C.27:1B-25.3 Use of reclaimed asphalt pavement in "closed system" project.

2. Counties and municipalities receiving State funds for transportation projects shall permit for public highways under their jurisdiction the use of reclaimed asphalt pavement that constitutes from 25 to 50% by weight of the total pavement mixture for base and intermediate pavement courses, after an evaluation of the material properties of the reclaimed asphalt pavement, in a "closed system" project. A "closed system" project is defined as a project on which the asphalt millings from the project are recycled back into the hot mix asphalt on that same project.

C.27:1B-25.4 Use of reclaimed asphalt pavement, certain; prohibited.

3. Reclaimed asphalt pavement shall not be used for open-graded and modified open-graded friction courses, or any other special purpose or premium asphalt mix required in specific projects to increase pavement skid resistance.

4. This act shall take effect immediately.

Approved December 11, 2002.

CHAPTER 114

AN ACT concerning materials used to pave certain highways and toll road projects and supplementing Title 27 of the Revised Statutes.

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

C.27:1B-21.32 Use of reclaimed asphalt pavement by DOT.

1. a. Notwithstanding any law, rule or regulation to the contrary, the Commissioner of Transportation shall permit for public highways under the jurisdiction of the Department of Transportation the use of reclaimed asphalt pavement that constitutes a maximum of 25 percent by weight of the total pavement mixture for base and intermediate pavement courses and a maximum of 15 percent by weight of the total pavement mixture for surface pavement courses.

b. The commissioner shall permit for public highways under the jurisdiction of the department the use of reclaimed asphalt pavement that constitutes from 25 to 50 percent by weight of the total pavement mixture for base and intermediate pavement courses, after an evaluation of the material properties of the reclaimed asphalt pavement in a "closed system" project. A "closed system" project is defined as a project on which the asphalt millings from the project are recycled back into the hot mix asphalt on that same project.

c. Reclaimed asphalt pavement shall not be used for open-graded and modified open-graded friction courses, or any other special purpose or premium asphalt mix required in specific projects to increase pavement skid resistance.

C.27:12B-17.1 Use of reclaimed asphalt pavement by New Jersey Highway Authority.

2. a. Notwithstanding any law, rule or regulation to the contrary, the New Jersey Highway Authority shall permit for a highway project under the jurisdiction of the authority the use of reclaimed asphalt pavement that constitutes a maximum of 25 percent by weight of the total pavement mixture for base and intermediate pavement courses and a maximum of 15 percent by weight of the total pavement mixture for surface pavement courses.

b. The authority shall permit for highway projects under its jurisdiction the use of reclaimed asphalt pavement that constitutes from 25 to 50 percent by weight of the total pavement mixture for base and intermediate pavement courses, after an evaluation of the material properties of the reclaimed asphalt pavement in a "closed system" project. A "closed system" project is defined as a project on which the asphalt millings from the project are recycled back into the hot mix asphalt on that same project.

c. Reclaimed asphalt pavement shall not be used for bridge decking and elevated approaches, open-graded and modified open-graded friction courses, or any other special purpose or premium asphalt mix required in specific projects to increase pavement skid resistance.

C.27:23-14.1 Use of reclaimed asphalt pavement by New Jersey Turnpike Authority.

3. a. Notwithstanding any law, rule or regulation to the contrary, the New Jersey Turnpike Authority shall permit for a turnpike project under the jurisdiction of the authority the use of reclaimed asphalt pavement that constitutes a maximum of 25 percent by weight of the total pavement mixture for base and intermediate pavement courses and a maximum of 15 percent by weight of the total pavement mixture for surface pavement courses.

b. The authority shall permit for turnpike projects under its jurisdiction the use of reclaimed asphalt pavement that constitutes from 25 to 50 percent by weight of the total pavement mixture for base and intermediate pavement courses, after an evaluation of the material properties of the reclaimed asphalt pavement in a "closed system" project. A "closed system" project is defined as a project on which the asphalt millings from the project are recycled back into the hot mix asphalt on that same project.

c. Reclaimed asphalt pavement shall not be used for bridge decking and elevated approaches, open-graded and modified open-graded friction courses, or any other special purpose or premium asphalt mix required in specific projects to increase pavement skid resistance.

C.27:25A-11.1 Use of reclaimed asphalt pavement by South Jersey Transportation Authority.

4. a. Notwithstanding any law, rule or regulation to the contrary, the South Jersey Transportation Authority shall permit for an expressway project under the jurisdiction of the authority the use of reclaimed asphalt pavement that constitutes a maximum of 25 percent by weight of the total pavement mixture for base and intermediate pavement courses and a maximum of 15 percent by weight of the total pavement mixture for surface pavement courses.

b. The authority shall permit for expressway projects under its jurisdiction the use of reclaimed asphalt pavement that constitutes from 25 to 50 percent by weight of the total pavement mixture for base and intermediate pavement courses, after an evaluation of the material properties of the reclaimed asphalt pavement in a "closed system" project. A "closed system" project is defined as a project on which the asphalt millings from the project are recycled back into the hot mix asphalt on that same project.

c. Reclaimed asphalt pavement shall not be used for bridge decking and elevated approaches, open-graded and modified open-graded friction courses, or any other special purpose or premium asphalt mix required in specific projects to increase pavement skid resistance.

5. This act shall take effect immediately.

Approved December 11, 2002.

CHAPTER 115

AN ACT concerning bingo and raffles and supplementing P.L.1954, c.6 (C.5:8-24 et seq.) and P.L.1954, c.5 (C.5:8-50 et seq.).

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

C.5:8-25.3 Use of net proceeds for capital improvements by certain entities from bingo, lotto.

1. a. A bona fide organization or association of veterans of any war in which the United States has been engaged, church or religious congregation or religious organization, charitable, educational or fraternal organization, civic or service club, officially recognized volunteer fire company, or officially recognized volunteer first aid or rescue squad licensed to hold and operate the specific kind of game of chance commonly known as bingo or lotto may use the net proceeds of such game for capital improvements to a facility owned by the licensee only if:

(1) the facility is devoted full-time to educational, charitable, patriotic, religious or public-spirited uses; or

(2) a portion of the facility is devoted full-time to educational, charitable, patriotic, religious or public-spirited uses, in which case the net proceeds may be used for capital improvements to that portion of the facility so devoted; or

(3) all or a portion of the facility is devoted part-time to educational, charitable, patriotic, religious or public-spirited uses, in which case a percentage of the net proceeds may be used for capital improvements to the facility or to that portion of a facility so devoted. The percentage shall be equal to the percentage that represents the number of days of the preceding calendar year during which the facility or portion thereof was devoted to an educational, charitable, patriotic, religious or public-spirited use.

b. In determining the amount of net proceeds a licensee may use for capital improvements pursuant to subsection a. of this section, a reasonable amount of facility space used full-time for administrative or operational activities of the licensee, as determined by the commission by regulation, shall be considered devoted to an educational, charitable, patriotic, religious or public-spirited use provided the space is located in a facility at least half of which was devoted for at least 70 days in the previous calendar year to an educational, charitable, patriotic, religious or public-spirited use.

c. The commission shall by regulation determine how many hours of educational, charitable, patriotic, religious or public-spirited use in a day in a facility or portion thereof is sufficient to claim that for that day a facility or portion thereof was devoted to an educational, charitable, patriotic, religious or public-spirited use.

C.5:8-51.4 Use of net proceeds for capital improvements by certain entities from raffles.

2. a. A bona fide organization or association of veterans of any war in which the United States has been engaged, church or religious congregation or religious organization, charitable, educational or fraternal organization, civic or service club, officially recognized volunteer fire company, or officially recognized volunteer first aid or rescue squad licensed to hold and operate the specific kind of game of chance commonly known as raffle or raffles may use the net proceeds of such game for capital improvements to a facility owned by the licensee only if:

(1) the facility is devoted full-time to educational, charitable, patriotic, religious or public-spirited uses; or

(2) a portion of the facility is devoted full-time to educational, charitable, patriotic, religious or public-spirited uses, in which case the net proceeds may be used for capital improvements to that portion of the facility so devoted; or

(3) all or a portion of the facility is devoted part-time to educational, charitable, patriotic, religious or public-spirited uses, in which case a percentage

of the net proceeds may be used for capital improvements to the facility or to that portion of a facility so devoted. The percentage shall be equal to the percentage that represents the number of days of the preceding calendar year during which the facility or portion thereof was devoted to an educational, charitable, patriotic, religious or public-spirited use.

b. In determining the amount of net proceeds a licensee may use for capital improvements pursuant to subsection a. of this section, a reasonable amount of facility space used full-time for administrative or operational activities of the licensee, as determined by the commission by regulation, shall be considered devoted to an educational, charitable, patriotic, religious or public-spirited use provided the space is located in a facility at least half of which was devoted for at least 70 days in the previous calendar year to an educational, charitable, patriotic, religious or public-spirited use.

c. The commission shall by regulation determine how many hours of educational, charitable, patriotic, religious or public-spirited use in a day in a facility or portion thereof is sufficient to claim that for that day a facility or portion thereof was devoted to an educational, charitable, patriotic, religious or public-spirited use.

3. This act shall take effect immediately.

Approved December 11, 2002.

CHAPTER 116

AN ACT establishing the New Jersey Collaborating Center for Nursing 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:65-89 Findings, declarations relative to New Jersey Collaborating Center for Nursing.

1. The Legislature finds and declares that:

a. New Jersey Colleagues in Caring collaborative was established in 1996 through a Robert Wood Johnson Foundation grant to assist nursing schools, hospitals and other nursing service institutions to initiate concerted workforce development systems within the State;

b. Under the terms of the grant, New Jersey Colleagues in Caring is responsible for: conducting a comprehensive assessment of the current and projected nursing care needs in the State; developing a dependable system for estimating future needs; analyzing the capacity of the State's nursing workforce to meet these needs and the area's educational infrastructure to

produce the numbers and types of nursing professionals required; developing a Statewide nursing workforce consortium among schools, providers and other relevant institutions to plan and implement State models that enhance educational and career mobility for nurses; and establishing a formal mechanism to keep the consortium in place over the long term so that monitoring of nursing care needs and the building of a workforce with corresponding strengths become ongoing components of the State's health care structure;

c. Establishment of an independent nursing center, which will function as a future-oriented research and development organization that will develop and disseminate objective information and provide an ongoing strategy for the allocation of State resources directed toward the nursing work force, will assure the best possible nursing care for the residents of the State; and

d. Therefore, it is appropriate to establish the New Jersey Collaborating Center for Nursing to provide an investment in nursing by ensuring that the strategic work begun by New Jersey Colleagues in Caring continues under a State-supported infrastructure.

C.18A:65-90 New Jersey Collaborating Center for Nursing; establishment, goals.

2. There is established the New Jersey Collaborating Center for Nursing at Rutgers, The State University of New Jersey, to address issues of supply and demand of the nursing workforce, including education, recruitment, retention and utilization of adequately prepared nursing personnel. The center shall be administered by an executive director under the direction of the New Jersey Collaborating Center for Nursing board established pursuant to this act.

The primary goals of the center shall be to:

a. develop a strategic plan for the continuing development of an adequate nursing workforce, in number and in education and training, to meet the needs of New Jersey residents by:

(1) collecting and analyzing information about and maintaining a database of the current and projected supply and demand of the nursing workforce, including home health aides, nursing assistants, unlicensed assistive personnel, registered nurses, practical nurses, advanced practice nurses and doctorally prepared faculty; and

(2) determining priorities to be addressed from the plan;

b. continue the collaborative approach originating from New Jersey Colleagues in Caring by convening representative groups of health care stakeholders to:

(1) review and comment on the data analysis conducted by the center;

(2) recommend systemic changes in the State's health care system, including strategies for the implementation of the changes; and

(3) disseminate the results of the reviews and recommendations to the Legislature, health care stakeholders and consumers;

c. acknowledge the valued contribution of the nursing work force to the health of the State by:

(1) promoting positive image-building efforts in nursing;

(2) supporting existing mechanisms for rewarding outstanding nurses; and

(3) reporting with evidence-based data the relationship of nursing care to the positive outcomes of the health of consumers;

d. provide consultation, technical assistance and information related to nursing resources within and outside of the State and serve as a clearinghouse for data related to nursing resources;

e. foster collaboration among members of the health care community to achieve policy consensus, promote diversity and enhance the knowledge of nurses and others in health policy and health services research; and

f. seek competitive funding to support specific research endeavors or model programs to enhance the resources available in supporting innovative projects.

C.18A:65-91 Membership of board.

3. The New Jersey Collaborating Center for Nursing shall be governed by a 17-member board. A majority of the members first appointed to the board shall include nurse representatives from among the members of the New Jersey Colleagues in Caring collaborative.

a. The members shall be appointed as follows:

(1) four members appointed by the President of the Senate who include: one representative of acute care facilities recommended by the New Jersey Hospital Association; one representative of long-term care facilities recommended by the Health Care Association of New Jersey; one registered professional nurse recommended by the New Jersey State Nurses Association; and one representative of home health care agencies recommended by the Home Health Assembly of New Jersey;

(2) four members appointed by the Speaker of the General Assembly who include: one registered professional nurse recommended by the New Jersey State Nurses Association; one registered professional nurse recommended by the Organization of Nurse Executives - New Jersey; one representative of acute care facilities recommended by the New Jersey Council of Teaching Hospitals; and one licensed practical nurse recommended by the Licensed Practical Nurse Association of New Jersey; and

(3) nine members appointed by the Governor who include: one registered professional nurse recommended by the New Jersey State Nurses Association; one registered professional nurse recommended by the New Jersey League

for Nursing; one health care facility staff nurse providing direct patient care, who is recommended by an organization that represents such nurses; two consumers of health care; one representative of baccalaureate and higher degree university nursing programs recommended by the Council of Baccalaureate and Higher Degree Programs; one representative of associate degree nursing programs recommended by the Council of Associate Degree programs; one representative of diploma nursing programs recommended by the Association of Diploma Schools of Professional Nursing; and one representative of practical nursing programs recommended by the Licensed Practical Nurses Education Council.

b. The term of office of each member shall be two years; except that, of the members first appointed, two members appointed by the Senate President shall serve for a term of one year and two for a term of two years; two members appointed by the Speaker of the General Assembly shall serve for a term of one year and two for a term of two years; and four members appointed by the Governor shall serve for a term of one year and five for a term of two years.

A member shall hold office for the term of his appointment and until his successor has been appointed and qualified. All vacancies shall be filled for the balance of the unexpired term in the same manner as the original appointment. A member of the board is eligible for reappointment, but no member shall serve for more than two consecutive terms.

c. The board shall meet at least quarterly and shall meet as soon as practical following the appointment of its members to choose, from among the members and by a majority vote of the members, a chairperson and such other officers as it deems appropriate. The chairperson and other officers shall serve in their elected office for a term of two years and may not succeed themselves in office.

d. Members shall serve without compensation but shall be reimbursed for the reasonable travel and other out-of-pocket expenses incurred in the performance of their duties in a manner consistent with the policies and procedures of Rutgers, The State University of New Jersey.

C.18A:65-92 Duties of board.

4. The board shall:

a. determine global policies for the center;

b. implement the primary goals of the center as established in this act;

c. appoint a multidisciplinary advisory council to provide input and advice on policy matters. The advisory council shall include representatives from all of the organizations represented in the collaborative of New Jersey Colleagues in Caring;

d. appoint a full-time executive director who shall serve at the pleasure of the board and shall be a person qualified by training and experience to

perform the duties of the office. The board shall authorize the executive director to employ such other staff as the executive director deems necessary and within the limits of funds available to the center. All policies and procedures concerning the hiring of center employees shall be the same as and consistent with the applicable policies and procedures of Rutgers, The State University of New Jersey;

e. apply for and accept grants of money available for carrying out the policies and activities of the center from the federal government, and accept gifts, grants and bequests of funds from individuals, foundations, corporations, governmental agencies and other organizations and institutions to carry out the purposes of this act; and

f. submit a report to the Governor and the Legislature one year after the center is established, and every two years thereafter, on its activities and findings. The report may include such recommendations for legislative action as the board deems appropriate. The board shall make its annual report available to members of the public, upon request.

C.18A:65-93 Interim responsibility.

5. Until such time as the members of the board are appointed, the New Jersey Colleagues in Caring collaborative shall be responsible for establishing the center and implementing the purposes of this act.

6. This act shall take effect immediately.

Approved December 12, 2002.

CHAPTER 117

AN ACT concerning the implementation of integrated pest management policies in public and private schools, and supplementing Title 13 of the Revised Statutes.

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

C.13:1F-19 Short title.

1. This act shall be known and may be cited as the "School Integrated Pest Management Act."

C.13:1F-20 Findings, declarations relative to the "School the Integrated Pest Management Act."

2. The Legislature finds and declares that in 1992, the National Parent Teacher Association passed a resolution calling for the reduced use of pesticides

in schools and calling on policy makers to consider all possible alternatives before using any pesticides; that the National Education Association and many national public interest organizations have announced support for reducing or eliminating pesticide use in schools; that the State, as well as 87 local government entities throughout the State, have adopted integrated pest management policies for their buildings and grounds; that childhood cancer is continuing to increase at the alarming rate of one percent per year; that the overall incidence of childhood cancer increased 10 percent between 1974 and 1991, making cancer the leading cause of childhood death from disease; and that approximately 4,800,000 children in the United States under the age of 18 have asthma, the most common chronic illness in children, and the incidence of asthma is on the rise.

The Legislature further finds and declares that children are more susceptible to hazardous impacts from pesticides than are adults; that numerous scientific studies have linked both cancer and asthma to pesticide exposure; that the United States Environmental Protection Agency has recommended the use of an integrated pest management system by local educational agencies, which emphasizes nonchemical ways of reducing pests, such as sanitation and maintenance; that integrated pest management is an effective and environmentally sensitive approach to pest management that relies on common sense practices; that integrated pest management programs use current, comprehensive information on the life cycles of pests and their interaction with the environment, and that this information, in combination with available pest control methods is used to manage pest damage with the least hazard to people, property and the environment and by economical means; and that integrated pest management programs take advantage of all pest management options possibly including, but not limited to, the judicious use of pesticides; that a notification process should be established for schools under which each student, parent, guardian, staff member, and teacher shall be notified of a pesticide application; that parents and guardians have a right to know that there is an integrated pest management system in their children's schools; that an integrated pest management system provides long-term health and economic benefits; and that parents and guardians should have a right to be notified in advance of any use of a pesticide in their children's schools.

The Legislature therefore determines that it is in the public interest of all of the people of New Jersey that the schools in this State establish an integrated pest management policy.

C.13:1F-21 Definitions relative to the "School Integrated Pest Management Act."

3. As used in this act:

"Charter school" means a school established pursuant to P.L.1995, c.426 (C.18A:36A-1 et seq.).

"Commissioner" means the Commissioner of Environmental Protection.

"Department" means the Department of Environmental Protection.

"Integrated pest management coordinator" or "coordinator" means an individual who is knowledgeable about integrated pest management systems and has been designated by a local school board, the board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, as the integrated pest management coordinator pursuant to section 5 of this act.

"Low Impact Pesticide" means any pesticide or pesticidal active ingredient alone, or in combination with inert ingredients, that the United States Environmental Protection Agency has determined is not of a character necessary to be regulated pursuant to the "Federal Insecticide, Fungicide, and Rodenticide Act," 7 U.S.C. s.136 et seq. and that has been exempted from the registration and reporting requirements adopted pursuant to that act; any gel; paste; bait; antimicrobial agent such as a disinfectant used as a cleaning product; boric acid; disodium octoborate tetrahydrate; silica gels; diatomaceous earth; microbe-based insecticides such as bacillus thuringiensis; botanical insecticides, not including synthetic pyrethroids, without toxic synergists; and biological, living control agents.

"Pesticide" means any substance or mixture of substances labeled, designed, intended for or capable of use in preventing, destroying, repelling, sterilizing or mitigating any insects, rodents, nematodes, predatory animals, fungi, weeds and other forms of plant or animal life or viruses, except viruses on or in living man or other animals. "Pesticide" shall also include any substance or mixture of substances labeled, designed or intended for use as a defoliant, desiccant or plant regulator.

"School" means any public or private school as defined in N.J.S.18A:1-1.

"School integrated pest management policy" means a managed pest control policy that eliminates or mitigates economic, health, and aesthetic damage caused by pests in schools; that delivers effective pest management, reduces the volume of pesticides used to minimize the potential hazards posed by pesticides to human health and the environment in schools; that uses integrated methods, site or pest inspections, pest population monitoring, an evaluation of the need for pest control, and one or more pest control methods, including sanitation, structural repair, mechanical and biological controls, other nonchemical methods, and when nonchemical options are ineffective or unreasonable, allows the use of a pesticide, with a preference toward first considering the use of a low impact pesticide for schools.

"School pest emergency" means an urgent need to mitigate or eliminate a pest that threatens the health or safety of a student or staff member.

"School property" means any area inside and outside of the school buildings controlled, managed, or owned by the school or school district.

"Staff member" means an employee of a school or school district, including administrators, teachers, and other persons regularly employed by a school or school district, but shall not include an employee hired by a school, school district or the State to apply a pesticide or a person assisting in the application of a pesticide.

"Universal notification" means notice provided by a local school board, a board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, to all parents or guardians of children attending a school, and staff members of a school or school district.

C.13:1F-22 Development of model school integrated pest management policy.

4. a. No later than 12 months after the effective date of this act, the commissioner, in consultation with the Commissioner of Education, the New Jersey School Boards Association, and the New Jersey Cooperative Extension of Rutgers, The State University shall develop a model school integrated pest management policy that is based upon recommended integrated pest management plans for schools disseminated by the United States Environmental Protection Agency and that conforms to the rules adopted by the department pursuant to the "Pesticide Control Act of 1971," P.L.1971, c.176 (C.13:1F-1 et seq.).

b. No later than 18 months after the effective date of this act, the superintendent of the school district, for each school in the district, the board of trustees of a charter school, and the principal or chief administrator of a private school, shall adopt and implement a school integrated pest management policy for the school property consistent with the model policy developed pursuant to subsection a. of this section and that complies with the provisions of this act.

C.13:1F-23 Designation of integrated pest management coordinator.

5. a. Each local school board of a school district, each board of trustees of a charter school, and each principal or chief administrator of a private school, as appropriate, shall designate an integrated pest management coordinator to carry out the school integrated pest management policy required pursuant to section 4 of this act.

b. The integrated pest management coordinator for a school or school district shall:

(1) maintain information about the school or school district's school integrated pest management policy and about pesticide applications on the school property of the school or the schools within the school district;

(2) act as a contact for inquiries about the school integrated pest management policy; and

(3) maintain material safety data sheets, when available, and labels for all pesticides that are used on the school property of the school or of the schools in the school district.

C.13:1F-24 Maintenance of records of pesticide application; notices of policy.

6. a. The local school board of a school district, the board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, shall request from the pesticide applicator and shall maintain records of pesticide applications used on school property at each school or for each school in the school district for three years after the application, and for five years after the application of a pesticide designed to control termites, and on request, shall make the data available to the public for review.

b. Annually, each local school board, each board of trustees of a charter school, or each principal or chief administrator of a private school, as appropriate, shall include a notice of the school integrated pest management policy of the school or school district in school calendars or other forms of universal notification.

c. The notice shall include:

(1) the school integrated pest management policy of the school or school district;

(2) a list of any pesticide that is in use or that has been used in the last 12 months on school property;

(3) the name, address, and telephone number of the integrated pest management coordinator of the school or school district;

(4) a statement that: (a) the integrated pest management coordinator maintains the product label and material safety data sheet, when available, of each pesticide that may be used on school property; (b) the label and data sheet is available for review by a parent, guardian, staff member, or student attending the school; and (c) the integrated pest management coordinator is available to parents, guardians, and staff members for information and comment;

(5) the time and place of any meetings that will be held to adopt the school integrated pest management policy; and

(6) the following statement:

"As part of a school pest management plan, (insert school name) may use pesticides to control pests. The United States Environmental Protection Agency (EPA) and the New Jersey Department of Environmental Protection (DEP) register pesticides to determine that the use of a pesticide in accordance with instructions printed on the label does not pose an unreasonable risk to human health and the environment. Nevertheless, the EPA and DEP cannot guarantee that registered pesticides do not pose any risk to human health, thus unnecessary exposure to pesticides should be avoided. The EPA has issued the statement that where possible, persons who are potentially sensitive, such

as pregnant women, infants and children, should avoid unnecessary pesticide exposure."

d. After the beginning of each school year, each local school board, each board of trustees of a charter school, or each principal or chief administrator of a private school, as appropriate, shall provide the notice required pursuant to subsection b. of this section to: (1) each new staff member who is employed during the school year; and (2) the parent or guardian of each new student enrolled during the school year.

C.13:1F-25 Permitted use of certain pesticides; notice.

7. a. If a local school board, board of trustees of a charter school or principal or chief administrator of a private school, as appropriate, determines that a pesticide, other than a low impact pesticide, must be used on school property, a pesticide may be used only in accordance with this section.

b. At least 72 hours before a pesticide, other than a low impact pesticide, is used on school property, the local school board, the board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, shall provide to a parent or guardian of each student enrolled at the school and each staff member of the school, notice that includes:

(1) the common name, trade name, and federal Environmental Protection Agency registration number of the pesticide;

(2) a description of the location of the application of the pesticide;

(3) a description of the date and time of application, except that, in the case of outdoor pesticide applications, one notice shall include three dates, in chronological order, on which the outdoor pesticide applications may take place if the preceding date is canceled;

(4) a statement that The Office of Pesticide Programs of the United States Environmental Protection Agency has stated: "Where possible, persons who potentially are sensitive, such as pregnant women, infants, and children, should avoid any unnecessary pesticide exposure";

(5) a description of potential adverse effects of the pesticide based on the material safety data sheet, if available, for the pesticide;

(6) a description of the reasons for the application of the pesticide;

(7) the name and telephone number of the integrated pest management coordinator for the school or the school district; and

(8) any additional label instruction and precautions related to public safety.

c. The local school board of a school district, the board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, may provide the notice required by subsection b. of this section by:

(1) written notice sent home with the student and provided to each staff member;

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(2) a telephone call;
(3) direct contact;
(4) written notice mailed at least one week before the application; or
(5) electronic mail.

d. If the date of the application of the pesticide must be extended beyond the period required for notice under this section, the local school board, the board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, shall reissue the notice required under this section for the new date of application.

C.13:1F-26 Posting of sign prior to use of certain pesticides.

8. a. At least 72 hours before a pesticide, other than a low impact pesticide, is used on school property, the local school board, the board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, shall post a sign that provides notice of the application of the pesticide (1) in a prominent place that is in or adjacent to the location to be treated; and (2) at each entrance to the building or school ground to be treated.

b. A sign required pursuant to subsection a. of this section for the application of a pesticide shall (1) remain posted for at least 72 hours after the end of the treatment; (2) be at least 8 ½ inches by 11 inches; and (3) state the same information as that required for prior notification of the pesticide application pursuant to section 7 of this act.

c. In the case of outdoor pesticide applications, each sign shall include three dates, in chronological order, on which the outdoor pesticide application may take place if the preceding date is canceled due to weather. A sign shall be posted after an outdoor pesticide application in accordance with subsection b. of this section.

d. The requirement imposed pursuant to this section shall be in addition to any requirements imposed pursuant to the "Pesticide Control Act of 1971," P.L.1971, c.176 (C.13:1F-1 et seq.), and any rules or regulations adopted pursuant thereto.

C.13:1F-27 Applicability of notice and posting requirements.

9. The provisions of sections 7 and 8 of this act shall apply if any person applies a pesticide, other than a low impact pesticide, on school property, including a custodian, staff member, or commercial applicator. These provisions shall apply to a school during the school year, and during holidays and the summer months, only if the school is in use by children during those periods. During those periods, notices shall be provided to all staff members and the parents or guardians of the students that are using the school in an authorized manner.

C.13:1F-28 Emergency use of certain pesticides.

10. a. A pesticide, other than a low impact pesticide, may be applied on school property in response to an emergency, without complying with the provisions of sections 7 and 8 of this act, provided the requirements of subsection b. of this section are met.

b. Within 24 hours after the application of a pesticide pursuant to this section, or on the morning of the next school day, whichever is earlier, the local school board, the board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, shall provide to each parent or guardian of a student enrolled at the school, and staff member of the school, notice of the application of the pesticide for emergency pest control that includes: (1) the information required for a notice under section 7 of this act; (2) a description of the problem and the factors that qualified the problem as an emergency that threatened the health or safety of a student or staff member; and (3) if necessary, a description of the steps that will be taken in the future to avoid emergency application of a pesticide pursuant to this section.

c. The local school board, the board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, may provide the notice required by subsection b. of this section by: (1) written notice sent home with the student and provided to the staff member; (2) a telephone call; (3) direct contact; or (4) electronic mail.

d. When a pesticide is applied pursuant to this section, the local school board, the board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, shall post a sign warning of the pesticide application at the time of the application of the pesticide, in accordance with the provisions of section 8 of this act.

e. If there is an application of a pesticide pursuant to this section, the local school board, the board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, shall modify the school integrated pest management policy of the school or school district if necessary, to minimize the future emergency applications of pesticides under this section.

C.13:1F-29 Prohibited use of certain pesticides.

11. a. A pesticide, other than a low impact pesticide, shall not be applied on school property where students are expected to be present for academic instruction or for organized extra-curricular activities prior to the time prescribed for re-entry to the application site by the United State Environmental Protection Agency on the pesticide label, except that if no specific numerical re-entry time is prescribed on a pesticide label, such a pesticide, other than a low impact pesticide, shall not be applied on school property where students are expected

to be present for academic instruction or for organized extra-curricular activities within seven hours of the application.

b. A pesticide, other than a low impact pesticide, shall not be applied in a school building when students are present. Students may not be present in an untreated portion of a school building unless the area being treated with a pesticide, other than a low impact pesticide, is served by a separate ventilation system and is separated from the untreated area by smoke or fire doors.

c. A low impact pesticide may be applied in areas of a school building where students will not contact treated areas until sufficient time is allowed for the substance to dry or settle, or after the period of time prescribed for re-entry or for ventilation requirements on the pesticide label has elapsed.

d. This section shall not apply when pesticides are applied on school property for student instructional purposes or by public health officials during the normal course of their duties.

C.13:1F-30 Immunity from liability of commercial pesticide applicator.

12. A commercial pesticide applicator shall not be liable to any person for damages resulting from the application of a pesticide at a school if the damages are solely due to the failure of the local school board, the board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, to provide the notice required prior to the application of a pesticide pursuant to the provisions of section 7, 8, 9, or 10 of P.L.2002, c.117 (C.13:1F-25, C.13:1F-26, C.13:1F-27 or C.13:1F-28).

C.13:1F-31 Development, availability of form for certifying compliance.

13. The department shall develop and make available to commercial pesticide applicators a form which a commercial pesticide applicator may request an integrated pest management coordinator to sign prior to the application of a pesticide, other than a low impact pesticide, on school property. The form developed pursuant to this section shall set forth a certification by the integrated pest management coordinator that the notice and posting requirements for the application of a pesticide established pursuant to section 7 and section 8 of this act, or the posting requirement established pursuant to section 10 of this act, as appropriate, have been complied with. Upon being presented by a commercial pesticide applicator with a form pursuant to this section, the signature of the integrated pest management coordinator shall be required as a condition for the application of the pesticide.

C.13:1F-32 Issuance of administrative order; notice of violation.

14. a. The Department of Environmental Protection may issue an administrative order against a local school board, the board of trustees of a charter school, or a principal or chief administrator of a private school that fails to adopt and implement a pesticide use and school integrated pest

management policy in compliance with the provisions of this act. Upon identification of a violation of this act, the department shall issue a notice of violation by certified mail or personal service to the person responsible for the violation that identifies the violation and states that an administrative order may be issued requiring compliance with the act. Any notice of violation or administrative order shall (1) specify the provision or provisions of this act, or the rule or regulation adopted pursuant thereto, of which the person is in violation; (2) cite the action that caused the violation; and (3) require compliance with the provision of this act or the rule or regulation adopted pursuant thereto of which the person is in violation. In addition, any administrative order issued pursuant to this section shall give notice to the person of his right to a hearing on the matters contained in the order. The person shall have 20 days from receipt of the order within which to deliver to the commissioner a written request for a hearing. Subsequent to the hearing and upon finding that a violation has occurred, the commissioner may issue a final order. If no hearing is requested, the order shall become a final order upon the expiration of the 20-day period.

b. The provisions of section 10 of P.L.1971, c.176 (C.13:1F-10) shall not apply to this act.

C.13:1F-33 Rules, regulations.

15. The commissioner shall adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules or regulations as are necessary to implement the provisions of this act.

16. This act shall take effect immediately.

Approved December 12, 2002.

CHAPTER 118

AN ACT concerning medical oxygen and oxygen delivery system use in a residential setting and supplementing P.L.1971, c.134 (C.52:17B-118 et seq.).

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

C.52:17B-139.7 Notification to fire department by provider of medical oxygen, oxygen delivery system of patient's residence.

1. A licensed pharmacist or other provider of oxygen or an oxygen delivery system who has supplied oxygen or an oxygen delivery system to a patient

on an order from a licensed health care provider shall notify the appropriate fire department or company serving the municipality in which the patient resides of the name and address of the patient and the existence of the oxygen or oxygen delivery system at the patient's residence, in accordance with the provisions of this act.

a. Prior to notification, a pharmacist or other provider of oxygen or an oxygen delivery system shall inform the patient of the notification requirements of this act and obtain written informed consent from the patient for the notification.

If the patient is legally incompetent, the pharmacist or other provider of oxygen or an oxygen delivery system shall inform an authorized representative of the patient of the notification requirements of this act and obtain the written informed consent from the authorized representative.

b. Written informed consent shall consist of a statement, on a form or in a manner to be determined by the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, signed by the patient or by an authorized representative of the patient, which acknowledges that the pharmacist or other provider of oxygen or an oxygen delivery system has provided the patient with information regarding the notification requirements of this act, and that the patient or authorized representative of the patient consents to the notification.

c. If the patient or his authorized representative declines to give his informed consent for the notification, the pharmacist or other provider of oxygen or an oxygen delivery system is required to inform the patient or his authorized representative that the patient is obligated to notify the appropriate fire department or company of the patient's name and address and of the existence of oxygen or an oxygen delivery system at his residence.

d. If the patient or his authorized representative declines to give his informed consent, the pharmacist or other provider of oxygen or an oxygen delivery system is exempt from the requirement to make the notification and is permitted to supply the oxygen or oxygen delivery system as directed by the licensed health care provider's order.

e. A copy of the written informed consent shall be attached to the order for the oxygen or oxygen delivery system or otherwise included in the patient's record or, if written consent is not given, the pharmacist or other provider of oxygen or an oxygen delivery system shall note on the order or in the patient's record that informed consent was not given.

f. A pharmacist or other provider of oxygen or an oxygen delivery system who complies with the provisions of this act shall be immune from civil liability if the patient fails to notify the appropriate fire department or company of the patient's name and address and the existence of oxygen or an oxygen delivery system at the patient's residence.

C.52:17B-139.8 Notification by patient.

2. A patient who declines to give his written informed consent for the notification requirements of this act shall, promptly upon being provided with the oxygen or oxygen delivery system, notify the appropriate fire department or company of his name and address and of the existence of the oxygen or oxygen delivery system at his residence.

C.52:17B-139.9 Duties of director.

3. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall:

a. Notify all licensed pharmacists in the State of the requirements of this act and provide public notice to other providers of oxygen or oxygen delivery systems of the requirements of this act in newspapers throughout the State;

b. Prepare a patient information brochure regarding the safe handling, use and storage of oxygen or oxygen delivery systems and make copies available to pharmacists and other providers of oxygen or oxygen delivery systems; and

c. Report to the Governor and the Legislature within one year of the effective date of this act on the effectiveness of the notification program.

C.52:17B-139.10 Noncompliance; disorderly person.

4. A pharmacist, other provider of oxygen or an oxygen delivery system or patient who knowingly fails to comply with the provisions of this act is a disorderly person.

C.52:17B-139.11 Rules, regulations by Division of Consumer Affairs.

5. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations to effectuate the purpose of this act concerning the requirements imposed by this act upon pharmacists and other providers of oxygen or oxygen delivery systems. The rules shall establish the procedures pharmacists and other providers of oxygen or oxygen delivery systems shall follow to obtain written informed consent and to notify the appropriate fire department or company serving the municipality in which the patient resides of the patient's name and address and of the existence of oxygen or an oxygen delivery system at the patient's residence.

C.52:17B-139.12 Regulations by Division of Fire Safety.

6. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Director of the Division of Fire Safety in the Department of Community Affairs shall promulgate regulations concerning

the placement of warning signs on residences containing oxygen or an oxygen delivery system.

7. Sections 5 and 6 of this act shall take effect immediately and the remainder of this act shall take effect on the 180th day after enactment.

Approved December 12, 2002.

CHAPTER 119

AN ACT concerning criminal history record checks and amending P.L.1986, c.116, P.L.1989, c.104, P.L.1989, c.229 and P.L.1998, c.31.

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

1. Section 2 of P.L.1989, c.229 (C.18A:6-4.14) is amended to read as follows:

C.18A:6-4.14 Criminal history record check for applicant for nonpublic school employment.

2. An applicant for employment or service in any of the positions covered by this act shall submit to the Commissioner of Education his or her name, address and fingerprints taken in accordance with procedures established by the commissioner. The commissioner is hereby authorized to exchange fingerprint data with and to receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required by this act. No criminal history record check shall be performed pursuant to this act unless the applicant shall have furnished his or her written consent to such a check. The applicant shall bear the cost for the criminal history record check, including all costs for administering and processing the check.

2. Section 3 of P.L.1989, c.229 (C.18A:6-4.15) is amended to read as follows:

C.18A:6-4.15 Determination, reporting of qualification; written notice, notice of pending charge.

3. The commissioner shall apply the same requirements, procedures and standards and shall proceed in the same manner as is prescribed in P.L.1986, c.116 (C.18A:6-7.1 et seq.) for determining whether the applicant would be qualified or disqualified for employment in the public schools and shall inform the applicant of his determination in writing. The commissioner shall also provide written notification to the chief administrator of the nonpublic

school, which requires the criminal history record check as a condition of employment, of his determination as to whether the candidate would be qualified or disqualified for employment in the public schools.

Following qualification for employment pursuant to this section, the State Bureau of Identification shall immediately forward to the Commissioner of Education any information which the bureau receives on a charge pending against an employee of the nonpublic school which requires a criminal history record check as a condition of employment. If the charge is for one of the crimes or offenses enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1), the commissioner shall notify the chief administrator of the nonpublic school.

3. Section 1 of P.L.1986, c.116 (C.18A:6-7.1) is amended to read as follows:

C.18A:6-7.1 Criminal record check in public school employment.

1. A facility, center, school, or school system under the supervision of the Department of Education and board of education which cares for, or is involved in the education of children under the age of 18 shall not employ or contract for the services of any teaching staff member or substitute teacher, teacher aide, child study team member, school physician, school nurse, custodian, school maintenance worker, cafeteria worker, school law enforcement officer, school secretary or clerical worker or any other person serving in a position which involves regular contact with pupils unless the employer has first determined consistent with the requirements and standards of this act, that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or the State Bureau of Identification which would disqualify that individual from being employed or utilized in such capacity or position. An individual employed by a board of education or a school bus contractor holding a contract with a board of education, in the capacity of a school bus driver, shall be required to meet the criminal history record requirements pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1). This section shall not apply to any individual who provides services on a voluntary basis.

An individual, except as provided in subsection g. of this section, shall be permanently disqualified from employment or service under this act if the individual's criminal history record check reveals a record of conviction for any crime of the first or second degree; or

a. An offense as set forth in chapter 14 of Title 2C of the New Jersey Statutes, or as set forth in N.J.S.2C:24-4 and 2C:24-7, or as set forth in R.S.9:6-1 et seq., or as set forth in N.J.S.2C:29-2; or

b. An offense involving the manufacture, transportation, sale, possession, distribution or habitual use of a "controlled dangerous substance" as defined

in the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al. or "drug paraphernalia" as defined pursuant to N.J.S.2C:36-1 et seq.; or

c. (1) A crime involving the use of force or the threat of force to or upon a person or property including, but not limited to, robbery, aggravated assault, stalking, kidnapping, arson, manslaughter and murder; or

(2) A crime as set forth in chapter 39 of Title 2C of the New Jersey Statutes, a third degree crime as set forth in chapter 20 of Title 2C of the New Jersey Statutes, or a crime as listed below:

Recklessly endangering another person	N.J.S.2C:12-2
Terroristic threats	N.J.S.2C:12-3
Criminal restraint	N.J.S.2C:13-2
Luring, enticing child into motor vehicle, structure or isolated area	P.L.1993, c.291
Causing or risking widespread injury or damage	N.J.S.2C:17-2
Criminal mischief	N.J.S.2C:17-3
Burglary	N.J.S.2C:18-2
Usury	N.J.S.2C:21-19
Threats and other improper influence	N.J.S.2C:27-3
Perjury and false swearing	N.J.S.2C:28-3
Resisting arrest	N.J.S.2C:29-2
Escape	N.J.S.2C:29-5;

or

(3) Conspiracy to commit or an attempt to commit any of the crimes described in this act.

d. For the purposes of this section, a conviction exists if the individual has at any time been convicted under the laws of this State or under any similar statutes of the United States or any other state for a substantially equivalent crime or other offense.

e. Notwithstanding the provisions of this section, an individual shall not be disqualified from employment or service under this act on the basis of any conviction disclosed by a criminal record check performed pursuant to this act without an opportunity to challenge the accuracy of the disqualifying criminal history record.

f. When charges are pending for a crime or any other offense enumerated in this section, the employing board of education shall be notified that the candidate shall not be eligible for employment until the commissioner has made a determination regarding qualification or disqualification upon adjudication of the pending charges.

g. This section shall first apply to criminal history record checks conducted on or after the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); except that in the case of an individual employed by a board of education or a contracted

service provider who is required to undergo a check upon employment with another board of education or contracted service provider, the individual shall be disqualified only for the following offenses:

(1) any offense enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); and

(2) any offense enumerated in this section which had not been enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.), if the person was convicted of that offense on or after the effective date of that act.

4. Section 2 of P.L.1986, c.116 (C.18A:6-7.2) is amended to read as follows:

C.18A:6-7.2 Finger printing.

2. An applicant for employment or service in any of the positions covered by this act shall submit to the Commissioner of Education his or her name, address and fingerprints taken in accordance with procedures established by the commissioner. The Commissioner of Education is hereby authorized to exchange fingerprint data with and receive criminal history record information from the federal Bureau of Investigation and the Division of State Police for use in making the determinations required by this act. No criminal history record check shall be performed pursuant to this act unless the applicant shall have furnished his or her written consent to such a check. The applicant shall bear the cost for the criminal history record check, including all costs for administering and processing the check.

5. Section 13 of P.L.1998, c.31 (C.18A:6-7.2a) is amended to read as follows:

C.18A:6-7.2a Authority of commissioner.

13. The Commissioner of Education is authorized to:

a. receive all criminal history data necessary to complete the criminal history records check as required pursuant to P.L.1986, c.116 (C.18A:6-7.1 et seq.) and section 6 of P.L.1989, c.104 (C.18A:39-19.1), or as permitted pursuant to P.L.1989, c.229 (C.18A:6-4.13 et seq.);

b. receive all data in accordance with section 3 of P.L.1986, c.116 (C.18A:6-7.3), section 6 of P.L.1989, c.104 (C.18A:39-19.1) and section 3 of P.L.1989, c. 229 (C.18A:6-4.15) on charges pending against an employee or school bus driver who has previously undergone a criminal history records check; and

c. adjust the fees set by the Department of Education for the criminal history records checks.

6. Section 3 of P.L.1986, c.116 (C.18A:6-7.3) is amended to read as follows:

C.18A:6-7.3 Notice to applicant; notice of pending charges.

3. Upon receipt of the criminal history record information for an applicant from the Federal Bureau of Investigation and the Division of State Police, the Commissioner of Education shall notify the applicant, in writing, of the applicant's qualification or disqualification for employment or service under this act. If the applicant is disqualified, the convictions which constitute the basis for the disqualification shall be identified in the written notice to the applicant. The applicant shall have 14 days from the date of the written notice of disqualification to challenge the accuracy of the criminal history record information. If no challenge is filed or if the determination of the accuracy of the criminal history record information upholds the disqualification, the commissioner shall notify the employing board of education that the applicant has been disqualified from employment, and a copy of the written notice of disqualification for applicants who hold a certificate issued by the State Board of Examiners shall be forwarded to that board.

The commissioner is authorized to share all criminal history record information regarding teaching staff members with the State Board of Examiners. In addition, the commissioner is authorized to share criminal history record information of an applicant from the Federal Bureau of Investigation or the State Bureau of Identification with the appropriate court in order to obtain copies of the judgment of conviction and such other documents as the commissioner deems necessary to confirm the completeness and accuracy of the record.

Following qualification for employment pursuant to this section, the State Bureau of Identification shall immediately forward to the Commissioner of Education any information which the bureau receives on a charge pending against an employee. If the charge is for one of the crimes or offenses enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1), the commissioner shall notify the employing board of education or contractor, and the board or contractor shall take appropriate action. If the pending charge results in conviction, the employee shall not be eligible for continued employment.

7. Section 6 of P.L.1989, c.104 (C.18A:39-19.1) is amended to read as follows:

C.18A:39-19.1 Bus drivers required to submit certain information to commissioner; notice of pending charges.

6. a. Prior to employment as a school bus driver, and upon application for renewal of a school bus driver's license, a bus driver shall submit to the Commissioner of Education his or her name, address and fingerprints taken

on standard fingerprint cards by a law enforcement agency. No criminal history record check shall be furnished without his or her written consent to such a check. The applicant shall bear the cost for the criminal history record check, including all costs for administering and processing the check.

Upon receipt of the criminal history record information for an applicant from the Federal Bureau of Investigation and the Division of State Police, the Commissioner of Education shall notify the applicant, in writing, of the applicant's qualification or disqualification as a school bus driver. If the applicant is disqualified, the convictions which constitute the basis for the disqualification shall be identified in the written notice to the applicant. A school bus driver, except as provided in subsection e. of this section, shall be permanently disqualified from employment or service if the individual's criminal history record reveals a record of conviction for which public school employment candidates are disqualified pursuant to section 1 of P.L.1986, c.116 (C.18A:6-7.1).

Following qualification for employment as a school bus driver pursuant to this section, the State Bureau of Identification shall immediately forward to the Commissioner of Education any information which the bureau receives on a charge pending against the school bus driver. If the charge is for one of the crimes or offenses enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1), the commissioner shall notify the employing board of education or contractor, and the board or contractor shall take appropriate action. If the pending charge results in conviction, the school bus driver shall not be eligible for continued employment.

A school bus driver shall not be eligible to operate a school bus if the individual's bus driver's license is currently revoked or suspended by the Division of Motor Vehicle Services in accordance with R.S.39:3-10.1.

b. Notwithstanding the provisions of this section, an individual shall not be disqualified from employment or service under this act on the basis of any conviction disclosed by a criminal history record check performed pursuant to this section without an opportunity to challenge the accuracy of the disqualifying criminal history record.

c. When charges are pending for a crime or any other offense enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1), the employing board of education or contractor shall be notified that the candidate shall not be eligible for employment until the commissioner has made a determination regarding qualification or disqualification upon adjudication of the pending charges.

d. The applicant shall have 14 days from the date of the written notice of disqualification to challenge the accuracy of the criminal history record information. If no challenge is filed or if the determination of the accuracy of the criminal history record information upholds the disqualification, notification of the applicant's disqualification for employment shall be forwarded

to the Division of Motor Vehicle Services. The local board of education or the school bus contractor and the County Superintendent of Schools shall also be notified of the disqualification. Notwithstanding the provisions of any law to the contrary, the Director of the Division of Motor Vehicle Services shall, upon notice of disqualification from the Commissioner of Education, immediately revoke the applicant's special license issued pursuant to R.S.39:3-10.1 without necessity of a further hearing. Candidates' records shall be maintained in accordance with the provisions of section 4 of P.L.1986, c.116 (C.18A:6-7.4).

e. This section shall first apply to criminal history record checks conducted on or after the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); except that in the case of a school bus driver employed by a board of education or a contracted service provider who is required to undergo a check upon application for renewal of a school bus driver's license, the individual shall be disqualified only for the following offenses:

(1) any offense enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); and

(2) any offense enumerated in this section which had not been enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.), if the person was convicted of that offense on or after the effective date of that act.

8. This act shall take effect immediately.

Approved December 12, 2002.

CHAPTER 120

AN ACT concerning the use of wireless telephones and supplementing chapter 3B of Title 39 of the Revised Statutes.

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

C.39:3B-25 Use of cell phone prohibited while driving school bus, exceptions; fines.

1. a. It shall be unlawful for the driver of a school bus, as defined in R.S.39:1-1, to use a cellular or other wireless telephone while operating the school bus.

b. The prohibition contained in subsection a. of this section shall not apply:

(1) when the school bus is parked in a safe area off of a highway; or

(2) in an emergency situation.

c. A person who violates this section shall be fined not less than $250 or more than $500.

d. No motor vehicle points or automobile insurance eligibility points pursuant to section 26 of P.L.1990, c.8 (C.17:33B-14) shall be assessed for this offense

2. This act shall take effect immediately.

Approved December 12, 2002.

CHAPTER 121

AN ACT concerning the burial of indigent, unidentified or unclaimed deceased persons, amending various sections of statutory law and repealing R.S.44:1-157.

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

1. Section 1 of P.L.1987, c.67 (C.40A:9-49.1) is amended to read as follows:

C.40A:9-49.1 Burial expenses of indigents.

1. Notwithstanding any provision of law, rule or regulation to the contrary, when an indigent person dies in his resident county without a surviving spouse, parent or emancipated child or in a county other than his resident county, the resident county of the indigent decedent is responsible for the necessary and reasonable expenses for the burial. For the purposes of this act, "indigent decedent" means a person who dies without leaving an ascertainable estate sufficient to pay part or all of the person's burial expenses and whose burial expenses are not payable by the State pursuant to P.L.1959, c.86 (C.44:10-1 et seq.), P.L.1947, c.156 (C.44:8-107 et seq.) or P.L.1973, c.256 (C.44:7-85 et seq.), or by the county pursuant to N.J.S.40A:9-49.

2. N.J.S.40A:9-53 is amended to read as follows:

Delivery of unidentified, unclaimed dead bodies for placing in the morgue.

40A:9-53. In counties having morgue keepers, unidentified or unclaimed dead bodies shall be delivered to the morgue keeper, and if there be more than one, to the morgue keeper in the area where the body is at the time for such delivery. The morgue keeper shall receive and place the body in the morgue.

3. N.J.S.40A:9-54 is amended to read as follows:

Unidentified, unclaimed dead bodies in morgues; disposition.

40A:9-54. Unidentified or unclaimed dead bodies shall be viewed by the county medical examiner or a regularly licensed and practicing physician deputized for that purpose by the county medical examiner. Thereafter the body shall be buried by the morgue keeper at the expense of the county.

4. N.J.S.40A:9-56 is amended to read as follows:

Unidentified, unclaimed dead bodies; disposition where no morgue keepers.

40A:9-56. In any county where there is no morgue keeper, the procedure as to the disposition of unidentified or unclaimed dead bodies shall be as nearly similar as in counties having a morgue keeper and the duties which would have been performed by the morgue keeper, if there were one, shall be performed by the county medical examiner.

Repealer.

5. R.S.44:1-157 is repealed.

6. This act shall take effect immediately.

Approved December 12, 2002.

CHAPTER 122

AN ACT concerning the possession and release of certain animals, amending the title and body of P.L.1962, c.127, and repealing P.L.1970, c.149.

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

1. The title to P.L.1962, c.127 is amended to read as follows:

Title amended.

AN ACT concerning the possession and release of certain animals, and supplementing Title 23 of the Revised Statutes.

2. Section 1 of P.L.1962, c.127 (C.23:4-63.3) is amended to read as follows:

C.23:4-63.3 Possession, release of certain animals, prohibited; terms defined.

1. a. No person may possess any live indigenous animal, live exotic animal, live potentially dangerous indigenous animal, or live potentially dangerous

exotic animal except as authorized pursuant to a permit issued by the Department of Environmental Protection or as may be authorized otherwise by the Fish and Game Council pursuant to rules and regulations adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. No person may release any live indigenous animal into the environment of the State except as authorized pursuant to a permit issued by the department or as may be authorized otherwise by the council pursuant to rules and regulations adopted pursuant to the "Administrative Procedure Act."

c. No person may release any live exotic animal into the environment of the State except as authorized pursuant to a permit issued by the department or as may be authorized otherwise by the council pursuant to rules and regulations adopted pursuant to the "Administrative Procedure Act."

d. No person may release any live potentially dangerous indigenous animal into the environment of the State except as authorized pursuant to a permit issued by the department or as may be authorized otherwise by the council pursuant to rules and regulations adopted pursuant to the "Administrative Procedure Act."

e. No person may release any live potentially dangerous exotic animal into the environment of the State except as authorized pursuant to a permit issued by the department or as may be authorized otherwise by the council pursuant to rules and regulations adopted pursuant to the "Administrative Procedure Act."

f. Every pet shop licensed in the State pursuant to section 8 of P.L.1941, c.151 (C.4:19-15.8) shall post in a conspicuous place in the pet shop a notice about the existence of this act and a copy of its provisions.

g. The department may attach such conditions to any permit issued or other authorization granted pursuant to this section as the department deems appropriate and necessary for the purpose of protecting indigenous animals or plants, the environment, agriculture, or the public health, safety, or welfare.

h. (1) The council shall adopt, pursuant to the "Administrative Procedure Act," such rules and regulations to supplement the State Fish and Game Code as may be necessary to implement this section.

(2) The council, by rule or regulation adopted pursuant to the "Administrative Procedure Act," may exempt from the requirements and provisions of this section any species of indigenous animal, exotic animal, potentially dangerous indigenous animal, or potentially dangerous exotic animal, provided that the possession or release of such animals would not pose a significant threat to indigenous animals or plants, the environment, agriculture, or the public health, safety, or welfare.

(3) This section shall not apply to any activities of the Division of Fish and Wildlife concerning the possession and release of animals.

i. The requirements and provisions of this section, or any permit issued or rule or regulation adopted pursuant thereto, shall be in addition to those concerning the possession or release of live indigenous animals, live exotic animals, live potentially dangerous indigenous animals, or live potentially dangerous exotic animals, as may be established by any other law or any permit issued or rule or regulation adopted pursuant thereto, including but not limited to "The Endangered and Nongame Species Conservation Act," P.L.1973, c.309 (C.23:2A-1 et seq.), R.S.23:4-50, R.S.23:4-52, and the State Fish and Game Code.

j. For the purposes of this section:

"Council" means the Fish and Game Council;

"Department" means the Department of Environmental Protection;

"Exotic animal" means any species of mammal, bird, reptile, amphibian, fish, mollusk, or crustacean that is not indigenous to New Jersey as determined by the Fish and Game Council in rules and regulations adopted pursuant to the "Administrative Procedure Act," and shall include the young or eggs of any such species, but shall not include (1) domesticated companion animals or farm livestock as defined by the Fish and Game Council, or (2) fish, shellfish, or game species not indigenous to New Jersey for which fishing, harvesting, hunting, or trapping is authorized and regulated pursuant to law, the State Fish and Game Code, or rules and regulations of the Fish and Game Council;

"Indigenous animal" means any species of mammal, bird, reptile, amphibian, fish, mollusk, or crustacean that is indigenous to New Jersey as determined by the Fish and Game Council in rules and regulations adopted pursuant to the "Administrative Procedure Act," and shall include the young or eggs of any such species;

"Potentially dangerous exotic animal" means any species of exotic animal that has been determined by the Fish and Game Council in rules and regulations adopted pursuant to the "Administrative Procedure Act," to: (1) be capable of inflicting serious or fatal injuries to humans, livestock, or pets; or (2) possess the potential for becoming a significant threat to indigenous animals or plants, the environment, agriculture, or the public health, safety, or welfare; and

"Potentially dangerous indigenous animal" means any species of indigenous animal that has been determined by the Fish and Game Council in rules and regulations adopted pursuant to the "Administrative Procedure Act," to: (1) be capable of inflicting serious or fatal injuries to humans, livestock, or pets; or (2) possess the potential for becoming a significant threat to indigenous animals or plants, the environment, agriculture, or the public health, safety, or welfare.

3. Section 2 of P.L.1962, c.127 (C.23:4-63.4) is amended to read as follows:

C.23:4-63.4 Violations; penalties.

2. a. If any person violates any provision of section 1 of P.L.1962, c.127 (C.23:4-63.3), or any permit issued or rule or regulation adopted pursuant thereto, the Department of Environmental Protection may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent the violation and the court may proceed in the action in a summary manner.

b. (1) Any person who violates subsection a. or subsection b. of section 1 of P.L.1962, c.127 (C.23:4-63.3), or any permit issued or rule or regulation adopted pursuant thereto, shall be liable to a civil penalty of not less than $100 nor more than $500 for the first offense, and not less than $500 nor more than $1,000 for any subsequent offense.

(2) Any person who violates subsection c. of section 1 of P.L.1962, c.127 (C.23:4-63.3), or any permit issued or rule or regulation adopted pursuant thereto, shall be liable to a civil penalty of not less than $100 nor more than $1,000 for the first offense, and not less than $500 nor more than $2,000 for any subsequent offense.

(3) Any person who violates subsection d. or subsection e. of section 1 of P.L.1962, c.127 (C.23:4-63.3), or any permit issued or rule or regulation adopted pursuant thereto, shall be liable to a civil penalty of not less than $500 nor more than $2,500 for the first offense, and not less than $1,000 nor more than $5,000 for any subsequent offense.

(4) The owner or operator of any pet shop that violates subsection f. of section 1 of P.L.1962, c.127 (C.23:4-63.3) shall be liable to a civil penalty of up to $100 for each offense.

(5) Civil penalties established pursuant to this subsection 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 any case before a court of competent jurisdiction wherein injunctive relief has been requested pursuant to subsection a. of this section, and shall be remitted as provided pursuant to R.S.23:10-19. The Superior Court and municipal court shall have jurisdiction to enforce the "Penalty Enforcement Law of 1999."

(6) For the purposes of this subsection, each individual indigenous animal, exotic animal, potentially dangerous indigenous animal, or potentially dangerous exotic animal unlawfully possessed or released shall constitute an additional, separate and distinct offense, except in the case of the unlawful possession or release of the eggs of an amphibian, fish, mollusk, or crustacean, each egg mass shall constitute an additional, separate and distinct offense.

c. In addition to liability for any civil penalties established pursuant to subsection b. of this section, any person who violates any provision of subsection d. or subsection e. of section 1 of P.L.1962, c.127 (C.23:4-63.3), or any permit issued or rule or regulation adopted pursuant thereto, shall also

be liable to pay all reasonable costs incurred by the department or any other State or local government entity in eradicating or controlling the unlawfully released potentially dangerous indigenous animal or potentially dangerous exotic animal, as the case may be, and their progeny if any.

d. The department is hereby authorized and empowered to compromise and settle any claim for a penalty or costs which may be assessed pursuant to subsection b. or subsection c. of this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances.

e. (1) Any person who purposely or knowingly violates subsection e. of section 1 of P.L.1962, c.127 (C.23:4-63.3) shall be guilty of a crime of the third degree.

(2) Any person who recklessly or negligently violates subsection e. of section 1 of P.L.1962, c.127 (C.23:4-63.3) shall be guilty of a crime of the fourth degree.

(3) For the purposes of this subsection, each individual potentially dangerous exotic animal unlawfully released shall constitute an additional, separate and distinct offense, except in the case of the unlawful possession or release of the eggs of an amphibian, fish, mollusk, or crustacean, each egg mass shall constitute an additional, separate and distinct offense.

Repealer.

4. P.L.1970, c.149 (C.23:5-33.1) is repealed.

5. This act shall take effect on the 180th day after the date of enactment.

Approved December 12, 2002.

CHAPTER 123

AN ACT concerning applications for charter schools and amending P.L.1995, c.426.

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

1. Section 4 of P.L.1995, c.426 (C.18A:36A-4) is amended to read as follows:

C.18A:36A-4 Establishment of charter school.

4. a. A charter school may be established by teaching staff members, parents with children attending the schools of the district, or a combination of teaching

staff members and parents. A charter school may also be established by an institution of higher education or a private entity located within the State in conjunction with teaching staff members and parents of children attending the schools of the district. If the charter school is established by a private entity, representatives of the private entity shall not constitute a majority of the trustees of the school, and the charter shall specify the extent to which the private entity shall be involved in the operation of the school. The name of the charter school shall not include the name or identification of the private entity, and the private entity shall not realize a net profit from its operation of a charter school. A private or parochial school shall not be eligible for charter school status.

b. A currently existing public school is eligible to become a charter school if the following criteria are met:

(1) At least 51% of the teaching staff in the school shall have signed a petition in support of the school becoming a charter school; and

(2) At least 51% of the parents or guardians of pupils attending that public school shall have signed a petition in support of the school becoming a charter school.

c. An application to establish a charter school shall be submitted to the commissioner and the local board of education or State superintendent, in the case of a State-operated school district, in the school year preceding the school year in which the charter school will be established. Notice of the filing of the application shall be sent immediately by the commissioner to the members of the State Legislature, school superintendents, and mayors and governing bodies of all legislative districts, school districts, or municipalities in which there are students who will be eligible for enrollment in the charter school. The board of education or State superintendent shall review the application and forward a recommendation to the commissioner within 60 days of receipt of the application. The commissioner shall have final authority to grant or reject a charter application.

d. The local board of education or a charter school applicant may appeal the decision of the commissioner to the State Board of Education. The State board shall render a decision within 30 days of the date of the receipt of the appeal. If the State board does not render a decision within 30 days, the decision of the commissioner shall be deemed final.

e. A charter school established during the 48 months following the effective date of this act, other than a currently existing public school which becomes a charter school pursuant to the provisions of subsection b. of section 4 of this act, shall not have an enrollment in excess of 500 students or greater than 25% of the student body of the school district in which the charter school is established, whichever is less.

Any two charter schools within the same public school district that are not operating the same grade levels may petition the commissioner to amend

their charters and consolidate into one school. The commissioner may approve an amendment to consolidate, provided that the basis for consolidation is to accommodate the transfer of students who would otherwise be subject to the random selection process pursuant to section 8 of P.L.1995, c.426 (C.18A:36A-8).

2. This act shall take effect immediately.

Approved December 12, 2002.

CHAPTER 124

AN ACT concerning the use for recreation and conservation purposes of lands included in certain redevelopment plans, and amending P.L.1975, c.155 and P.L.1999, c.152.

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

1. Section 13 of P.L.1975, c.155 (C.13:8A-47) is amended to read as follows:

C.13:8A-47 Use, disposal of land acquired by local unit for other than recreation, conservation purposes; exceptions.

13. a. Lands acquired or developed by a local unit with the aid of a grant under this act shall not be disposed of or diverted to a use for other than recreation and conservation purposes without the approval of the commissioner and the State House Commission and following a public hearing at least one month prior to any such approvals. Such approval of the State House Commission shall not be given unless the local unit shall agree to pay an amount equal to 50% of the current value of such land, as determined by the commission, into the State Recreation and Conservation Land Acquisition and Development Fund if the original grant shall have been made from that fund, or, if not, then into the State Treasury. Money so returned to said fund shall be deemed wholly a part of the portion of that fund available for grants to local units under this act.

b. (1) A local unit which receives a grant under this act shall not dispose of or divert to a use for other than recreation and conservation purposes any lands held by such local unit for such purposes at the time of receipt of said grant without the approval of the commissioner and the State House

Commission and following a public hearing by the local unit at least one month prior to any such approvals.

(2) (a) Except as provided pursuant to subparagraph (b) of this paragraph, paragraph (1) of this subsection shall not apply to lands included in a redevelopment plan adopted pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7) that are being, or which have been, used for recreation and conservation purposes pending implementation of the redevelopment plan and the eventual use of those lands for other purposes in accordance with the redevelopment plan. Such lands, because of their use for recreation and conservation purposes, shall not be deemed to be part of any inventory of lands prepared for the purposes of administering or enforcing this section. The exception provided by this subparagraph shall apply only to lands not acquired or developed for recreation or conservation purposes with financial assistance in whole or in part provided by the State, the federal Land and Water Conservation Fund, 16 U.S.C. s.460l-4 et al., the federal "Urban Park and Recreation Recovery Act of 1978," 16 U.S.C. s.2501 et seq., or a county or local open space trust fund created pursuant to P.L.1997, c.24 (C.40:12-15.1 et seq.).

(b) A municipality may adopt an ordinance specifically including the lands described in subparagraph (a) of this paragraph as part of any inventory of lands prepared for the purposes of administering or enforcing this section, in which case paragraph (1) of this subsection shall apply to those lands thereby included in the inventory. Any such ordinance shall cite to this subparagraph as authority for the ordinance.

(c) This paragraph shall apply only to redevelopment plans adopted pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7) prior to July 18, 2002.

2. Section 32 of P.L.1999, c.152 (C.13:8C-32) is amended to read as follows:

C.13:8C-32 Use of lands acquired, developed by local government unit, tax exempt nonprofit organization using dedicated money; exceptions.

32. a. Lands acquired or developed by a local government unit or a qualifying tax exempt nonprofit organization for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part shall not be conveyed, disposed of, or diverted to a use for other than recreation and conservation purposes without the approval of the commissioner and the State House Commission and following a public hearing held at least one month prior to those approvals. Approval of the commissioner and the State House Commission shall not be given unless the local government unit or qualifying tax exempt nonprofit organization agrees to (1) replace the lands with lands of equal or greater fair market value and of reasonably equivalent

size, quality, location, and usefulness for recreation and conservation purposes, as approved by the commissioner, or (2) pay an amount equal to or greater than the fair market value of the lands, as determined by the commission, into the Garden State Green Acres Preservation Trust Fund. Moneys so returned to that fund shall be deemed wholly a part of the portion of that fund available for grants or loans to local government units or grants to qualifying tax exempt nonprofit organizations for the acquisition of lands for recreation and conservation purposes as provided pursuant to this act.

b. (1) A local government unit that receives a grant or loan for recreation and conservation purposes pursuant to this act shall not convey, dispose of, or divert to a use for other than recreation and conservation purposes any lands held by the local government unit for those purposes at the time of receipt of the grant or loan without the approval of the commissioner and the State House Commission and following a public hearing held by the local government unit at least one month prior to those approvals. Approval of the commissioner and the State House Commission shall not be given unless the local government unit agrees to (a) replace the lands with lands of equal or greater fair market value and of reasonably equivalent size, quality, location, and usefulness for recreation and conservation purposes, as approved by the commissioner, or (b) pay an amount equal to or greater than the fair market value of the lands, as determined by the commission, into the Garden State Green Acres Preservation Trust Fund. Moneys so returned to that fund shall be deemed wholly a part of the portion of that fund available for grants or loans to local government units for the acquisition of lands for recreation and conservation purposes as provided pursuant to this act.

(2) (a) Except as provided pursuant to subparagraph (b) of this paragraph, paragraph (1) of this subsection shall not apply to lands included in a redevelopment plan adopted pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7) that are being, or which have been, used for recreation and conservation purposes pending implementation of the redevelopment plan and the eventual use of those lands for other purposes in accordance with the redevelopment plan. Such lands, because of their use for recreation and conservation purposes, shall not be deemed to be part of any inventory of lands prepared for the purposes of administering or enforcing this section. The exception provided by this subparagraph shall apply only to lands not acquired or developed for recreation or conservation purposes with financial assistance in whole or in part provided by the State, the federal Land and Water Conservation Fund, 16 U.S.C. s.460l-4 et al., the federal "Urban Park and Recreation Recovery Act of 1978," 16 U.S.C. s.2501 et seq., or a county or local open space trust fund created pursuant to P.L.1997, c.24 (C.40:12-15.1 et seq.).

(b) A municipality may adopt an ordinance specifically including the lands described in subparagraph (a) of this paragraph as part of any inventory

of lands prepared for the purposes of administering or enforcing this section, in which case paragraph (1) of this subsection shall apply to those lands thereby included in the inventory. Any such ordinance shall cite to this subparagraph as authority for the ordinance.

(c) This paragraph shall apply only to redevelopment plans adopted pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7) prior to July 18, 2002.

c. For the purposes of this section, "fair market value" shall mean the fair market value at the time of the proposed conveyance, disposal, or diversion.

3. This act shall take effect immediately.

Approved December 12, 2002.

CHAPTER 125

AN ACT expanding eligibility for appointment to the district board of elections and amending R.S.19:6-2.

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

1. R.S.19:6-2 is amended to read as follows:

Application for membership on district board; qualifications.

19:6-2. a. The following persons may apply in writing to the county board, on a form prepared and furnished by the county board, for appointment as a member of a district board of any municipality in the county in which he or she resides: (1) a legal voter who is a member of a political party by virtue of having voted in a party primary or who has filed a party declaration form for the ensuing primary election for the general election with the commissioner of the county in which the voter is registered and who, for two years prior to making written application, has not espoused the cause of another political party or its candidates; (2) a legal voter who is not affiliated with a political party; (3) a United States citizen and resident of this State who is 16 or 17 years of age, attends a secondary school and has the written permission of his or her parent or guardian to serve as a member of the board if appointed; or (4) a United States citizen and resident of this State who is 16 or 17 years of age and has graduated from a secondary school or has passed a general educational development test, GED, and has the written permission of his or her parent or guardian to serve as a member of the board if appointed.

b. The application, signed by the applicant under his or her oath, shall state: (1) the applicant's name and address; (2) the applicant's age, if the applicant is less than 18 years of age; (3) the political party to which he or

she belongs or, if the applicant is not affiliated with a political party, the fact that the applicant is not so affiliated; (4) that the applicant is of good moral character and has not been convicted of any crime involving moral turpitude; and (5) that the applicant possesses the following qualifications: eyesight, with or without correction, sufficient to read nonpareil type; ability to read the English language readily; ability to add and subtract figures correctly; ability to write legibly with reasonable facility; reasonable knowledge of the duties to be performed by the applicant as an election officer under the election laws of this State; and health sufficient to discharge his or her duties as an election officer.

c. If an applicant for appointment to a district board is 16 or 17 years of age, then the applicant shall provide to the county board, along with the application provided under subsection b. of this section: (1) a written document signed by the applicant's parent or guardian giving the applicant permission to serve as a member of a district board if appointed and (2) if an election, meeting or training is scheduled to take place when school is in session, a written document from his or her school that acknowledges the applicant's application for appointment as a member of a district board and excuses the applicant from school on the dates of service if appointed, except that the requirement contained in subparagraph (2) of this subsection shall not apply to a United States citizen and resident of this State who is 16 or 17 years of age and has graduated from a secondary school or has passed a general educational development test, GED.

d. No person shall be precluded from applying to serve as a member of a district board of any municipality for failure to vote in any year such person was ineligible to vote by reason of age or residence.

e. In no case shall a person 16 or 17 years of age be permitted to serve as a member of a district board on the day of an election for more than the number of hours permitted for such a person to work pursuant to P.L.1940, c.153 (C.34:2-21.1 et seq.), as amended and supplemented.

2. This act shall take effect immediately.

Approved December 13, 2002.

CHAPTER 126

AN ACT concerning certain providers of home health and personal care services and supplementing P.L.1989, c.331 (C.34:8-43 et seq.).

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

C.34:8-45.1 Consideration as Health Care Service Firm; terms defined.

1. a. Notwithstanding any other law or regulation to the contrary, an employment agency required to be licensed pursuant to P.L.1989, c.331 (C.34:8-43 et seq.), or any other firm, company, business, agency or other entity that is not a home health care agency licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), which places or arranges for the placement of personnel to provide health care or personal care services in the personal residence of a person with a disability or a senior citizen age 60 or older, regardless of the title by which the provider of the health care or personal care services is known, shall be considered a Health Care Service Firm pursuant to N.J.A.C.13:45B-14.1 et seq. and shall be subject to the rules and regulations governing Health Care Service Firms adopted by the Division of Consumer Affairs in the Department of Law and Public Safety.

As used in this subsection:

"Health care services" means any services rendered for the purpose of maintaining or restoring an individual's physical or mental health or any health related services for which a license or certification is required as a pre-condition to the rendering of such services;

"Personal care services" shall include, but not be limited to, bathing, toileting, transferring, dressing, grooming, and assistance with ambulation, exercise, or other aspects of personal hygiene.

b. An agency or other entity which places or arranges for the placement of personnel in the personal residence of a person with a disability or a senior citizen age 60 years or older for the exclusive purpose of providing companion, housekeeping, meal preparation, shopping, laundry, cleaning or transportation services shall not be considered a Health Care Service Firm pursuant to this act.

C.34:8-45.2 Rules, regulations.

2. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to effectuate the purposes of this act.

3. This act shall take effect immediately.

Approved December 16, 2002.

CHAPTER 127

AN ACT concerning the desecration of human remains 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:22-1 Disturbing, desecrating human remains; offenses.

1. a. A person commits a crime of the second degree if he:

(1) Unlawfully disturbs, moves or conceals human remains;

(2) Unlawfully desecrates, damages or destroys human remains; or

(3) Commits an act of sexual penetration or sexual contact, as defined in N.J.S.2C:14-1, upon human remains.

b. A person commits a crime of the third degree if he purposely or knowingly fails to dispose of human remains in a manner required by law.

c. As used in this act, "human remains" means the body of a deceased person or the dismembered part of a body of a living person but does not include cremated remains.

d. Nothing in this section shall be construed to apply to any act performed in accordance with law, including but not limited to the "State Medical Examiner Act," P.L.1967, c.234 (C.52:17B-78 et al.); the "Mortuary Science Act," P.L.1952, c.340 (C.45:7-32 et seq.); the provisions of chapters 6 and 7 of Title 26 of the Revised Statutes concerning disposal of dead bodies and cremation; the "New Jersey Cemetery Act," N.J.S.8A:1-1 et seq.; a criminal investigation conducted by a law enforcement authority; or an order of a court of competent jurisdiction or other appropriate legal authority. Nothing in this section shall be construed to criminalize any good faith action involving interment or disinterment which disturbs, moves, conceals, desecrates, damages or destroys human remains.

2. This act shall take effect immediately.

Approved December 20, 2002.

CHAPTER 128

AN ACT concerning the Clean Communities Program, and amending, supplementing and repealing parts of the statutory law.

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

C.13:1E-213 Short title.

1. Sections 1 through 10 and section 13 of P.L.2002, c.128 (C.13:1E-213 et seq.) shall be known and may be cited as the "Clean Communities and Recycling Grant Act."

C.13:1E-214 Findings, declarations relative to the Clean Communities Program.

2. The Legislature finds that an uncluttered landscape is among the most priceless heritages which New Jersey can bequeath to posterity; that it is the duty of government to promote and encourage a clean and safe environment; that the proliferation and accumulation of carelessly discarded litter may pose a threat to the public health and safety; that the litter problem is especially serious in a State as densely populated and heavily traveled as New Jersey; and that unseemly litter has an adverse economic effect on New Jersey by making the State less attractive to tourists and new industry and residents.

The Legislature further finds that the recycling of waste materials decreases waste flow to county solid waste facilities and out-of-State disposal sites, reduces waste flow to the State's solid waste incinerators while contributing to their overall combustion efficiency through the removal of noncombustible and nonprocessible materials at the source, recovers valuable resources, conserves energy in the manufacturing process, and offers a supply of domestic raw materials for the State's industries; that economically viable municipal and county recycling programs are necessary to achieve the maximum practicable recovery of reusable materials from solid waste in this State; and that such programs will reduce the amount of solid waste disposed at county solid waste facilities, result in more efficient solid waste incinerators, conserve energy and resources, and recover materials for industrial uses.

The Legislature, therefore, declares it to be in the aesthetic, environmental, and economic interests of the State of New Jersey to support a Clean Communities Program and to maintain support for municipal and county recycling programs.

C.13:1E-215 Definitions relative to the Clean Communities Program.

3. As used in the provisions of P.L.2002, c.128 (C.13:1E-213 et al.):

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

b. "Division" means the Division of Taxation in the Department of the Treasury.

c. "Director" means the Director of the Division of Taxation in the Department of the Treasury.

d. "Litter" means any used or unconsumed substance or waste material which has been discarded, whether made of aluminum, glass, plastic, rubber,

paper, or other natural or synthetic material, or any combination thereof, including, but not limited to, any bottle, jar or can, or any top, cap or detachable tab of any bottle, jar or can, any unlighted cigarette, cigar, match or any flaming or glowing material or any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspapers, magazines, glass, metal, plastic or paper containers or other packaging or construction material, but does not include the waste of the primary processes of mining or other extraction processes, logging, sawmilling, farming or manufacturing.

e. "Litter-generating products" means the following specific goods which are produced, distributed, or purchased in disposable containers, packages or wrappings; or which are not usually sold in packages, containers, or wrappings but which are commonly discarded in public places; or which are of an unsightly or unsanitary nature, commonly thrown, dropped, discarded, placed, or deposited by a person on public property, or on private property not owned by that person:

(1) Beer and other malt beverages;
(2) Cigarettes and tobacco products;
(3) Cleaning agents and toiletries;
(4) Distilled spirits;
(5) Food for human or pet consumption;
(6) Glass containers sold as such;
(7) Groceries;
(8) Metal containers sold as such;
(9) Motor vehicle tires;
(10) Newsprint and magazine paper stock;
(11) Drugstore sundry products, but not including prescription drugs or nonprescription drugs;
(12) Paper products and household paper, but not including roll stock produced by paper product manufacturers and wood pulp;
(13) Plastic or fiber containers made of synthetic material and sold as such, but not including any container which is routinely reused, has a useful life of more than one year and is ordinarily sold empty at retail;
(14) Soft drinks and carbonated waters; and
(15) Wine.

f. "Litter receptacle" means a container suitable for the depositing of litter.

g. "Municipality" means any city, borough, town, township or village situated within the boundaries of this State.

h. "Person" means any individual or business concern.

i. "Public place" means any area that is used or held out for use by the public, whether owned or operated by public or private interests.

j. "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.

k. "Sold within the State" or "sales within the State" means all sales of retailers engaged in business within the State and, in the case of manufacturers, wholesalers and distributors, all sales of products for use and consumption within the State. It shall be presumed that all sales of manufacturers, wholesalers and distributors sold within the State are for use and consumption within the State unless it is determined by the director that the products are shipped out of State for out-of-State use.

C.13:1E-216 User fee imposed on sales by manufacturer, wholesaler, distributor, retailer of litter-generating products.

4. a. There is imposed upon each person engaged in business in the State as a manufacturer, wholesaler, or distributor of litter-generating products a user fee of 3/100 of 1% (.0003) on sales of those products within the State, and each person engaged in business in the State as a retailer of litter-generating products a user fee of 2.25/100 of 1% (.000225) on sales of those products within the State, except any retailer with less than $500,000.00 in annual retail sales of litter-generating products is exempt from the user fee imposed under this section. A sale by a wholesaler or distributor to another wholesaler or distributor, a sale by a company to another company owned wholly by the same individuals or companies, or a sale by a wholesaler or distributor owned cooperatively by retailers to those retailers is not subject to the user fee imposed under this section. For the purposes of this section, "retailer" includes the owner or operator of a take-out or drive-thru restaurant, the principal activity of which consists of selling for consumption off the premises of the restaurant a meal or food prepared and ready to be eaten. A retailer shall not include (1) the owner or operator of a restaurant with less than 10% in annual retail sales of meals or food prepared and ready to be eaten for consumption off the premises of the restaurant; or (2) the owner or operator of a restaurant, the principal activity of which consists of preparing for consumption within the restaurant a meal or food to be eaten on the premises.

b. Every person subject to the user fee on the sale of litter-generating products imposed pursuant to subsection a. of this section shall file with the director a certificate of registration on a form prescribed by the director. Any person who is registered under any law administered by the division or who is subject to and files returns under any of these laws shall not be required to comply with the provisions of this subsection.

c. Every person subject to the user fee on the sale of litter-generating products imposed pursuant to subsection a. of this section shall, on or before March 15 of each year, prepare and file a return, under oath, for the preceding

calendar year with the director on forms and containing any information as the director shall prescribe. The return shall indicate the dollar value of the sales within the State of litter-generating products and at the same time the person shall pay the full amount of user fees due.

d. If a return required by this section is not filed, or if a return when filed is incorrect or insufficient in the opinion of the director, the amount of user fees due shall be determined by the director based on collections from the person liable for the payment of the user fees during the previous five years. Notice of the determination shall be given to the person liable for the payment of the user fees. The determination shall finally and irrevocably fix the user fees unless the person against whom it is assessed, within 90 days after the giving of the notice of the determination, shall file a protest in writing as provided in R.S.54:49-18 and request a hearing, or unless the director on the director's own motion shall redetermine the same. After the hearing the director shall give notice of the determination to the person to whom the user fees are assessed.

e. Any person who shall fail to file a return when due or to pay any user fee when the user fee becomes due, as herein provided, shall be subject to such penalties and interest as may be provided by law. If the director determines that the failure to comply with any provision of this section was excusable under the circumstances, the director may remit any part of the penalty as shall be appropriate under the circumstances.

f. In addition to the other powers granted by this section, the director may:

(1) Delegate to any officer or employee of the division those powers and duties as the director may deem necessary to carry out efficiently the provisions of this section, and the person or persons to whom the powers have been delegated shall possess and may exercise all of the powers and perform all of the duties delegated by the director;

(2) Prescribe and distribute all necessary forms for the implementation of this section; and

(3) Adopt any rules and regulations necessary for the implementation of this section.

g. Notwithstanding the provisions of subparagraph © of paragraph (2) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4), if any, to the contrary, any deduction of the user fee imposed pursuant to subsection a. of this section allowed in computing a taxpayer's taxable income which the taxpayer is required to report to the United States Treasury Department for the purpose of computing its federal taxable income shall be allowed in determining the taxpayer's "entire net income" pursuant to subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4).

h. Subsections a. through g. of this section shall be without effect on and after the tenth day following a certification by the Director of the Division of Budget and Accounting in the Department of the Treasury pursuant to subsection b. of section 13 of P.L.2002, c.128 (C.13:1E-223).

C.13:1E-217 Clean Communities Program Fund.

5. The Clean Communities Program Fund is established as a nonlapsing, revolving fund in the Department of the Treasury. The Clean Communities Program Fund shall be administered by the Department of Environmental Protection and credited, in addition to any appropriations made thereto, with all user fees imposed pursuant to section 4 of P.L.2002, c.128 (C.13:1E-216) or penalties imposed pursuant to section 10 of P.L.2002, c.128 (C.13:1E-222), and any sums received as voluntary contributions from private sources. Interest received on moneys in the Clean Communities Program Fund shall be credited to the fund. Unless otherwise expressly provided by the specific appropriation thereof by the Legislature, which shall take the form of a discrete legislative appropriations act and shall not be included within the annual appropriations act, all available moneys in the Clean Communities Program Fund shall be appropriated annually solely for the following purposes and no others:

a. 10% of the estimated annual balance of the Clean Communities Program Fund shall be used for a State program of litter pickup and removal and of enforcement of litter-related laws and ordinances in State owned places and areas that are accessible to the public;

b. 50% of the estimated annual balance of the Clean Communities Program Fund shall be distributed as State aid to eligible municipalities with total housing units of 200 or more for programs of litter pickup and removal, including establishing an "Adopt-A-Highway" program, of public education and information relating to litter abatement and of enforcement of litter-related laws and ordinances. The amount of State aid due each municipality shall be solely calculated based on the proportion which the housing units of a qualifying municipality bear to the total housing units in the State. Total housing units shall be determined using the most recent federal decennial population estimates for New Jersey and its municipalities, filed in the office of the Secretary of State. Moneys in the fund may also be used by an eligible municipality to abate graffiti;

c. 30% of the estimated annual balance of the Clean Communities Program Fund shall be distributed as State aid to eligible municipalities with total housing units of 200 or more for programs of litter pickup and removal, including establishing an "Adopt-A-Highway" program, of public education and information relating to litter abatement and of enforcement of litter-related laws and ordinances. The amount of State aid due each municipality shall be solely calculated based on the proportion which the municipal road mileage

of a qualifying municipality bears to the total municipal road mileage within the State. For the purposes of this subsection, "municipal road mileage" means that road mileage under the jurisdiction of municipalities, as determined by the Department of Transportation. Moneys in the fund may also be used by an eligible municipality to abate graffiti;

d. 10% of the estimated annual balance of the Clean Communities Program Fund shall be distributed as State aid to eligible counties for programs of litter pickup and removal, including establishing an "Adopt-A-Highway" program, of public education and information relating to litter abatement and of enforcement of litter-related laws and ordinances. The amount of State aid due each county shall be solely calculated based on the proportion which the county road mileage of an eligible county bears to the total county road mileage within the State. For the purposes of this subsection, "county road mileage" means that road mileage under the jurisdiction of counties, as determined by the Department of Transportation. Moneys in the fund may also be used by an eligible county to abate graffiti;

e. No eligible municipality shall receive less than $4,000 in State aid as apportioned pursuant to subsections b. and c. of this section. A municipality or county may use up to 5% of its State aid for administrative expenses;

f. Prior to the distribution of funds pursuant to subsections a. through d. of this section:

(1) 25% of the estimated annual balance of the Clean Communities Program Fund shall be annually appropriated to the State Recycling Fund established pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96). These moneys shall be used by the Department of Environmental Protection for direct recycling grants to counties and municipalities, up to a maximum appropriation of $4,000,000 per year. The moneys made available to the department from the Clean Communities Program Fund for direct recycling grants shall be annually appropriated to the State Recycling Fund until such time as an alternative funding mechanism for direct recycling grants is enacted into law; and

(2) $300,000 of the estimated annual balance of the Clean Communities Program Fund shall be annually appropriated to the department and made available on July 1 of every year to the organization under contract with the department pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) for a Statewide public information and education program concerning antilittering activities and other aspects of responsible solid waste handling behavior.

The organization under contract with the department pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) shall, no later than the date on which the contract period concludes, submit a report to the Governor and the Legislature concerning its activities during the contract period and any recommendations concerning improving the program. Every eligible municipality and county

shall cooperate with the organization under contract with the department pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) in providing information concerning its program of litter pickup and removal.

g. As used in this section, "graffiti" means any inscription drawn, painted or otherwise made on a bridge, building, public transportation vehicle, rock, wall, sidewalk, street or other exposed surface on public property.

The department may carry forward any unexpended balances in the Clean Communities Program Fund as of June 30 of each year.

C.13:1E-218 Statewide public information and education program.

6. a. The organization under contract with the department pursuant to section 2 of P.L.1999, c.418 (C.13:1E-99.2b et al.) on the effective date of P.L.2002, c.128 (C.13:1E-213 et al.) shall administer a Statewide public information and education program concerning antilittering activities and other aspects of responsible solid waste handling behavior as part of the Clean Communities Program.

b. The contract to administer the Clean Communities Statewide public information and education program concerning antilittering activities and other aspects of responsible solid waste handling behavior shall provide (1) the terms and conditions of the contract; (2) conditions under which the contract may be terminated and grant funds recaptured by the Department of Environmental Protection; and (3) that the Commissioner of Environmental Protection and the State Treasurer, or their designees, are included as members on the Board of Trustees of the organization.

c. The contract shall be for a period of two years and a contract recipient shall be eligible for a subsequent contract unless the recipient is otherwise disqualified or fails to meet the conditions provided in subsection d. of this section.

d. An organization may be awarded a contract with the department if it meets the following criteria:

(1) the organization is exempt from federal income tax under section 501(c)(3) of the United States Internal Revenue Code (26 U.S.C.s.501(c)(3));

(2) the organization qualifies for tax deductible contributions under section 170(b)(1)(A)(vi) or (viii) of the United States Internal Revenue Code (26 U.S.C.s.170(b)(1)(A)(vi) or (viii));

(3) the organization is incorporated under and subject to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes and the "Charitable Registration and Investigation Act," P.L.1994, c.16 (C.45:17A-18 et seq.);

(4) the sole purpose of the organization is the funding and administration of a Statewide public information and education program concerning

antilittering activities and other aspects of responsible solid waste handling behavior as part of the Clean Communities Program;

(5) the organization demonstrates that it has raised funds or has the capability to raise funds from the private sector for the same purposes moneys in the Clean Communities Program Fund are appropriated; and

(6) the membership of the governing board of the organization consists of representatives of private sector companies or organizations that were subject to the provisions of section 6 of P.L.1985, c.533 (C.13:1E-99.1) prior to December 31, 2000, representatives of the public sector who are local clean community coordinators duly appointed by their county or municipal governing bodies, the Commissioner of Environmental Protection and the State Treasurer or their designees, and representatives of community organizations, academia and organizations that have an interest in litter prevention and education.

C.13:1E-219 Contract not required for receipt of State aid.

7. a. (1) No contract shall be required as a prerequisite to the distribution of State aid to eligible municipalities and counties for programs of litter pickup and removal pursuant to section 5 of P.L.2002, c.128 (C.13:1E-217). All State aid funds for each fiscal year for which these funds are to be distributed shall be distributed by May 31 of the following year.

(2) Every eligible municipality and county shall submit a brief annual report to the department summarizing the uses and expenditure of funds received for its program of litter pickup and removal.

b. The department shall report to the Governor and the Legislature on the success of the county and municipal litter pickup and removal programs in reducing litter in New Jersey not later than August 30 of each year.

c. Additional expenditures or incremental costs necessary and reasonably incurred by a municipality or county for the abatement and control of litter or any other antilittering activities as a direct result of the implementation of the provisions of P.L.2002, c.128 (C.13:1E-213 et al.) shall, for the purposes of P.L.1976, c.68 (C.40A:4-45.1 et seq.), be considered expenditures mandated by State law.

C.13:1E-220 Additional duties, responsibilities of department.

8. In addition to the duties and responsibilities imposed pursuant to P.L.2002, c.128 (C.13:1E-213 et al.), the Department of Environmental Protection shall:

a. Coordinate the various industry and business organizations seeking to aid in the antilitter effort;

b. Conduct periodic litter surveys or random inspections in various parts of the State to ensure the satisfactory implementation of the county and municipal litter pickup and removal programs required pursuant to section 5 of P.L.2002, c.128 (C.13:1E-217);

c. Encourage and cooperate with all local voluntary and government antilitter campaigns attempting to focus public attention on the Statewide public information and education program concerning antilittering activities and other aspects of responsible solid waste handling behavior as part of the Clean Communities Program;

d. Investigate the availability of, and apply for, funds available from any private or public source to be used in the Clean Communities Program;

e. Investigate the successful methods of litter pickup and removal programs in other states or jurisdictions, encourage the use of litter receptacles, and evaluate their possible incorporation into the New Jersey Clean Communities Program.

C.13:1E-221 Violations, penalties.

9. Every person convicted of a violation of the provisions of P.L.2002, c.128 (C.13:1E-213 et al.) for which no penalty is specifically provided is subject to a fine of not more than $100 for each violation. If the violation is of a continuing nature, each day during which it continues constitutes a separate and distinct offense.

C.13:1E-222 Rules, regulations.

10. a. The Commissioner of Environmental Protection shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as are necessary to effectuate the provisions of P.L.2002, c.128 (C.13:1E-213 et al.).

b. The director shall adopt, pursuant to the "Administrative Procedure Act," rules and regulations as are necessary to effectuate the provisions of section 4 of P.L.2002, c.128 (C.13:1E-216).

11. Section 5 of P.L.1981, c.278 (C.13:1E-96) is amended to read as follows:

C.13:1E-96 State Recycling Fund; allocation of moneys.

5 a. The State Recycling Fund (hereinafter referred to as the "fund") is established as a nonlapsing, revolving fund. The fund shall be administered by the Department of Environmental Protection, and shall be credited with all sums received from the Clean Communities Program Fund established pursuant to section 5 of P.L.2002, c.128 (C.13:1E-217). Interest received on moneys in the fund and sums received as repayment of principal and interest on outstanding loans made from the fund shall be credited to the fund.

b. Unless otherwise expressly provided by the specific appropriation thereof by the Legislature, moneys in the fund shall be allocated and used as follows:

Moneys in the fund received from the Clean Communities Program Fund established pursuant to section 5 of P.L.2002, c.128 (C.13:1E-217) shall be used for the annual expenses of a program for direct recycling grants to municipalities or counties in those instances where a county, at its own expense, provides for the collection, processing and marketing of recyclable materials on a regional basis. The amount of these grants shall be calculated on the basis of the total number of tons of recyclable materials annually recycled from residential, commercial and institutional sources within that municipality, or group of municipalities in the case of a county recycling program, except that no such grant shall exceed $10 per ton of recyclable materials recycled. The department may allocate a portion of these grant moneys as bonus grants to municipalities and counties in those instances where a municipality or county, at its own expense, provides for the collection of recyclable materials in its recycling program. The department shall announce each year the total amount of moneys available in the bonus grant fund.

A municipality may distribute a portion of its grant moneys to nonprofit groups that are located within that municipality and which have contributed to the receipt of the recycling grant, except that this distribution shall not exceed the value of approved documented tonnage contributed by a nonprofit group.

A municipality may designate any nonprofit group as a recycling agent. A recycling agent shall receive that part of the municipality's recycling grant under this subsection that represents the percentage of the grant received by the municipality due to the documented tonnage contributed by that recycling agent. Moneys received by a recycling agent shall be expended only for its recycling program. Any moneys not used for recycling shall be returned by the recycling agent to the municipality.

To be eligible for a grant pursuant to this subsection, a municipality or county in the case of a county recycling program shall demonstrate that the recyclable materials recycled by the municipal or county recycling program were not diverted from a commercial recycling program already in existence on the effective date of the ordinance or resolution establishing the municipal or county recycling program.

No recycling grant to any municipality shall be used for constructing or operating any facility for the baling of wastepaper or for the shearing, baling or shredding of ferrous or nonferrous materials.

Repealer.

12. The following are repealed:
Sections 1 through 4 inclusive of P.L.1981, c.278
(C.13:1E-92 through 13:1E-95);
Sections 6 and 7 of P.L.1981, c.278
(C.13:1E-97 and 13:1E-98);

Sections 6 and 7 of P.L.1985, c.533
(C.13:1E-99.1 and 13:1E-99.2);
Section 2 of P.L.1989, c.108 (C.13:1E-99.2a);
Section 2 of P.L.1999, c.418 (C.13:1E-99.2b);
Sections 10 through 12 inclusive of P.L.1985, c.533
(C.13:1E-99.5 through 13:1E-99.7); and
Sections 7 through 9 inclusive of P.L.1986, c.187
(C.13:1E-99.8 through 13:1E-99.10).

C.13:1E-223 Annual appropriations; conditions.

13. a. The annual appropriations act for each State fiscal year shall, without other conditions, limitations or restrictions on the following:

(1) appropriate the amounts specified pursuant to paragraph (1) of subsection f. of section 5 of P.L.2002, c.128 (C.13:1E-217) to the State Recycling Fund established pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96) for use by the Department of Environmental Protection for direct recycling grants to counties and municipalities;

(2) appropriate the amount specified pursuant to paragraph (2) of subsection f. of section 5 of P.L.2002, c.128 (C.13:1E-217) to the Department of Environmental Protection for use by the organization under contract with the department pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) for a Statewide public information and education program concerning antilittering activities and other aspects of responsible solid waste handling behavior; and

(3) appropriate the balance of the Clean Communities Program Fund established pursuant to section 5 of P.L.2002, c.128 (C.13:1E-217) for the purposes set forth in subsections a., b., c. and d. of that section.

b. If the requirements of subsection a. of this section are not met on the effective date of an annual appropriations act for the State fiscal year, or if an amendment or supplement to an annual appropriations act for the State fiscal year should violate any of the requirements of subsection a. of this section, the Director of the Division of Budget and Accounting in the Department of the Treasury shall, not later than five days after the enactment of the annual appropriations act, or an amendment or supplement thereto, that violates any of the requirements of subsection a. of this section, certify to the Director of the Division of Taxation that the requirements of subsection a. of this section have not been met.

14. This act shall take effect immediately and section 4 shall be retroactive to January 1, 2002.

Approved December 20, 2002.

CHAPTER 129

AN ACT concerning missing or abducted children, establishing Amber's Plan and supplementing chapter 17B of Title 52 of the Revised Statutes.

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

C.52:17B-194.1 Short title.

1. This act shall be known and may be cited as "Amber's Plan."

C.52:17B-194.2 Findings, determinations relative to "Amber's Plan."

2. a. The Legislature finds and determines that:

Public alerts can be one of the most effective tools in combating child abductions;

Law enforcement officers and other professionals specializing in the field of abducted and missing children agree that the most critical moments in the search for an abducted child are the first few hours immediately following the abduction, asserting that if a child is not found within two to four hours, it is unlikely that child will be found alive;

The rapid dissemination of information, including a description of the missing child, details of the abduction, abductor and vehicle involved, to the citizens of the affected community and region is, therefore, critical;

Alerted to an abduction, the citizenry become an extensive network of eyes and ears serving to assist law enforcement in quickly locating and safely recovering the child; and

The most effective method of immediately notifying the public of a child abduction is through the broadcast media.

b. The Legislature declares that:

Given the successes other states and regions have experienced in using broadcast media alerts to quickly locate and safely recover abducted children, it is altogether fitting and proper, and within the public interest, to establish such a program for New Jersey.

C.52:17B-194.3 Establishment of "Amber's Plan"; activation of Amber Alert; criteria.

3. a. The Attorney General shall establish "Amber's Plan," a program authorizing the broadcast media, upon notice from the State Police, to transmit an emergency alert to inform the public of a child abduction. The program shall be a voluntary, cooperative effort between State and local law enforcement agencies and the broadcast media.

b. The Attorney General shall notify the broadcast media serving the State of New Jersey of the establishment of "Amber's Plan" and invite their voluntary participation.

c. The following criteria shall be met before the State Police activate the Amber Alert:

(1) The child is believed to be abducted;

(2) The child is 17 years of age or younger;

(3) The child may be in danger of death or serious bodily injury; and

(4) There is sufficient information available to indicate that an "Amber Alert" would assist in locating the child.

d. The participating media shall voluntarily agree, upon notice from the State Police, to transmit emergency alerts to inform the public of a child abduction that has occurred within their broadcast service regions. The notice shall be provided through the State Police operational dispatch unit.

The alerts shall be read after a distinctive sound tone and the statement: "This is an Amber Abducted Child Alert." The alerts shall be broadcast as often as possible, pursuant to the guidelines established by the New Jersey Broadcasters' Association, for the first three hours. After the initial three hours, the alert shall be rebroadcast at such intervals as the investigating authority, the State Police and the participating media deem appropriate.

The alerts shall include a description of the child, such details of the abduction and abductor as may be known, and such other information as the State Police may deem pertinent and appropriate. The State Police shall in a timely manner update the broadcast media with new information when appropriate concerning the abduction.

The alerts also shall provide information concerning how those members of the public who have information relating to the abduction may contact the State Police or other appropriate law enforcement agency.

Concurrent with the notice provided to the broadcast media, the State Police operational dispatch unit shall also notify the Department of Transportation, the New Jersey Highway Authority, the New Jersey Turnpike Authority and the South Jersey Transportation Authority of the "Amber Alert." Through the use of their variable message signs, the department and the affected authorities shall inform the motoring public that an "Amber Alert" is in progress and provide information relating to the abduction and how motorists may report any information they have to the State Police or other appropriate law enforcement agency.

e. The alerts shall terminate upon notice from the State Police.

f. The Attorney General, with the assistance of the participating broadcast media, shall develop and undertake a public education campaign to inform the public about "Amber's Plan"and the emergency alert program established under this act.

g. The Attorney General may adopt guidelines to effectuate the purposes of this act.

4. This act shall take effect immediately.

Approved December 22, 2002.

CHAPTER 130

AN ACT concerning the sale of handguns, supplementing chapter 58 of Title 2C of the New Jersey Statutes and amending N.J.S.2C:39-1 and N.J.S.2C:58-2.

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

C.2C:58-2.2 Findings, declarations relative to sale of handguns.

1. a. The Legislature finds:

New Jersey's commitment to firearms safety is unrivaled anywhere in the nation;

New Jersey was the first state to require retail dealers to include, as part of every handgun sale, either a State Police approved trigger lock or a locked case, gun box, container or other secure facility;

To encourage all firearms owners to practice safe storage, the State has waived all sales taxes on trigger locks, firearms lock-boxes and vaults and, under the "KeepSafe" program, offers an instant $5 rebate to all retail firearms purchasers who buy a compatible trigger locking device along with their firearm;

New Jersey was the first state to require all firearms dealers to prominently display State-provided firearms information and safety warnings;

New Jersey was one of the first states to make parents and guardians statutorily responsible for unwittingly or carelessly permitting minors under their control to gain access to loaded firearms;

New Jersey statutorily prohibits anyone under the age of 18 years from purchasing or otherwise acquiring a firearm and permits such minors to possess or carry a firearm only in a very limited number of strictly defined situations and under the direct supervision of a qualified parent, guardian or instructor;

To enforce this strict regulatory scheme, New Jersey imposes harsh penalties, including a mandatory minimum prison term of three years, on anyone who knowingly sells, transfers or gives a firearm to a person under the age of 18 years; and

New Jersey was the first state to allocate, as part of its annual Appropriations Act, moneys dedicated exclusively for the development of personal handgun technology, and the amount so allocated, $1,000,000, was one-fifth the total amount the federal government allocated toward the development of this important firearms safety technology in the same fiscal year.

b. The Legislature, therefore, declares:

It is within the public interest, and vital to the safety of our families and children, for New Jersey to take the bold and innovative step of fostering the development of personalized handguns by firearms manufacturers. To accomplish this objective, the Legislature determines that it should enact legislation designed to further enhance firearms safety by requiring that, within a specified period of time after the date on which these new personalized handguns are deemed to be available for retail sales purposes, no other type of handgun shall be sold or offered for sale by any registered or licensed firearms dealer in this State.

C.2C:58-2.3 Report as to availability of personalized handguns.

2. a. On the first day of the sixth month following the effective date of P.L.2002, c.130 (C.2C:58-2.2 et al.), the Attorney General shall report to the Governor and the Legislature as to the availability of personalized handguns for retail sales purposes. If the Attorney General determines that personalized handguns are not available for retail sales purposes, the Attorney General, every six months thereafter, shall report to the Governor and the Legislature as to the availability of personalized handguns for retail sales purposes until such time as the Attorney General shall deem that personalized handguns are available for retail sales purposes and so report to the Governor and the Legislature. In making this determination, the Attorney General may consult with any other neutral and detached public or private entity that may have useful information and expertise to assist in determining whether, through performance and other relevant indicators, a handgun meets the statutory definition of a personalized handgun set forth in N.J.S.2C:39-1.

b. For the purposes of this section, personalized handguns shall be deemed to be available for retail sales purposes if at least one manufacturer has delivered at least one production model of a personalized handgun to a registered or licensed wholesale or retail dealer in New Jersey or any other state. As used in this subsection, the term "production model" shall mean a handgun which is the product of a regular manufacturing process that produces multiple copies of the same handgun model, and shall not include a prototype or other unique specimen that is offered for sale.

C.2C:58-2.4 List of personalized handguns.

3. a. On the first day of the 24th month following the date on which the Attorney General reports that personalized handguns are available for retail sales purposes pursuant to section 2 of P.L.2002, c.130 (C.2C:58-2.3), the Attorney General shall direct the Superintendent of State Police to promulgate a list of personalized handguns that may be sold in the State. This list shall identify those handguns by manufacturer, model and caliber.

b. The list required under subsection a. of this section shall be prepared within six months of the Attorney General's directive to the superintendent and a copy thereof made available to registered and licensed firearms dealers in this State. Whenever a handgun is determined to meet the statutory definition of a personalized handgun as set forth in N.J.S.2C;39-1, the Attorney General shall report that determination in writing to the Governor and the Legislature within 60 days. The superintendent shall promptly amend and supplement the list to include handguns which meet the statutory definition of a personalized handgun as set forth in N.J.S.2C:39-1 or to remove previously listed handguns, if appropriate. Registered and licensed retail firearms dealers in this State shall be notified forthwith of any such changes in the list. The notice shall be given in a manner prescribed by rule and regulation. The Attorney General shall promulgate rules and regulations establishing a process for handgun manufacturers to demonstrate that their handguns meet the statutory definition of a personalized handgun set forth in N.J.S.2C:39-1 and request that their handgun be added to this list. These rules and regulations may require that the handgun manufacturer: (1) deliver a handgun or handguns to the Attorney General or his designee for testing; (2) pay a reasonable application fee; and (3) pay any reasonable costs incurred in, or associated with, the testing and independent scientific analysis of the handgun, including any analysis of the technology the manufacturer has incorporated within the handgun's design to limit its operational use, that is conducted to determine whether the handgun meets the statutory definition of a personalized handgun set forth in N.J.S.2C:39-1.

C.2C:58-2.5 Sale of personalized handguns, inapplicability.

4. a. On and after the first day of the sixth month following the preparation and delivery of the list of personalized handguns which may be sold in the State pursuant to section 3 of P.L.2002, c.130 (C.2C:58-2.4), no person registered or licensed by the superintendent as a manufacturer, wholesale dealer of firearms, retail dealer of firearms or agent or employee of a wholesale or retail dealer of firearms pursuant to the provisions of N.J.S.2C:58-1 or N.J.S.2C:58-2 shall transport into this State, sell, expose for sale, possess with the intent of selling, assign or otherwise transfer any handgun unless it is a personalized handgun or an antique handgun.

b. The provisions of this section shall not apply to handguns to be sold, transferred, assigned and delivered for official use to: (1) State and local law enforcement officers of this State; (2) federal law enforcement officers and any other federal officers and employees required to carry firearms in the performance of their official duties and (3) members of the Armed Forces of the United States or of the National Guard.

c. The provisions of this section also shall not apply to handguns to be sold, transferred, assigned and delivered solely for use in competitive shooting matches sanctioned by the Civilian Marksmanship Program, the International Olympic Committee or USA Shooting. The Attorney General may promulgate rules and regulations governing the scope and application of the exemption afforded under this section. The Attorney General, by rule and regulation, may require, at a minimum, that a person acquiring a handgun pursuant to this section submit valid proof of participation in these sanctioned shooting matches.

d. No later than 30 days after the preparation and delivery of the list of personalized handguns which may be sold in the State pursuant to section 3 of P.L.2002, c.130 (C.2C:58-2.4), there shall be established a seven-member commission in the Department of Law and Public Safety that shall meet at least once a year to determine whether personalized handguns qualify for use by State and local law enforcement officers. The Governor shall appoint the following six members of the commission: a county sheriff; a county law enforcement officer; a county prosecutor; one local law enforcement officer who shall be an active member of the New Jersey Fraternal Order of Police; one local law enforcement officer who shall be an active member of the New Jersey State Policemen's Benevolent Association; and an experienced firearms instructor qualified to teach a firearms training course approved by the Police Training Commission. The seventh member of the commission shall be the Superintendent of State Police.

The commission shall issue a report to the Attorney General upon its determination that personalized handguns qualify for use by State and local law enforcement officers. In making this determination, the commission shall consider any advantages and disadvantages to using these weapons in the performance of the official duties of law enforcement officers and shall give due regard to the safety of law enforcement officers and others. The commission shall expire thereafter. The Attorney General shall be authorized to promulgate rules and regulations that apply the provisions of this section to handguns to be sold, transferred, assigned and delivered for official use to State and local law enforcement officers upon a determination by the commission that personalized handguns qualify for use by State and local law enforcement officers.

e. A person who knowingly violates the provisions of this section is guilty of a crime of the fourth degree.

5. N.J.S.2C:39-1 is amended to read as follows:

Definitions.

2C:39-1. Definitions. The following definitions apply to this chapter and to chapter 58:

a. "Antique firearm" means any rifle or shotgun and "antique cannon" means a destructive device defined in paragraph (3) of subsection c. of this section, if the rifle, shotgun or destructive device, as the case may be, is incapable of being fired or discharged, or which does not fire fixed ammunition, regardless of date of manufacture, or was manufactured before 1898 for which cartridge ammunition is not commercially available, and is possessed as a curiosity or ornament or for its historical significance or value.

b. "Deface" means to remove, deface, cover, alter or destroy the name of the maker, model designation, manufacturer's serial number or any other distinguishing identification mark or number on any firearm.

c. "Destructive device" means any device, instrument or object designed to explode or produce uncontrolled combustion, including (1) any explosive or incendiary bomb, mine or grenade; (2) any rocket having a propellant charge of more than four ounces or any missile having an explosive or incendiary charge of more than one-quarter of an ounce; (3) any weapon capable of firing a projectile of a caliber greater than 60 caliber, except a shotgun or shotgun ammunition generally recognized as suitable for sporting purposes; (4) any Molotov cocktail or other device consisting of a breakable container containing flammable liquid and having a wick or similar device capable of being ignited. The term does not include any device manufactured for the purpose of illumination, distress signaling, line-throwing, safety or similar purposes.

d. "Dispose of" means to give, give away, lease, loan, keep for sale, offer, offer for sale, sell, transfer, or otherwise transfer possession.

e. "Explosive" means any chemical compound or mixture that is commonly used or is possessed for the purpose of producing an explosion and which contains any oxidizing and combustible materials or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects. The term shall not include small arms ammunition, or explosives in the form prescribed by the official United States Pharmacopoeia.

f. "Firearm" means any handgun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile or bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances. It shall also include, without limitation, any firearm which is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed

air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person.

g. "Firearm silencer" means any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver, pistol or other firearm to be silent, or intended to lessen or muffle the noise of the firing of any gun, revolver, pistol or other firearm.

h. "Gravity knife" means any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force.

i. "Machine gun" means any firearm, mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir, belt or other means of storing and carrying ammunition which can be loaded into the firearm, mechanism or instrument and fired therefrom.

j. "Manufacturer" means any person who receives or obtains raw materials or parts and processes them into firearms or finished parts of firearms, except a person who exclusively processes grips, stocks and other nonmetal parts of firearms. The term does not include a person who repairs existing firearms or receives new and used raw materials or parts solely for the repair of existing firearms.

k. "Handgun" means any pistol, revolver or other firearm originally designed or manufactured to be fired by the use of a single hand.

l. "Retail dealer" means any person including a gunsmith, except a manufacturer or a wholesale dealer, who sells, transfers or assigns for a fee or profit any firearm or parts of firearms or ammunition which he has purchased or obtained with the intention, or for the purpose, of reselling or reassigning to persons who are reasonably understood to be the ultimate consumers, and includes any person who is engaged in the business of repairing firearms or who sells any firearm to satisfy a debt secured by the pledge of a firearm.

m. "Rifle" means any firearm designed to be fired from the shoulder and using the energy of the explosive in a fixed metallic cartridge to fire a single projectile through a rifled bore for each single pull of the trigger.

n. "Shotgun" means any firearm designed to be fired from the shoulder and using the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shots or a single projectile for each pull of the trigger, or any firearm designed to be fired from the shoulder which does not fire fixed ammunition.

o. "Sawed-off shotgun" means any shotgun having a barrel or barrels of less than 18 inches in length measured from the breech to the muzzle, or a rifle having a barrel or barrels of less than 16 inches in length measured from the breech to the muzzle, or any firearm made from a rifle or a shotgun, whether by alteration, or otherwise, if such firearm as modified has an overall length of less than 26 inches.

p. "Switchblade knife" means any knife or similar device which has a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife.

q. "Superintendent" means the Superintendent of the State Police.

r. "Weapon" means anything readily capable of lethal use or of inflicting serious bodily injury. The term includes, but is not limited to, all (1) firearms, even though not loaded or lacking a clip or other component to render them immediately operable; (2) components which can be readily assembled into a weapon; (3) gravity knives, switchblade knives, daggers, dirks, stilettos, or other dangerous knives, billies, blackjacks, bludgeons, metal knuckles, sandclubs, slingshots, cesti or similar leather bands studded with metal filings or razor blades imbedded in wood; and (4) stun guns; and any weapon or other device which projects, releases, or emits tear gas or any other substance intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispensed in the air.

s. "Wholesale dealer" means any person, except a manufacturer, who sells, transfers, or assigns firearms, or parts of firearms, to persons who are reasonably understood not to be the ultimate consumers, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms, in furtherance of such purpose, except that it shall not include those persons dealing exclusively in grips, stocks and other nonmetal parts of firearms.

t. "Stun gun" means any weapon or other device which emits an electrical charge or current intended to temporarily or permanently disable a person.

u. "Ballistic knife" means any weapon or other device capable of lethal use and which can propel a knife blade.

v. "Imitation firearm" means an object or device reasonably capable of being mistaken for a firearm.

w. "Assault firearm" means:

(1) The following firearms:

Algimec AGM1 type

Any shotgun with a revolving cylinder such as the "Street Sweeper" or "Striker 12"

Armalite AR-180 type

Australian Automatic Arms SAR

Avtomat Kalashnikov type semi-automatic firearms

Beretta AR-70 and BM59 semi-automatic firearms

Bushmaster Assault Rifle

Calico M-900 Assault carbine and M-900

CETME G3

Chartered Industries of Singapore SR-88 type

Colt AR-15 and CAR-15 series

Daewoo K-1, K-2, Max 1 and Max 2, AR 100 types
Demro TAC-1 carbine type
Encom MP-9 and MP-45 carbine types
FAMAS MAS223 types
FN-FAL, FN-LAR, or FN-FNC type semi-automatic firearms
Franchi SPAS 12 and LAW 12 shotguns
G3SA type
Galil type Heckler and Koch HK91, HK93, HK94, MP5, PSG-1
Intratec TEC 9 and 22 semi-automatic firearms
M1 carbine type
M14S type
MAC 10, MAC 11, MAC 11-9mm carbine type firearms
PJK M-68 carbine type
Plainfield Machine Company Carbine
Ruger K-Mini-14/5F and Mini-14/5RF
SIG AMT, SIG 550SP, SIG 551SP, SIG PE-57 types
SKS with detachable magazine type
Spectre Auto carbine type
Springfield Armory BM59 and SAR-48 type
Sterling MK-6, MK-7 and SAR types
Steyr A.U.G. semi-automatic firearms
USAS 12 semi-automatic type shotgun
Uzi type semi-automatic firearms
Valmet M62, M71S, M76, or M78 type semi-automatic firearms
Weaver Arm Nighthawk.

(2) Any firearm manufactured under any designation which is substantially identical to any of the firearms listed above.

(3) A semi-automatic shotgun with either a magazine capacity exceeding six rounds, a pistol grip, or a folding stock.

(4) A semi-automatic rifle with a fixed magazine capacity exceeding 15 rounds.

(5) A part or combination of parts designed or intended to convert a firearm into an assault firearm, or any combination of parts from which an assault firearm may be readily assembled if those parts are in the possession or under the control of the same person.

x. "Semi-automatic" means a firearm which fires a single projectile for each single pull of the trigger and is self-reloading or automatically chambers a round, cartridge, or bullet.

y. "Large capacity ammunition magazine" means a box, drum, tube or other container which is capable of holding more than 15 rounds of ammunition to be fed continuously and directly therefrom into a semi-automatic firearm.

z. "Pistol grip" means a well-defined handle, similar to that found on a handgun, that protrudes conspicuously beneath the action of the weapon, and which permits the shotgun to be held and fired with one hand.

aa. "Antique handgun" means a handgun manufactured before 1898, or a replica thereof, which is recognized as being historical in nature or of historical significance and either (1) utilizes a match, friction, flint, or percussion ignition, or which utilizes a pin-fire cartridge in which the pin is part of the cartridge or (2) does not fire fixed ammunition or for which cartridge ammunition is not commercially available.

bb. "Trigger lock" means a commercially available device approved by the Superintendent of State Police which is operated with a key or combination lock that prevents a firearm from being discharged while the device is attached to the firearm. It may include, but need not be limited to, devices that obstruct the barrel or cylinder of the firearm, as well as devices that immobilize the trigger.

cc. "Trigger locking device" means a device that, if installed on a firearm and secured by means of a key or mechanically, electronically or electromechanically operated combination lock, prevents the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically or electromechanically operated combination lock.

dd. "Personalized handgun" means a handgun which incorporates within its design, and as part of its original manufacture, technology which automatically limits its operational use and which cannot be readily deactivated, so that it may only be fired by an authorized or recognized user. The technology limiting the handgun's operational use may include, but not be limited to: radio frequency tagging, touch memory, remote control, fingerprint, magnetic encoding and other automatic user identification systems utilizing biometric, mechanical or electronic systems. No make or model of a handgun shall be deemed to be a "personalized handgun" unless the Attorney General has determined, through testing or other reasonable means, that the handgun meets any reliability standards that the manufacturer may require for its commercially available handguns that are not personalized or, if the manufacturer has no such reliability standards, the handgun meets the reliability standards generally used in the industry for commercially available handguns.

6. N.J.S.2C:58-2 is amended to read as follows:

Retailing of firearms; licensing of dealers and their employees.

2C:58-2 a. Licensing of retail dealers and their employees. No retail dealer of firearms nor any employee of a retail dealer shall sell or expose for sale, or possess with the intent of selling, any firearm unless licensed to do so as hereinafter provided. The superintendent shall prescribe standards and

qualifications for retail dealers of firearms and their employees for the protection of the public safety, health and welfare.

Applications shall be made in the form prescribed by the superintendent, accompanied by a fee of $50.00 payable to the superintendent, and shall be made to a judge of the Superior Court in the county where the applicant maintains his place of business. The judge shall grant a license to an applicant if he finds that the applicant meets the standards and qualifications established by the superintendent and that the applicant can be permitted to engage in business as a retail dealer of firearms or employee thereof without any danger to the public safety, health and welfare. Each license shall be valid for a period of three years from the date of issuance, and shall authorize the holder to sell firearms at retail in a specified municipality.

In addition, every retail dealer shall pay a fee of $5.00 for each employee actively engaged in the sale or purchase of firearms. The superintendent shall issue a license for each employee for whom said fee has been paid, which license shall be valid for so long as the employee remains in the employ of said retail dealer.

No license shall be granted to any retail dealer under the age of 21 years or to any employee of a retail dealer under the age of 18 or to any person who could not qualify to obtain a permit to purchase a handgun or a firearms purchaser identification card, or to any corporation, partnership or other business organization in which the actual or equitable controlling interest is held or possessed by such an ineligible person.

All licenses shall be granted subject to the following conditions, for breach of any of which the license shall be subject to revocation on the application of any law enforcement officer and after notice and hearing by the issuing court:

(1) The business shall be carried on only in the building or buildings designated in the license, provided that repairs may be made by the dealer or his employees outside of such premises.

(2) The license or a copy certified by the issuing authority shall be displayed at all times in a conspicuous place on the business premises where it can be easily read.

(3) No firearm or imitation thereof shall be placed in any window or in any other part of the premises where it can be readily seen from the outside.

(4) No rifle or shotgun, except antique rifles or shotguns, shall be delivered to any person unless such person possesses and exhibits a valid firearms purchaser identification card and furnishes the seller, on the form prescribed by the superintendent, a certification signed by him setting forth his name, permanent address, firearms purchaser identification card number and such other information as the superintendent may by rule or regulation require.

The certification shall be retained by the dealer and shall be made available for inspection by any law enforcement officer at any reasonable time.

(5) No handgun shall be delivered to any person unless:

(a) Such person possesses and exhibits a valid permit to purchase a firearm and at least seven days have elapsed since the date of application for the permit;

(b) The person is personally known to the seller or presents evidence of his identity;

(c) The handgun is unloaded and securely wrapped;

(d) Except as otherwise provided in subparagraph (e) of this paragraph, the handgun is accompanied by a trigger lock or a locked case, gun box, container or other secure facility; provided, however, this provision shall not apply to antique handguns. The exemption afforded under this subparagraph for antique handguns shall be narrowly construed, limited solely to the requirements set forth herein and shall not be deemed to afford or authorize any other exemption from the regulatory provisions governing firearms set forth in chapter 39 and chapter 58 of Title 2C of the New Jersey Statutes; and

(e) On and after the first day of the sixth month following the date on which the list of personalized handguns is prepared and delivered pursuant to section 3 of P.L.2002, c.130 (C.2C:58-2.4), the handgun is identified as a personalized handgun and included on that list or is an antique handgun. The provisions of subparagraph (d) of this section shall not apply to the delivery of a personalized handgun.

(6) The dealer shall keep a true record of every handgun sold, given or otherwise delivered or disposed of, in accordance with the provisions of subsections b. through e. of this section and the record shall note whether a trigger lock, locked case, gun box, container or other secure facility was delivered along with the handgun.

b. Records. Every person engaged in the retail business of selling, leasing or otherwise transferring a handgun, as a retail dealer or otherwise, shall keep a register in which shall be entered the time of the sale, lease or other transfer, the date thereof, the name, age, date of birth, complexion, occupation, residence and a physical description including distinguishing physical characteristics, if any, of the purchaser, lessee or transferee, the name and permanent home address of the person making the sale, lease or transfer, the place of the transaction, and the make, model, manufacturer's number, caliber and other marks of identification on such handgun and such other information as the superintendent shall deem necessary for the proper enforcement of this chapter. The register shall be retained by the dealer and shall be made available at all reasonable hours for inspection by any law enforcement officer.

c. Forms of register. The superintendent shall prepare the form of the register as described in subsection b. of this section and furnish the same in

triplicate to each person licensed to be engaged in the business of selling, leasing or otherwise transferring firearms.

d. Signatures in register. The purchaser, lessee or transferee of any handgun shall sign, and the dealer shall require him to sign his name to the register, in triplicate, and the person making the sale, lease or transfer shall affix his name, in triplicate, as a witness to the signature. The signatures shall constitute a representation of the accuracy of the information contained in the register.

e. Copies of register entries; delivery to chief of police or county clerk. Within five days of the date of the sale, assignment or transfer, the dealer shall deliver or mail by certified mail, return receipt requested, legible copies of the register forms to the office of the chief of police of the municipality in which the purchaser resides, or to the office of the captain of the precinct of the municipality in which the purchaser resides, and to the superintendent. If hand delivered a receipt shall be given to the dealer therefor.

Where a sale, assignment or transfer is made to a purchaser who resides in a municipality having no chief of police, the dealer shall, within five days of the transaction, mail a duplicate copy of the register sheet to the clerk of the county within which the purchaser resides.

C.2C:58-2.6 Rules, regulations.

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

C.59:2-11 Actions of public entity, employee; immunity.

8. No action or inaction by a public entity or public employee in implementing the provisions of P.L.2002, c.130 (C.2C:58-2.2 et al.), including but not limited to the promulgating, amending or supplementing of a list of personalized handguns that may be sold in this State, shall constitute a representation, warranty or guarantee by any public entity or employee with regard to the safety, use or any other aspect or attribute of a personalized handgun.

No action to recover damages shall arise or shall be brought against any public entity or public employee for any action or inaction related to or in connection with the implementation of any aspect of P.L.2002, c.130 (C.2C:58-2.2 et al.).

9. This act shall take effect immediately.

Approved December 23, 2002.

CHAPTER 131

AN ACT concerning motor vehicle safety equipment and supplementing chapter 3 of Title 39 of the Revised Statutes.

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

C.39:3-71.1 Electronic rear back-up monitoring device, crossview mirror required on certain commercial delivery vehicles.

1. a. Every delivery van or truck registered in this State with a cube-style, walk-in cargo box up to 18 feet long that is used in the commercial delivery of goods and services shall be equipped with either an electronic rear backup monitoring device or a rear crossview mirror located at the top left rear corner of the cargo box. The mirror shall be convex and located to reflect to the vehicle operator an unobstructed, overall view of the lower six feet of the entire rear width of the van or truck body.

b. The director may adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to implement the provisions of this act.

2. This act shall take effect on the first day of the fourth month after enactment, but the director may take such anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved December 24, 2002.

CHAPTER 132

AN ACT concerning pension funds of certain boards of education in first-class counties and amending chapter 66 of Title 18A of the New Jersey Statutes.

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

1. N.J.S.18A:66-110 is amended to read as follows:

Manner of payment.

18A:66-110. Pensions shall be paid from the fund in the manner following:

a. A member of the pension fund who was a member on or before June 26, 1962 and who has or shall hereafter have credit in the pension fund for 30 years or more as an employee of a board of education in a county wherein the fund has been established and maintained shall, upon application to the

board of trustees of the pension fund, be retired by such board of trustees and shall thereupon receive annually from the fund, for and during the remainder of his or her life, by way of pension, an amount equal to one-forty-fifth of the average annual compensation received in any three years of creditable service providing the largest possible benefit multiplied by the number of years for which he or she has credit in the pension fund, the amount to be determined by resolution of the board.

b. Upon the retirement of a member who has reached the age of 60 years, the person so retired shall be entitled to receive during his or her life, by way of pension, one-forty-fifth of the average annual compensation received in any three years of creditable service providing the largest possible benefit multiplied by the number of years for which he or she has credit in the pension fund, the amount to be determined by resolution of the board. Upon the receipt of proper proof of death of a member who has retired on a service retirement allowance, there shall be paid to such person, if living, as he shall have nominated by written designation duly executed and filed with the board of trustees, otherwise to the executor or administrator of the member's estate an amount equal to one-half of the highest annual compensation received by the member in any year of creditable service.

c. A member of the fund who has credit therein for 10 years, who shall become incapacitated, either mentally or physically, and who cannot perform the regular duties of employment, or who is found unfit for the performance of his or her duties, upon the application of his employer or upon his own application or the application of someone acting in his behalf, shall be retired by the board of trustees of the pension fund and thereupon shall receive annually from the fund a retirement allowance as described in subsection b. of this section if he has reached or passed age 60 and if he is under age 60, an amount equal to nine-tenths of one-forty-fifth of the average annual compensation received in any three years of creditable service providing the largest possible benefit multiplied by the number of years of creditable service; provided, however, that in no event shall the pension be based upon less than 17 years nor more than 30 years of service unless the member would have had less than 17 years of service at age 60, in which event he shall be given credit for the years to age 60; however, a member who has not attained age 70 who shall become incapacitated, either mentally or physically, as a direct result of a traumatic event occurring in the performance of his or her duties of such employee, shall, upon the application of his employer or upon his own application or the application of someone acting in his behalf, be retired by the board of trustees of the pension fund, and, thereupon, if a report of the accident, in a form acceptable to the board of trustees of the pension fund, is filed with the said board of trustees within 60 days next following the accident and the application for retirement is filed with the said board of trustees within two years of the

date of the accident, shall receive annually from the fund an amount equal to two-thirds of the annual salary being received by such employee on the date of the accident. The board of trustees may waive strict compliance with the time limits within which a report of the accident and an application for retirement must be filed with the board if it is satisfied: (1) that a report of the accident from which the disability is claimed to have resulted was filed with the employing board of education with reasonable promptitude and in no event later than 60 days after the accident, and (2) the applicant shall show that his failure to file a report with the board of trustees or to file his application for retirement within the time limited by law was due to mistake, inadvertence, ignorance of fact or law, inability, or to the fraud, misrepresentation or deceit of any person, or to a delay in the manifestation of the incapacity, or to any other reasonable cause or excuse, and (3) that the application for retirement was filed in good faith and the circumstances justify its favorable consideration.

The trustees of the pension fund shall have the power to determine whether or not any employee is permanently and totally disabled, and whether or not a disability of an employee is the direct result of a traumatic event occurring at some definite time and place in the performance of his or her duties as such employee. The claimant shall have the right to present physicians, witnesses or other testimony in his or her behalf before the board of trustees. The chairman, or any other member of the board of trustees, may administer oaths to any physician or other persons called before the trustees regarding the employee's disability. The board of trustees shall decide, by resolution, whether the applicant is entitled to the benefit of this article.

Permanent and total disability resulting from a cardiovascular, pulmonary or muscular-skeletal condition which was not a direct result of a traumatic event occurring in the performance of duty shall be deemed an ordinary disability.

Once in each year, the board of trustees may, and upon the member's application shall, require any member retired for a disability, who is under the age of 60, to undergo medical examination by a physician or physicians designated by the board of trustees. The examination shall be made at the residence of the pensioner or any other place mutually agreed upon. If the physician or physicians thereupon report and certify to the board of trustees that the disabled pensioner is not permanently and totally incapacitated, either mentally or physically, for the performance of duty, and the board finds that said member is engaged in a gainful occupation, or could be engaged in a gainful occupation, and if the board concurs in the report, then the amount of the pension shall be reduced to an amount which, when added to the amount then being earned by him or her or an amount which he or she could earn if gainfully employed, shall not exceed the amount of compensation received by him or her at the time of his or her retirement, including any cost of living

adjustment. If subsequent examination of such pensioner shows that his or her earnings have changed since the date of his or her last examination, then the amount of the pension shall be further altered, but the new pension shall not exceed the amount of the pension originally granted, nor shall the new pension, when added to the amount then being earned by the pensioner, exceed the salary or compensation received by him or her at the time of his or her retirement, including any cost of living adjustment.

d. At the time of retirement, any member may elect to receive his or her benefits in a retirement allowance payable throughout life, or he or she may, on retirement, elect to convert the benefits, otherwise payable to him or her, into a retirement allowance of the equivalent actuarial value computed on the basis of such mortality tables as shall be adopted by the board of trustees, in accordance with one of the optional forms following:

Option 1. A reduced retirement allowance, payable during life, with a provision that in the case of death, before the total pension payments have equaled the actuarial value computed as aforesaid, the balance shall be paid to his or her surviving designated beneficiary, duly acknowledged and filed with the board of trustees; and if none, then to the executor or administrator of his or her estate.

Option 2. A reduced retirement allowance, payable during the retired member's life, with the provision that after his or her death it will continue during the life of and be paid to his or her designated beneficiary, if such person survives him or her.

Option 3. A reduced retirement allowance, payable during the retired member's life, with the provision that after his or her death, an allowance at one-half of the rate of his or her reduced allowance will be continued during the life of and be paid to his or her designated beneficiary, if such person survives him or her.

Option 4. A reduced retirement allowance, payable during the retired member's life, with some other benefit payable after his or her death, provided the benefit is approved by the board of trustees.

Option 5. Some other benefit, which is equivalent to the full amount, three-quarters, one-half or one-quarter of the member's retirement allowance, shall be paid upon the member's death to the beneficiary designated by the member, and if that beneficiary dies before the member, the member's retirement allowance shall increase to the maximum retirement allowance for the member's lifetime, provided that such other benefit together with the member's lesser and maximum retirement allowances shall be certified by the actuary to be of equivalent actuarial value.

Except in the case of members who have elected to receive (1) a deferred retirement allowance pursuant to N.J.S.18A:66-113 or (2) an early retirement allowance pursuant to section 4 of P.L.1971, c.382 (C.18A:66-113.1) after

separation from service pursuant to N.J.S.18A:66-113, if a member dies within 30 days after the date of retirement or the date of board approval, whichever is later, the member's retirement allowance shall not become effective and the member shall be considered an active member at the time of death. However, if the member dies after the date the application for retirement was filed with the system, the retirement will become effective if:

(1) The deceased member had designated a beneficiary under an optional settlement provided by this section; and

(2) The surviving beneficiary requests in writing that the board make such a selection. Upon formal action by the board approving that request, the request shall be irrevocable.

The board may select an Option 3 settlement on behalf of the beneficiary of a member who applied for and was eligible for retirement but who died prior to the effective date of the retirement allowance if all of the above conditions, with the exception of (1), are met.

The board of trustees shall, from time to time and as often as they deem it necessary, employ an actuary, who shall recommend, and the board shall keep in convenient form, such data as shall be necessary for actuarial valuations of the various funds created by this article. At least once in every five-year period, or more frequently as determined by the board of trustees, the actuary shall make an actuarial investigation into the mortality, service and salary experience of the members and beneficiaries of the retirement system, and shall make a valuation of the assets and liabilities of the various funds thereof, and upon the basis of such investigation the board of trustees shall:

(a) Adopt for the retirement system such mortality, service and other tables as shall be deemed necessary.

(b) Certify the rate of contribution which shall be made by each board of education to the pension fund as provided by this article.

2. This act shall take effect immediately and shall be retroactive to October 1, 1998.

Approved December 24, 2002.

CHAPTER 133

AN ACT concerning rental housing emergencies and supplementing chapter 18 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:18-61.62 Issuance of "Notice of Rent Protection Emergency."

1. The Governor shall be empowered, whenever declaring a state of emergency, to determine whether the emergency will, or is likely to, significantly affect the availability and pricing of rental housing in the areas included in the declaration. If the Governor determines that unconscionable rental practices are likely to occur unless the protections afforded under P.L.2002, c.133 (C.2A:18-61.62 et seq.) are invoked, the Governor may issue a "Notice of Rent Protection Emergency" at any time during the declared state of emergency.

C.2A:18-61.63 Effect of issuance of "Notice of Rent Protection Emergency."

2. Whenever the Governor declares a state of emergency within certain areas of the State, and issues a "Notice of Rent Protection Emergency," the following shall apply:

a. Within a zone which includes the area declared to be in a state of emergency and, if so indicated in the Notice of Rent Protection Emergency extending a distance not to exceed 10 miles in all directions from the outward boundaries thereof, there shall be a presumption of unreasonableness given to a notice of increase in rental charges provided subsequent to the date of the declaration by a landlord to a tenant occupying premises which are utilized as a residence, when the proposed percentage increase in rent is greater than twice the rate of inflation as indicated by increases in the CPI for the immediately preceding nine-month period. For the purposes of this section, "CPI" means the annual average over a 12-month period beginning September 1 and ending August 31 of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), All Items Series A, of the United States Department of Labor (1957-1959 = 100), for the New York, NY-Northeastern New Jersey region.

b. Within a zone which includes the area declared to be in a state of emergency and, if so indicated in the Notice of Rent Protection Emergency extending a distance not to exceed 10 miles in all directions from the outward boundaries thereof, there shall be a limitation on the amount of rent which may be charged a tenant undertaking a new lease for residential premises during the duration of the declaration of a "Notice of Rent Protection Emergency" made pursuant to section 1 of P.L.2002, c.133 (C.2A:18-61.62). The amount of rent which may be charged shall be limited to the product of the fair market rental value of the premises prior to the emergency conditions and two times the rate of inflation as determined by the increase in the CPI for the immediately preceding nine-month period. For the purposes of this section, "CPI" means the annual average over a 12-month period beginning September 1 and ending August 31 of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), All Items Series A, of the United States Department of

Labor (1957-1959 = 100), for the New York, NY-Northeastern New Jersey region.

c. In the event that a landlord believes that the limitations on increases in rental charges imposed by a "Notice of Rent Protection Emergency" prevent the landlord from realizing a just and reasonable rate of return on the landlord's investment, the landlord may file an application with the Director of the Division of Consumer Affairs in the Department of Law and Public Safety for the purpose of requesting permission to increase rental charges in excess of the increases otherwise authorized under the "Notice of Rent Protection Emergency". In evaluating such an application, the director shall take into consideration the purposes intended to be achieved by P.L.2002, c.133 (C.2A:18-61.62 et seq.), and the "Notice of Rent Protection Emergency" and the amount of rental charges required to provide the landlord with a just and reasonable return. The Director shall promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this act.

d. The provisions of subsections a. and b. of this section will serve to supplement, not replace, any existing local, State, or federal restrictions on rent increases for any dwelling units in residential buildings located within the zone described in subsections a. and b. of this section, and will only apply to those dwelling units where they cause a lowering of the maximum allowable rent increase or of the maximum reasonable rent increase.

e. The provisions of subsections a. and b. of this section shall cease to apply upon the expiration of the state of emergency, or upon the rescission of the either the declaration of the state of emergency or the "Notice of Rent Protection Emergency."

C.2A:18-61.64 Report of violation, investigation, penalties.

3. a. A tenant or prospective tenant may report a violation of the provisions of P.L.2002, c.133 (C.2A:18-61.62 et seq.) to the Director of the Division of Consumer Affairs in the Department of Law and Public Safety. The director shall investigate any complaint within 10 days of receipt of the complaint.

b. If the director determines that a violation of this act has occurred:

(1) a penalty may be assessed against the landlord in an amount equal to six times the monthly rental sought to be imposed upon a tenant in contravention of the "Notice of Rent Protection Emergency"; or

(2) any penalties for violations of the New Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.) may be sought by the director.

c. Notwithstanding the provisions of subsections a. and b. of this section, a tenant shall have the right to petition a court of competent jurisdiction to terminate a lease containing a provision in violation of the provisions of P.L.2002, c.133 (C.2A:18-61.62 et seq.).

C.2A:18-61.65 Violations considered as consumer fraud.

4. Any violation of P.L.2002, c.133 (C.2A:18-61.62 et seq.) shall be considered a violation of the New Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.).

5. This act shall take effect immediately.

Approved December 24, 2002.

CHAPTER 134

AN ACT concerning pensions for survivors of certain volunteer emergency services workers and amending P.L.1957, c.168.

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

1. Section 1 of P.L.1957, c.168 (C.43:12-28.1) is amended to read as follows:

C.43:12-28.1 Pensions for survivors of certain emergency services workers; terms defined.

1. The governing body of any municipality served by a volunteer fire company or first aid or rescue squad shall, by resolution, determine the eligibility for a survivor's pension of the widow or children or parent of any volunteer firefighter, first aid worker, rescue squad worker, or emergency medical technician who has died as the result of injuries sustained in the course of performance of duty as a member of the volunteer fire company or first aid or rescue squad on or after January 1, 2000. A governing body may determine that the widow or children or parent of a volunteer is eligible for a survivor's pension whenever a volunteer dies while responding to, preparing for or returning from an emergency while under orders from a competent authority. When the municipal governing body determines that a widow or children or parent are eligible for a survivor's pension, a certified copy of the resolution shall be filed by the municipal clerk with the State Treasurer within 10 days of adoption, and the State shall provide for payment of the survivor's pension, starting in the first calendar year next following the year of death of the volunteer or the year next following the year in which P.L.2002, c.134 is enacted, whichever is later.

For the purposes of this section, "first aid or rescue squad" shall mean any duly incorporated first aid and emergency or volunteer ambulance or rescue

squad association providing volunteer public first aid, ambulance or rescue services within the municipality;

"widow" shall also include "widower";

"child" shall mean a deceased firefighter's, emergency medical technician's, or first aid or rescue squad worker's unmarried child (a) under the age of 18, or (b) 18 years of age or older and enrolled in a secondary school, or (c) under the age of 24 and enrolled in a degree program in an institution of higher education for at least 12 credit hours in each semester, or (d) of any age who, at the time of the firefighter's, technician's or worker's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and the impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical professional; and

"parent" shall mean the parent of a firefighter, emergency medical technician, or first aid or rescue squad worker who was receiving at least one-half of his or her support from the firefighter, technician or worker in the 12-month period immediately preceding the firefighter's, technician's or worker's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

2. Section 2 of P.L.1957, c.168 (C.43:12-28.2) is amended to read as follows:

C.43:12-28.2 Amount of pension.

2. A survivor's pension granted under section 1 of P.L.1957, c.168 (C.43:12-28.1) shall be for the sum of (a) $15,000 annually and shall be paid to the widow, during her widowhood, or to the child or children of such firefighter, emergency medical technician, or first aid or rescue squad worker, if he leaves no surviving widow, or to such child or children after the death of such widow, (b) $10,000 annually and shall be paid to the child or children of such firefighter, emergency medical technician, or first aid or rescue squad worker, if the surviving widow remarries, or (c) $5,000 annually and shall be paid to the parent or parents of such firefighter, emergency medical technician, or first aid or rescue squad worker, if he leaves no surviving widow or child. As used in this section, the terms "widow" and "widowhood" shall also include "widower" and "widowerhood" respectively.

3. Section 3 of P.L.1957, c.168 (C.43:12-28.3) is amended to read as follows:

C.43:12-28.3 Manner of payment of pension.

3. With regard to any pension granted by a municipality pursuant to section 1 of P.L.1957, c.168 (C.43:12-28.1) prior to the effective date of P.L.2002,

c.134 the governing body shall make provision in its budget for the payment of any such pension and the same shall be paid in the same manner as municipal employees are paid.

4. This act shall take effect immediately.

Approved January 9, 2003.

JOINT RESOLUTIONS

(1153)

JOINT RESOLUTION NO. 1

A JOINT RESOLUTION designating October 31st, Halloween, of each year as "UNICEF Day" in New Jersey.

WHEREAS, UNICEF, the United Nations Children's Fund, was established in 1946 as the United Nations International Children's Emergency Fund to relieve the suffering of children in Europe as a result of World War ll; and

WHEREAS, Since then, UNICEF has been helping governments, communities and families make the world a better place for children by advancing children's rights and by helping to meet children's needs; and

WHEREAS, UNICEF now works in 161 countries throughout the world, particularly in devastated areas and developing countries, to assist poor children and their families; and

WHEREAS, UNICEF works to prevent childhood illness and death, to make pregnancy and childbirth safe, to fight the onslaught of HIV/AIDS, to eradicate polio, to combat discrimination, and to cooperate with communities to ensure that girls as well as boys attend school; and

WHEREAS, When wars, conflicts or other disruptions occur, UNICEF helps recreate a sense of stability and normalcy for children by reopening schools and establishing safe spaces; and

WHEREAS, UNICEF is financed through voluntary contributions from governments and individuals, rather than by regular United Nations assessments; and

WHEREAS, UNICEF NJ was founded as a division of the New York Metropolitan Affiliate to work with schools in this State to raise funds for UNICEF, as well as to educate young students about the horrible experiences some of their counterparts abroad must face; and

WHEREAS, October 31st, Halloween, is the culmination of UNICEF NJ's annual fundraiser, "Trick or Treat for UNICEF"; and

WHEREAS, It is appropriate to honor and support the efforts of UNICEF in helping the underprivileged children of the world; now, therefore,

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

C.36:2-72 "UNICEF Day," October 31; designated.

1. October 31st, Halloween, of each year is designated as "UNICEF Day" in New Jersey for the purpose of honoring and supporting the efforts of UNICEF, the United Nations Children's Fund, in helping the underprivileged children of the world.

2. The people of this State are urged to observe "UNICEF Day" in New Jersey by supporting the activities of UNICEF NJ and by contributing to its annual fundraiser, "Trick or Treat for UNICEF".

3. This joint resolution shall take effect immediately.

Approved October 31, 2002.

JOINT RESOLUTION NO. 2

A JOINT RESOLUTION designating the month of September in each year as "Minority and Multicultural Health Month."

WHEREAS, For decades, the racial and ethnic minority residents of this State and nation have suffered higher death rates from nearly all major causes than the Caucasian non-Hispanic population; and

WHEREAS, Government and academic research indicates a widening gap between racial and ethnic minority populations and others in the incidences of asthma, diabetes, obesity, maternal mortality, fetal alcohol syndrome, major infectious diseases and several forms of cancer; and

WHEREAS, Racial and ethnic minority populations often receive less, and worse, health care than other groups, according to many analysts, which translates into higher rates of morbidity, as well as mortality; and

WHEREAS, African Americans still have twice the infant mortality rate of the Caucasian population, a gap that has not changed in at least a decade; the overall death rate for all causes is highest in the African-American population; and

WHEREAS, The uninsured rate among the Hispanic population is more than twice the Caucasian non-Hispanic rate; and

WHEREAS, The growth in the disparity between racial and ethnic minority populations and others with regard to numerous health indicators stands in stark contrast to advances made by minorities in areas such as employment, education and housing during the past three decades; and

WHEREAS, Many analysts assert that the major disparities between racial and ethnic minority populations and others in regard to morbidity and mortality arise less from inherent differences than from perceptions of those populations and the corresponding provision of unequal health care; and

WHEREAS, The widening gap between racial and ethnic minority populations and the Caucasian non-Hispanic population in regard to health care has created a two-tiered health care system in our State and nation that requires urgent attention from government and the health care provider community; now, therefore,

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

C.36:2-73 "Minority and Multicultural Health Month," September; designated.

1. The month of September in each year is designated as "Minority and Multicultural Health Month" in the State of New Jersey.

2. The Department of Health and Senior Services, through the Office of Minority and Multicultural Health, and all other public and private entities entrusted with the health of the citizens of this State are urged to observe the month with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved November 4, 2002.

JOINT RESOLUTION NO. 3

A JOINT RESOLUTION designating the month of April in each year as "Sexual Assault Awareness Month" in New Jersey.

WHEREAS, Females and males of all ages and racial, cultural and economic backgrounds are victims of sexual assault, which includes rape, incest, unwanted sexual contact, sexual harassment, forced prostitution or exposure to pornography, and voyeurism; and

WHEREAS, One out of six women and one out of 33 men in the United States have experienced an attempted or completed rape at some time in their lives; and each year, in this country, approximately 876,000 rapes are perpetrated against women and 111,000 rapes are perpetrated against men; and

WHEREAS, In New Jersey, an estimated four rapes are perpetrated every day; in 2000, a total of 1,226 completed rapes and 126 attempted rapes were reported; and

WHEREAS, The majority of rapes are perpetrated against children and adolescents; more than half of female rape victims were under the age of 18 when they were first raped, more than a fifth of female rape victims were under the age of 12 when they were first raped; and

WHEREAS, Women who are sexually assaulted as children and adolescents are at greater risk of being sexually assaulted as adults; women who were raped before the age of 18 are twice as likely to be raped as an adult; and

WHEREAS, In the United States, violence against women is predominantly intimate partner violence; 76% of women who have been raped or physically assaulted, or both, since the age of 18 were assaulted by a current or former husband, cohabitating partner or date; and

WHEREAS, In New Jersey, a total of 196 domestic violence sexual assault offenses and 59 domestic violence criminal sexual conduct offenses were reported in 2000; 96% of the victims of the sexual assault offenses and 95% of the victims of the criminal sexual conduct offenses were women; and

WHEREAS, Nearly a third of women who were raped since the age of 18 sustained injuries other than the rape itself; of that number, 36% received some type of medical treatment; and

WHEREAS, Victims of rape often manifest long-term effects, which may include headaches, fatigue, sleep disturbance, recurrent nausea,

decreased appetite, eating disorders, menstrual pain, sexual dysfunction and suicide attempts; and

WHEREAS, Throughout the United States, various organizations and states recognize April as "Sexual Assault Awareness Month" in an effort to increase the public's understanding of sexual violence, the role it plays in society and ways in which it can be prevented; now, therefore

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

C.36:2-74 "Sexual Assault Awareness Month," April, designated.

1. The month of April in each year is designated as "Sexual Assault Awareness Month" in New Jersey to increase the public's understanding of sexual violence, the role it plays in society and ways in which it can be prevented.

2. The Governor is respectfully requested to 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 November 22, 2002.

JOINT RESOLUTION NO. 4

A JOINT RESOLUTION designating the month of November in each year as "Epilepsy Awareness Month."

WHEREAS, The National Health Information Center recognizes the month of November in each year as "National Epilepsy Month"; and

WHEREAS, Epilepsy is the medical term used to describe a pattern of recurring seizures which cause involuntary changes in body movement or function, sensation, awareness or behavior; and

WHEREAS, Approximately 2,300,000 Americans have some form of epilepsy; and approximately 181,000 new cases of seizures and epilepsy are diagnosed each year, 25% of which occur in children under the age of 15; and

WHEREAS, In the State of New Jersey, 1.5% of all adults have epileptic seizures, with that number increasing to 2.0% in children under the age of 18; and

WHEREAS, The National Center for Health Statistics concludes that 65% of children under the age of 18 with epilepsy have various special needs as well; and

WHEREAS, Epilepsy can strike anyone at anytime, and in 70% of all cases, no known cause exists; and although modern treatment methods can achieve full or partial control of seizures in 75% of all cases, some seizure disorders are resistant to current therapies; and

WHEREAS, To improve the quality of life for those living with seizure disorders, the Epilepsy Foundation of America recognizes the need to promote public awareness and understanding of epilepsy, and to reinforce the need for more research to discover the causes of epilepsy, to improve diagnostic strategies, to create new drugs and to improve surgical techniques; now, therefore,

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

C.36:2-75 "Epilepsy Awareness Month," November; designated.

1. The month of November in each year is designated as "Epilepsy Awareness Month" in the State of New Jersey.

2. The Governor is hereby requested to 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 December 24, 2002.

EXECUTIVE ORDERS

(1161)

EXECUTIVE ORDER NO. 1

WHEREAS, The State of New Jersey has a compelling interest in awarding public works contracts so as to ensure the highest standards of quality and efficiency at the lowest responsible cost; and

WHEREAS, A project labor agreement, which is a form of pre-hire collective bargaining agreement covering all terms and conditions of a specific project, can ensure the highest standards of quality and efficiency at the lowest responsible cost on appropriate public works projects; and

WHEREAS, The State of New Jersey has a compelling interest that a highly skilled workforce be employed on public works projects to ensure lower costs over the lifetime of the completed project for repairs and maintenance; and

WHEREAS, Project labor agreements provide the State of New Jersey with a guarantee that public works projects will be completed with highly skilled workers; and

WHEREAS, Project labor agreements provide for peaceful, orderly and mutually binding procedures for resolving labor issues without labor disruption; and

WHEREAS, Project labor agreements allow public agencies to more accurately predict the actual cost of the public works project;

WHEREAS, The use of project labor agreements can be of specific benefit for complex construction projects of large scope such as the school construction projects that the State of New Jersey will imminently embark upon and that are the largest school construction projects in the history of New Jersey and that have been mandated by the Supreme Court of New Jersey; and

WHEREAS, The use of project labor agreements shall be considered on a project-by-project basis where such agreements benefit the interest of the State of New Jersey, from a cost, efficiency, quality, safety and/or timeliness standpoint;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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. 11 (Whitman) is hereby rescinded and is superseded by this Executive Order No. 1.

2. On a project-by-project basis, a State department, authority or instrumentality shall include a project labor agreement in a public works project where it has been determined that such agreement advances the State's interests of cost, efficiency, quality, safety, timeliness, skilled labor force, labor stability and the state's policy to advance minority- and women-owned businesses as set forth in Executive Order No. 84 (Florio).

3. Where it has been determined that a project labor agreement is appropriate for a particular public works project, a State department, authority or instrumentality responsible for implementing the project shall either (a) in good faith negotiate a project labor agreement, through the office of the Commissioner of Labor, with labor organizations engaged in the construction industry, or (b) condition the award of a project manager or general contractor upon a requirement that such manager or contractor negotiate in good faith a project labor agreement with labor organizations engaged in the construction industry and, if necessary, utilize the office of the Commissioner of Labor to reach such agreement.

4. Pursuant to this Order, any project labor agreement:

(a) shall set forth effective, immediate and mutually binding procedures for resolving jurisdictional, labor disputes, and grievances arising before the completion of work;

(b) shall contain guarantees against strikes, lockouts, or other similar actions.

(c) shall standardize the terms and conditions of employment of labor on the public works project.

(d) shall permit flexibility in work scheduling and shift hours and times.

(e) shall ensure a reliable source of skilled and experienced labor.

(f) shall further public policy objectives as to improved employment opportunities for minorities, women and the economically disadvantaged in the construction industry;

(g) shall permit contractors and subcontractors to retain a percentage of their current workforce in addition to labor referred through the signatory labor organizations;

(h) shall permit the selection of the lowest qualified bidder, without regard to union or non-union status at other construction sites, and

(i) shall be made binding on all contractors and subcontractors on the public works project through the inclusion of appropriate bid specifications in all relevant bid documents.

5. Any decision to use a project labor agreement in connection with a public works project by a State agency, authority or instrumentality shall be supported by a written, publicly disclosed finding by such agency, authority or instrumentality seeing forth the justification for use of the project labor agreement.

6. All State agencies, authorities and instrumentalities are hereby ordered to ensure that all public works projects are implemented in a manner consistent with the terms of this Order and are in full compliance with all statutes, regulations and executive orders, including Executive Order No. 84 (Florio).

7. This Order shall take effect immediately and is intended to have prospective effect only.

Dated January 17, 2002.

EXECUTIVE ORDER NO. 2

WHEREAS, The State is confronting a severe fiscal crisis caused by a pattern of profligate spending and irresponsible borrowing practices;

WHEREAS, These fiscal practices have been exacerbated by increasing statutory spending obligations and declining tax revenues;

WHEREAS, The State has heretofore failed, even in the face of mounting evidence that the State would confront tremendous and debilitating budget deficits in Fiscal Years 2003 and 2004, to implement timely remedial actions such as implementing significant budget freezes, cutting costs and ending unnecessary discretionary spending;

WHEREAS, The denial of the magnitude of the fiscal problems confronting the State and the consequent failure to take sufficient and timely corrective actions have placed the State in fiscal jeopardy, causing the leading rating agencies to downgrade New Jersey's creditworthiness;

WHEREAS, The unprecedented scope of the fiscal dilemma has impaired and will impair the ability of the State to provide necessary programs to its citizens;

WHEREAS, As Governor, I have a responsibility to ensure a balanced budget, manage the operations of State Government effectively and efficiently, and maintain necessary government programs and assistance to the public;

WHEREAS, N.J. Const. (1947), Art. VIII, s.II, para.2, requires that State government expenditures do not exceed available State revenues;

WHEREAS, N.J.S.A. 52:27B-31 and -26 empower the Governor to prohibit the expenditures of existing or future appropriations, and to set aside necessary reserve funds, if necessary to avoid a budget deficit and to guard against extravagance, waste or fiscal mismanagement in the administration of any State appropriations; and

WHEREAS, The looming prospect of a projected $2.4 Billion budget deficit in Fiscal Year 2003, and a projected $5 Billion budget deficit in Fiscal Year 2004 requires swift corrective action predicated on a thorough understanding of the depth and scope of the State's fiscal circumstances;

NOW, THEREFORE, I, JAMES E. MCGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created a Budget Efficiency Savings Team Commission ("BEST" Commission).

2. The BEST Commission shall be composed of 30 members appointed by the Governor. The members of the Commission shall be selected from among individuals with substantial experience in the fields of business and finance. The chair shall be selected by the Governor, and the State Treasurer shall serve as an ex officio member of the Commission.

3. The BEST Commission shall immediately undertake a complete, comprehensive and thorough examination of all aspects of the State's spending practices to identify areas of waste, mismanagement, abuse, and unnecessary spending. It shall also develop recommendations to the Governor with respect to innovative solutions and corrective actions that

may be taken. For the purposes of this Executive Order, the State shall mean and include its independent commissions, boards and authorities.

4. The BEST Commission shall examine any area of spending or fiscal practice it deems appropriate, and its examination shall include but, not be limited to the following areas:

a. Spending practices of the State;

b. Borrowing and refinancing practices of the State;

c. Employment practices of the State;

d. An assessment of overlapping, duplicative or unnecessary programs;

e. Existing or proposed capital projects;

f. The potential for sales of surplus State property;

g. An examination of whether direct State administrative obligations can be reduced or appropriately assigned to any specialized projects or programs they support;

h. Existing or prospective lease obligations; and

5. The BEST Commission shall report periodically to the Governor, commencing no later than February 15, 2002, and provide him with recommendations as to how to reduce or eliminate wasteful, duplicative or unnecessary spending and as to those otherwise worthwhile programs supported by appropriations that may need to be deferred in whole or in part to achieve necessary savings. Upon completion of its work, the Commission will render a final report of its findings as it deems appropriate.

6. The BEST Commission recommendations shall further be designed to assist in the preparation of the State Budgets for Fiscal Years 2003 and later years, and to establish any factual or public policy foundation to support the issuance of any additional Executive Orders that may be required pursuant to N.J.S.A. 52:27B-31 and -26 to reduce or enjoin State government spending or future expenditures, or to provide for necessary reserve funds, to ensure a balanced budget and the delivery of critical State programs and assistance.

7. This Executive Order shall take effect immediately.

Dated January 17, 2002.

EXECUTIVE ORDER NO. 3

WHEREAS, The Legislature has found and declared in P.L.2001 c.246 that domestic preparedness is essential to preventing and responding to the threat of terrorist attack; and

WHEREAS, The World Trade Center and Pentagon attacks and other significant events, both domestic and foreign, have emphasized the State's compelling interest in developing and maintaining a precisely coordinated counter-terrorism and preparedness effort to enhance the public safety; and

WHEREAS, A uniform and cooperative Statewide response is required to effectively ensure domestic preparedness; and

WHEREAS, The effectiveness of law enforcement's counter-terrorism efforts will depend to a large degree on its regular compilation of intelligence information regarding terrorism activities; and

WHEREAS, A centralized office to coordinate the State's counter-terrorism and preparedness efforts is essential to provide for the public's safety and welfare;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 that:

1. The Office of Counter-Terrorism (OCT) is created and empowered to administer, coordinate and lead New Jersey's counter-terrorism and preparedness efforts with the goals of identifying, deterring and detecting terrorist-related activities, consistent with the New Jersey Domestic Security Preparedness Act.

2. To ensure the effective deployment of criminal law enforcement resources and the appropriate use of law enforcement powers to counter the threat of terrorism, the OCT shall be organized as a separate office within the Department of Law and Public Safety, with all of the powers conferred by law to the Department, including the powers conferred by the Criminal Justice Act of 1970, P.L. 1970 c.74, as amended by P.L.1981 c.187, in addition to the powers and duties set forth below.

3. The OCT shall be led by an Assistant Attorney General for Counter-Terrorism, who will direct and supervise the work of the OCT, and who shall report directly to the Attorney General or his designee, and to the Governor or his designee, as appropriate.

4. The Assistant Attorney General for Counter-Terrorism and the OCT shall, with the approval of the Attorney General, and in consultation with the Department of Personnel and the Director of the Office of Management and Budget, utilize and employ all such personnel as are necessary to carry out the duties of OCT.

5. In regard to counter-terrorism activities, in order to secure the benefits of a uniform and efficient enforcement of the law and to protect the public safety, the Assistant Attorney General for Counter-Terrorism, through the OCT, shall coordinate the efforts of State and local law enforcement on behalf of the Attorney General, and shall serve as a liaison with federal authorities concerning counter-terrorism issues.

6. The OCT shall be authorized to call upon the expertise and assistance of all State departments, divisions and agencies in order to carry out its mission, and in particular, shall be authorized to call upon personnel of the Office of Information Technology in but not of the Department of the Treasury, the Computer and Technology Crimes and Money Laundering Units of the Division of Criminal Justice, and the High Tech Crime Unit within the Division of State Police for this purpose. Each department, division and agency of this State is hereby required, to the extent not inconsistent with law, to cooperate with the Attorney General and provide such assistance to the OCT as is necessary to accomplish the purpose of this Order.

7. To the extent not inconsistent with any other law, the OCT may, with the approval of the Attorney General, employ, consult and contract with private and public entities, and enter into such agreements with any public or private person or entity as is appropriate for the purposes of furthering the mission of the OCT, including but not limited to consulting with experts from any State college or university.

8. The OCT is authorized to draw on the assistance of any county or municipal governmental agency, or any independent authority, for the purposes of carrying out its duties and responsibilities under this Order.

9. In order to optimize the State's intelligence gathering and analysis capabilities regarding terrorist activities, the OCT shall develop and maintain a databank of information regarding terrorists and terrorist-related activities.

10. To compile such a databank, the OCT is empowered to access all appropriate information in the possession of State departments, divisions and agencies and State and local law enforcement agencies, including but not limited to individual and compiled criminal and intelligence case files and information obtained or maintained by the Division of State Police in the Department of Law and Public Safety.

11. The OCT also shall seek relevant counter-terrorism intelligence information from all other appropriate sources, including the private sector and private individuals, and shall develop appropriate cooperative relationships with private industry, utility companies and other entities which may be potential targets of terrorism.

12. All documents, materials and information pertaining to counter-terrorism investigation, intelligence, training and protocols created, compiled, obtained or maintained by the OCT shall be deemed to be confidential, non-public and not subject to the Open Public Records Act, P.L.1963, c.73, as amended and supplemented.

13. To maximize State intelligence capabilities, the OCT shall develop and administer training programs for both law enforcement and non-law enforcement entities on counter-terrorism and intelligence gathering and analysis on a Statewide basis, and all State departments, divisions, facilities and agencies shall provide appropriate assistance to the OCT in regard to such training programs.

14. The OCT shall review all State legislation regarding counter-terrorism and report to the Attorney General and the Governor regarding such legislation, as appropriate, and further, shall review existing laws and recommend to the Attorney General and the Governor any appropriate modifications, amendments or initiatives to support or enhance the State's counter-terrorism and preparedness capabilities.

15. The OCT shall seek out and monitor federal and State grant programs regarding counter- terrorism; and further, shall identify and may participate in any appropriate federal or multi-State law enforcement programs and efforts that would support or compliment the OCT's efforts.

16. This ORDER shall take effect immediately.

Dated January 24, 2002.

EXECUTIVE ORDER NO. 4

WHEREAS, It is the law and policy of the State of New Jersey to promote smart growth and to reduce the negative effects of sprawl and disinvestments in older communities; and

WHEREAS, The State Legislature has declared that New Jersey requires sound and integrated Statewide planning and the coordination of Statewide planning with local and regional planning in order to conserve the State's natural resources, revitalize its urban centers, protect the quality of its environment, and provide needed housing and adequate public services at a reasonable cost while promoting beneficial economic growth, development and renewal; and

WHEREAS, Significant economies, efficiencies and savings in the development process would be realized by private sector enterprise and by public sector development agencies if the several levels of government would cooperate in the preparation of and adherence to sound and integrated plans; and

WHEREAS, It is in the public interest to encourage development, redevelopment and economic growth in locations that are well situated with respect to present or anticipated public services and facilities, giving appropriate priority to the redevelopment, repair, rehabilitation or replacement of existing facilities and to discourage development where it may impair or destroy natural resources or environmental qualities that are vital to the health and well-being of the present and future citizens of this State; and

WHEREAS, A sound and comprehensive planning process will facilitate the provision of equal social and economic opportunity so that all of New Jersey's citizens can benefit from growth, development and redevelopment; and

WHEREAS, The State Planning Commission is charged with overseeing a cooperative planning process that involves the State, county and local governments as well as other public and private sector

interests to enhance prudent and rational development, redevelopment and conservation policies and the formulation of sound and consistent regional plans and planning criteria and providing local governments in this State with the technical resources and guidance necessary to assist them in developing land use plans and procedures which are based on sound planning information and practice, and to facilitate the development of local plans which are consistent with State plans and programs; and

WHEREAS, The State Development and Redevelopment Plan, commonly known as the "State Plan," embodies the State's official land use and development policies, to guide public investment, infrastructure development, economic growth, urban revitalization, sound housing and transportation policy, agriculture promotion and preservation, energy policy, and preservation of natural, environmental, coastal, historic and cultural resources; and

WHEREAS, Despite these efforts, New Jersey still suffers the effects of poor land use planning and decision-making such as increased commuter times, loss of open space, loss of natural resources, declining property values in distressed areas, increasing property taxes, escalating State costs associated with aiding distressed municipalities and supporting sprawling development; and

WHEREAS, The principles of smart growth would focus new growth into redevelopment of our older urban and suburban areas, protect existing open space, conserve natural resources, increase transportation options and transit availability and reduce automobile traffic and dependency, stabilize property taxes, and provide affordable housing; and

WHEREAS, Plan endorsement -- meaning a process by which the State Planning Commission certifies consistency between municipal or regional planning and the State Plan - offers the potential of fostering municipal and regional implementation of the principles of smart growth; and

WHEREAS, Various State agencies, including independent authorities and bi-state agencies, have not maximized the potential of incorporating the fundamental elements of the State Plan and the general principles of smart growth into their functional plans or regulations;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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. To ensure that State agencies incorporate the principles of smart growth and the State Plan into their functional plans and regulations, there shall be created in the Office of the Governor a Smart Growth Policy Council.

2. The Council shall consist of the following: the Secretary of Agriculture; the President of the Board of Public Utilities; the Treasurer; the Chief Executive Officer of the Commerce and Economic Growth Commission; the Commissioners of the Departments of Community Affairs, Education, Environmental Protection, and Transportation; the Executive Directors of New Jersey Transit, and the Economic Development Authority, and the Chief of the Authorities Unit. The Council shall be chaired by a senior policy advisor from the Governor's staff. The chairperson shall be supported by appropriate planning staff as needed from the various executive departments.

3. The Council shall meet bi-monthly or as needed.

4. The Council shall have the following responsibilities, powers and duties:

a. Develop and implement inter- and intra-departmental procedures and programs to assure that State agency functional plans, programs, and projects are consistent with and serve to the principles of smart growth and implement the State Plan.

b. Recommend legislative and administrative changes to advance the principles of smart growth and the State Plan.

c. Ensure that State grants, incentives or other funding issued to promote economic activity or otherwise by any agency promote consistency with the principles of smart growth and the State Plan.

d. Ensure that State transportation and infrastructure spending and regulation are consistent with the principles of smart growth and the State Plan.

e. Ensure that school construction initiatives promote smart growth, open space, and revitalization of communities.

f. Coordinate and consolidate State redevelopment initiatives especially those involving Brownfields to reduce points of entry for municipalities and developers.

g. Provide an interdepartmental venue for resolution of conflicts regarding specific private and public sector projects that would either advance or undermine the implementation of the State Plan, and to expedite projects that would serve to implement the Plan.

h. Develop initiatives to assist local government and communities to achieve smart growth objectives.

i. Review water resource capacity in the State to reduce conflicts between development and the protection of water and natural resources.

7. In cases of Statewide significance involving the integrity of the State Plan and the goals of smart growth, the State Attorney General is hereby directed, in consultation with the Smart Growth Policy Council, to defend and/or intervene on behalf of municipalities, counties or regional planning entities that have adopted plans that have been endorsed by the State Planning Commission or that are consistent with major smart growth objectives.

8. Prior to the adoption, amendment or repeal of any rule adopted pursuant to Section 4(a) of the Administrative Procedure Act, each agency shall include a Smart Growth Impact Statement, which shall describe the impact of the proposed rule on the achievement of smart growth and implementation of the State Plan. The Smart Growth Policy Council shall also recommend guidelines for the State agencies to regularly review and consider the smart growth impacts of their major actions.

9. The agencies represented on the Council shall undertake a review of their respective spending programs and rules and regulations to ensure that their actions are consistent with the principles of smart growth and the State Plan and report to the Council on their findings.

10. This Executive Order shall take effect immediately.

Dated January 31, 2002.

EXECUTIVE ORDER NO. 5

WHEREAS, On September 11, 2001, terrorists killed and injured thousands of persons in an unprovoked attack against the United States; and

WHEREAS, Hundreds of innocent New Jersey residents were among those killed in the attacks, and numerous New Jersey residents were among those injured; and

WHEREAS, The lives of thousands of New Jersey residents have been profoundly affected by these events, in countless ways, including effects to their social, emotional and economic well being; and

WHEREAS, On September 17, 2001, in response to the events of September 11, 2001, the State of New Jersey created the Office of Recovery and Victim Assistance, to be led by a Recovery Coordinator, pursuant to Executive Order No. 132 (2001), to administer and coordinate recovery and victim assistance efforts for New Jersey victims and their families; and

WHEREAS, To access recovery and relief services and assistance, victims and their families have at times faced significant administrative burdens, and continue to expend significant time and effort identifying and accessing the available assistance programs and services, as they strive to meet the needs of their families; and

WHEREAS, Many New Jersey residents impacted by the attacks will have a continuing need for assistance and services for the foreseeable future, and would benefit from a program that would provide a higher level of aid in accessing assistance and services and would simplify the process of accessing such aid; and

WHEREAS, the long-term recovery effort will continue to be complex in nature, will necessarily involve various governmental and private agencies, and will benefit from continued coordination through a single State agency, organized as a part of the Governor's office;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and the Statutes of this State, do hereby ORDER and DIRECT that:

1. The Office of Recovery and Victim Assistance (Office) and the position of Recovery Coordinator, both created by Executive Order 132 (2001), are hereby continued, and the Recovery Coordinator is hereby charged with leading the Office as it implements long-term relief and assistance efforts;

2. The Office and the Recovery Coordinator are hereby authorized and empowered to create and manage, directly or through an agreement with a third-party, a Family Advocate Program, to provide more personalized assistance to families who lost loved ones (families) and other persons who were injured (injured persons) in the September 11th attacks. This program shall include, but not be limited to, the following features:

a. The program shall assist families and injured persons in identifying, applying for and receiving available services and assistance;

b. Family Advocates, who shall be assigned to work with specific families and persons, will act as the primary point of contact for families and injured persons to receive information and assistance in accessing available resources, including but not limited to, charitable and other funds, public and private programs, volunteer and fee-based services, such as legal, financial and mental health services, job training and skill enhancement programs;

c. For the convenience and accessibility of families and injured persons, Family Advocates shall be assigned, and shall operate, on a regional basis and have access to comprehensive and current sources of available assistance;

d. Family Advocates shall have the appropriate training, experience and personal qualities necessary to provide comprehensive and effective assistance, shall be knowledgeable regarding the array of available services and assistance, and shall be subject to appropriate performance standards and supervision.

3. In addition to the powers set out for the Office and the Coordinator in Executive Order 132 (2001), the Office and the Coordinator also are authorized and empowered:

a. To cooperate and coordinate with private and public agencies, as well as with not-for-profit corporations, and to enter into agreements with these entities for the purpose of furthering the mission of the Office as set forth in Executive Order No. 132 (2001), and herein, including but not limited to, cooperative relationships and agreements that simplify or streamline the application and qualification processes required for families and injured parties to receive available assistance and services;

b. To solicit, receive and accept appropriations from public sources for any recovery and victim assistance purpose which falls within the mission of the Office as set forth in Executive Order No. 132 (2001), and hereunder. The Office may not acquire, hold, receive or accept any moneys or other property, real or personal, tangible or intangible that will result in the incurring of any financial obligations on the part of the State that cannot

be supported entirely from the funds then available to or from the moneys then held by the Office.

c. To organize or participate in the organization of a not-for-profit corporation, organized under the laws of this State, which is exempt from federal taxation. It shall be the purpose and function of the corporation to further the mission of the Office as set forth in Executive Order No. 132 (2001), and herein, including but not limited to, operating and administering the Family Advocate Program, described herein, directly or through a third-party provider. Expenses incurred by the corporation shall be payable from the funds raised or held by it, and no liability or obligation, in tort or contract, shall be incurred by the State for the operation of the corporation, nor shall the corporation in any way be indemnified by the State. The corporation shall not be entitled to representation by the Attorney General, but shall be responsible for securing its own counsel when necessary.

The corporation established and organized under the provisions of this subsection shall be governed by a board of directors and administered by an executive director. Four State officers, appointed by the Governor, shall serve on the board ex officio. In addition to the ex officio members, the initial board shall consist of three public members appointed by the Governor. These initial public members shall serve for a term of one year.

In order to expedite the delivery of Family Advocate services to families and injured persons, the Governor shall appoint an interim chairperson and an interim executive director to serve until such time as the Board is able to deliberate and determine these issues. It shall be the responsibility of the initial board to determine the organization of the board thereafter, including the number of public board members, their terms, the manner in which they are selected, the selection of an executive director, and such other matters as the initial board shall deem appropriate. In determining the manner in which the public members are selected, the board shall provide that a majority of those members be selected from among persons recommended by the Governor. A public member may serve more than one term.

No member of the board shall engage or participate in any for-profit business transactions with the corporation.

d. To enter into agreements with any State, federal or local agency pursuant to the "Government Employee Interchange Act," P.L. 1967, c.77 (C.52:14-6.10 et seq.).

4. This Order shall take effect immediately.

Dated February 9, 2002.

EXECUTIVE ORDER NO. 6

WHEREAS, The State of New Jersey has a compelling interest to comply with the Supreme Court's decisions in Abbott v. Burke to ensure the constitutional guarantee of a "thorough and efficient" education to students in the Abbott districts; and

WHEREAS, The Abbott decisions direct implementation of comprehensive and far-reaching programs and reforms; and

WHEREAS, After many years of litigation necessitating Supreme Court intervention in issues of educational policy and delivery thereof, the State has determined that collaborative policy-making among stakeholders and interested parties is essential to effective Abbott implementation; and

WHEREAS, The provision of meaningful educational programs in our urban communities requires policy and operational articulation and coordination among various agencies; and

WHEREAS, The State of New Jersey has a compelling interest to provide effective and timely implementation of educational programs and reform in our urban districts in order to improve the quality of education and opportunity for children in those districts; and

WHEREAS, The State of New Jersey has a compelling interest to provide effective leadership and coordination among departments and agencies of the State and to collaborate with districts and schools to effectuate implementation of these programs and reforms; and

WHEREAS, The Supreme Court in Abbott VI (2000) has called for an end to "the adversarial relationship between the parties" and a "cooperative effort focused on the provision of high quality preschool" and other educational programs for the students in the Abbott districts; and

WHEREAS, The State of New Jersey has already begun a collaborative process of implementation of the Supreme Court's mandates and desires to continue and expand that course of action; and

WHEREAS, For more than two decades, the Education Law Center has adequately represented the interests of the Court-certified class of all public school students in the Abbott districts;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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. 113 (Whitman) is hereby rescinded and is superseded by this Executive Order.

2. There is hereby established The Abbott Implementation and Compliance Coordinating Council.

3. The Council shall consist of seven (7) members as follows:
(a) The Commissioner of Education;
(b) The Assistant Commissioner of Education for Abbott Programs;
(c) The Commissioner of Human Services;
(d) The Executive Director of the Economic Development Authority;
(e) The Executive Director of the Commission on Higher Education;
(f) The Attorney General or Director of the Division of Law in the Department of Law and Public Safety; and
(g) The Executive Director of the Education Law Center.
The Governor's Special Counsel for Education shall serve as ex-officio non-voting member and chair of the Council.

4. The Council shall meet on a monthly basis beginning February, 2002. Each member is authorized to have in attendance at such meetings additional staff as may be necessary to inform the Council's discussions and actions.

5. The purposes of the Council shall be as follows:
(a) To develop and recommend needed improvements, revisions, and modifications in State statutes, regulations, policies and procedures;
(b) To assure full, effective and timely implementation of the Abbott programs and reforms on a sustained basis;
(c) To assess ongoing implementation, and develop and recommend and implement adjustments and modifications as needed;
(d) To assure effective State leadership and coordination among State departments and agencies, and integration of Abbott within new federal mandates;

(e) To develop and recommend State and district accountability measures to track progress in program implementation and student achievement; and

(f) To review current and future disputes and issues among the parties and to assure State compliance with Court mandates.

6. The areas and principal issues to be addressed by the Council are as follows:

(a) Early Childhood Education;
(b) Abbott early literacy;
(c) Standards-based reform and whole school reform;
(d) K-12 supplemental programs (i.e. social, health services);
(e) School construction and rehabilitation;
(f) Reform and phase-out of State operation of districts; and
(g) Review of Abbott designation, including charter schools.

7. The Council shall establish issue priorities and will convene and supervise work groups and committees of stakeholders to address reform and improvement of Abbott implementation, as necessary.

8. The Council shall authorize ongoing evaluation of Abbott implementation and compliance and shall issue annual reports to the Governor, the Legislature, the Supreme Court and the public.

9. The Council shall also seek Court approval of adjustments and modifications of Court mandates as needed.

10. The Council is authorized to utilize the services of State departments and agencies as needed, as well as consultants and experts as deemed necessary to discharge its responsibilities under this Order.

11. This Order shall take effect immediately.

Dated February 19, 2002.

EXECUTIVE ORDER NO. 7

WHEREAS, The economic well-being of the State of New Jersey is inextricably linked to the quality of this State's education system; and

WHEREAS, The 21st century has transformed the State of New Jersey to an innovation and information State; and

WHEREAS, The State of New Jersey has a compelling interest to ensure that its students are well prepared to compete in a global economy; and

WHEREAS, The State of New Jersey has a compelling interest to ensure that its students are prepared to meet the needs of this State's employers; and

WHEREAS, The education of New Jersey's students must be viewed as a seamless web from preschool to college and beyond; and

WHEREAS, The State of New Jersey's current education system lacks sufficient coordination among various levels of education as well as with the business community; and

WHEREAS, The State of New Jersey has a compelling interest to provide for a coordinated effort among the leaders of the State's education systems and the business community; and

WHEREAS The Governor desires to provide the leadership necessary to insure coordination among all levels of education and the business community;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 the Governor's Education Cabinet.

2. The members of the Cabinet shall be as follows:

a. Governor James E. McGreevey

b. William Librera, Commissioner, New Jersey Department of Education

c. Susan Cole, President, Montclair State University

d. Carlos Hernandez, President, New Jersey City University

e. George A. Pruitt, President, Thomas Edison State College

f. Honorable Thomas Kean, former Governor and Drew University President

g. Dr. Zachary Yamba, President, Essex County Community College

h. Phyllis Della Vecchia, President, Camden County Community College
i. .Larry Nespoli, President, New Jersey Council of County Colleges
j. James E. Carnes, President and CEO, Sarnoff Corporation, and Co-chair of Prosperity New Jersey
k. Reverend Dr. William Watley, Commerce Department
l. Adam Pechter, Prosperity New Jersey
m. Alfred Gamper, Rutgers University Board of Governors
n. Lawrence Feinsod, Superintendent, Cranford Public Schools
o. Lucille Davy, Special Counsel to the Governor for Education

3. The Governor's Education Cabinet shall meet quarterly beginning in April 2002.

4. The mission of the Education Cabinet shall be as follows:
a. To ensure communication among and between all levels of State education policy-makers and leaders, and the business community.
b. To provide for coordinated efforts to address the State's economic priorities as they relate to education.
c. To advise the Governor on all matters related to the education of a 21st century workforce.

5. Members of the Cabinet are hereby authorized to call upon any department, 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, officer, division and agency of this State is required to cooperate with the Commission and to furnish it with such information and assistance as is necessary to accomplish the purposes of this Order.

6. This Order shall take effect immediately.

Dated February 21, 2002.

EXECUTIVE ORDER NO. 8

WHEREAS, Current data clearly indicates that many children throughout the State of New Jersey, from the suburbs to the cities, are not successfully reaching acceptable literacy levels by the end of third grade; and

WHEREAS, Research clearly indicates that children who fail to reach literacy levels by the end of third grade will have greater difficulty learning in the years that follow and that few of them will ever reach their full potential as a result; and

WHEREAS, The State of New Jersey has a compelling interest to take the necessary steps to ensure that every third grader in New Jersey can read at or above grade level; and

WHEREAS, Although the State of New Jersey adopted Language Arts core curriculum content standards in 1996, the state failed to include any literacy standards prior to grade four; and

WHEREAS, Teachers and parents throughout this State need guidance as to the expectations for early literacy so that such expectations can be achieved; and

WHEREAS, The State of New Jersey has a compelling interest to provide such expectations through a series of early literacy frameworks and standards for teachers of preschool, kindergarten and first grade children and literacy standards for second and third grade students; and

WHEREAS, The State of New Jersey recognizes that literacy efforts must include a broad base of support particularly from parents and the community; and

WHEREAS, The State of New Jersey has a compelling interest to engage the talent and expertise of literacy experts throughout the State to help achieve these goals; and

WHEREAS, The federal government, under the recently enacted Elementary and Secondary Education Act, requires states to address the issue of early literacy; and

WHEREAS, The State of New Jersey has a compelling interest to begin work immediately on achieving the federal standards for literacy and to prepare its children for success in the 21st century.

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 Commissioner of Education shall develop:

a. Frameworks, activities, good practices, and literacy standards for teachers of preschool, kindergarten, and grade 1 by September 1, 2002.

b. Literacy standards for students in grades 2, 3, and 4 by September 1, 2002.

c. Insure that schools establish literacy goals and include them in their annual reports to the State Department of Education.

2. The Commissioner of Education shall form an Early Literacy Task Force to be led by Dr. Dorothy Strickland of the Graduate School of Education, Rutgers University, and Robert Copeland, Superintendent of the Piscataway School District.

3. The Early Literacy Task Force shall be charged with the following:

a. Identify research-based programs, practices, methods and approaches that can be incorporated into a Statewide plan to improve early literacy by June 30, 2002.

b. Recommend ways to improve teacher professional development in the teaching of reading including implementation of reading coaches in elementary schools by June 30, 2002.

4. The Governor's Conference on Literacy shall be held on May 3, 2002, at which time representatives from every school district in the State will be invited to learn about the State's plans to improve early literacy, as well as the federal government requirements related to these efforts.

5. Dr. Dorothy Strickland shall work with the New Jersey Department of Education to facilitate efforts to meet the literacy requirements delineated in the federal Elementary and Secondary Education Act.

6. This Order shall take effect immediately.

Dated February 25, 2002.

EXECUTIVE ORDER NO. 9

WHEREAS, Parents, teachers, and leaders from business, faith-based and other community organizations in New Jersey all have an important role in ensuring that our children receive a quality education in an environment that is safe and conducive to learning; and

WHEREAS, Developing good character in our young people is essential to providing a safe and productive school environment; and

WHEREAS, The events of September 11th have heightened the sensitivity of our nation and our State, causing citizens to give greater consideration to common beliefs, character virtues, and service to others; and

WHEREAS, The State of New Jersey has a compelling interest to provide leadership for a Statewide effort on character education so that students throughout the State can be involved in programs that recognize our common values and help them to become good citizens; and

WHEREAS, The State of New Jersey has a compelling interest to help schools create classroom environments that promote effective learning and encourage students to respect one another; and

WHEREAS, The State of New Jersey has a compelling interest to help schools teach students the importance of good character traits such as integrity, fairness, respect, and citizenship; and

WHEREAS, The State of New Jersey has a compelling interest to teach students how to solve conflicts without resorting to intimidation or violence, and to avoid the dangers of drugs and alcohol; and

WHEREAS, Nationwide research demonstrates that successful character education programs are based on values determined by the local community and transmitted through incorporation into existing curriculum; and

WHEREAS, Research demonstrates that the provision of meaningful character education programs that incorporate common values, conflict resolution, and service to others can best be achieved by involving parents and communities in such efforts along with the school community; and

WHEREAS, The State of New Jersey has a compelling interest to gather information on best practices and principles that define good character education programs; and

WHEREAS, The State of New Jersey desires to build upon existing programs and efforts currently being undertaken by schools in this State.

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 The New Jersey Character Education Commission.

2. The Commission shall be co-chaired by Father Edwin Leahy, Headmaster of St. Benedict's Preparatory School; Dr. Moses William Howard, Pastor of Bethany Baptist Church; Maud Dahme, President of the New Jersey State Board of Education; and Clarence Hoover, Superintendent of the Vineland Public Schools. Other members of the Commission shall be appointed by the Governor, with representation from faith-based organizations, community and service organizations, parents, and education leaders throughout the State.

3. The Commission shall begin meeting in March 2002 and shall report to the Governor on or before September 30, 2002.

4. The Commission shall review best practices for character education and shall set forth options for communities and school districts to undertake the development of community-based character education programs.

5. In its recommendations, the Commission shall consider programs that:

a. Teach students the importance of character traits such as integrity, fairness, respect, responsibility, and citizenship

b. Incorporate character education through the existing curriculum

c. Create schools that are safe

d. Create classroom environments that promote effective learning and encourage students to respect one another

e. Teach students how to solve conflicts fairly and respectfully without resorting to intimidation or violence

f. Develop leadership skills and offer students opportunities to serve others

g. Engage parents and the entire community in cooperative efforts to build and model good character.

6. The Commission shall be staffed by personnel from the Department of Education.

7. The Commission is authorized to call upon any department, 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, officer, division and agency of this State is required to cooperate with the Commission and to furnish it with such information and assistance as is necessary to accomplish the purposes of this Order.

8. The meetings of this Commission shall be publicly advertised throughout the State of New Jersey and shall be open to the public so as to allow for input from the community.

9. This Order shall take effect immediately.

Dated February 27, 2002.

EXECUTIVE ORDER NO. 10

WHEREAS, In our representative form of government, it is essential that the conduct of public officials earn the respect and confidence of the people; and

WHEREAS, Those in government hold positions of public trust that require adherence to the highest standards of honesty, integrity and impartiality; and

WHEREAS, Public officials must avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated; and

WHEREAS, The Conflicts of Interest Law recognizes that it is desirable to establish meaningful ethical restrictions while accommodating the ability of State government to attract experienced, qualified persons to serve the State's citizens; and

WHEREAS, To ensure propriety and preserve public confidence, persons serving in government should have the benefit of specific standards

to guide their conduct and of some disciplinary mechanism to ensure the uniform maintenance of those standards amongst them; and

WHEREAS, It has been previously recognized by the Executive Commission on Ethical Standards ("Executive Commission") that to alleviate such a conflict, a blind trust may be utilized in certain circumstances to erect a barrier between State officers and employees and their investments so that such officers might be shielded from potential conflicts; and

WHEREAS, Ownership in any closely-held corporation that does business with governmental entities can raise the appearance of a potential conflict of interest; and

WHEREAS, The public disclosure of personal financial interest of public officials will serve to maintain the public's faith and confidence in its government representatives and will guard against conduct violative of the public trust; and

WHEREAS, Limits on the outside income of Cabinet-level appointees can help instill confidence in government decision-making; and

WHEREAS, It is essential that State agencies regularly reassess the effectiveness of the ethical standards that guide the conduct of their employees and officers;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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:

I. PERSONAL FINANCIAL DISCLOSURE

1. Every public employee and public officer as such terms are defined in Section 6 herein shall file a sworn and duly notarized Financial Disclosure statement, or other such authentication as the Executive Commission may require to facilitate electronic filing, which is current as of five days prior to the date of filing. Each statement shall include the following information:

a. The name and position of the public employee or public officer;

b. Any occupation, trade, business, profession or employment engaged in by the public employee or public officer, his or her spouse, and dependent children;

c. A list of all assets having a value of more than $1,000, both tangible and intangible, in which a direct or indirect interest is held by the public employee or public officer, his or her spouse, and dependent children, valued as of the statement date; provided, however, that when the value cannot be determined as of that date, a separate valuation date shall be specified for the particular asset. Where stocks and bonds are involved, there shall be included the name of the company, mutual fund, holding company or government agency issuing them (whenever such interest exists through ownership in a mutual fund or holding company, the individual stocks held by such mutual fund or holding company need not be listed; whenever such interest exists through a beneficial interest in a trust, the stocks and bonds held in such trust shall be listed only if the public employee or public officer has knowledge of what stocks and bonds are held). Where more than 10 percent of the stock of the corporation is held, the percentage of ownership shall be stated. The list shall include any direct or indirect interest, whether vested or contingent, in any contract made or executed by a government instrumentality. In the case of real estate interests, there shall be given the location, size, general nature and acquisition date of any real property in New Jersey in which any direct, indirect, vested or contingent interest is held, together with the names of all individuals or entities who share a direct or indirect interest therein and the name of any government instrumentality that is a tenant of such property or that has before it an application, complaint or proceeding directly affecting such property. Assets of a public employee and his or her spouse shall be listed according to the following value categories:

(1) greater than $1,000 but not more than $5,000;
(2) greater than $5,000 but not more than $25,000;
(3) greater than $25,000 but not more than $50,000;
(4) greater than $50,000 but not more than $100,000;
(5) greater than $100,000 but not more than $250,000;
(6) greater than $250,000.

The value of assets of (1) the dependent children of a public employee or (2) a public officer, his or her spouse and dependent children need not be disclosed unless specifically requested by the Governor or the Executive Commission.

d. A list of all liabilities of the public employee or public officer, his or her spouse, and dependent children, valued by category in the same manner as required by paragraph 1.c. above, except liabilities which are:

(1) less than $10,000 and owed to a relative as defined in section 6 hereof;

(2) less than $1,000 and owed to any other person;

(3) loans secured by a personal motor vehicle, household furniture or appliances where the loan did not exceed the purchase price of the item and the outstanding balance did not exceed $10,000 as of the close of the preceding calendar year; and

(4) revolving charge accounts where the outstanding liability does not exceed $10,000 as of the close of the preceding calendar year. The value of liabilities of the dependent children of a public employee or public officer need not be disclosed unless specifically requested by the Governor or the Executive Commission

e. A list of all liabilities otherwise subject to disclosure pursuant to paragraph d. above of the public employee or public officer, his or her spouse, and dependent children which have been forgiven by the creditor within 12 months of the statement date. For each such forgiven liability so listed, the name of the creditor to whom such a liability was owed shall be stated;

f. A list of all sources of income of the public employee or public officer, his or her spouse, and dependent children, including all compensated employment of whatever nature, all directorships or other fiduciary positions for which compensation has or will be claimed, all capital gains including a description of the individual sources of such gains, all contractual arrangements producing or expected to produce income, and all honoraria, lecture fees and other miscellaneous sources of income including, but not limited to, interest, dividends, royalties and rents. Statements filed before July 1 of any year shall disclose sources of income for the preceding calendar year. Statements filed after July 1 of any year shall provide this information for the twelve-month period immediately preceding the filing date. The amounts of such income received shall be listed and valued by category in the same manner of assets as set forth in paragraph c(1) through c(6) above. The amount of income of (1) the dependent children of a public employee, or (2) a public officer, his or her spouse and dependent children need not be disclosed unless specifically requested by the Governor or the Executive Commission. Sources of income that are not required to be reported are:

(1) cash gifts in an aggregated amount of less than $100 received during the preceding twelve months from a person;

(2) non-cash gifts with an aggregated fair market value of less than $200 received during the preceding twelve months from a person; and

(3) gifts with an aggregated cash or fair market value of less than $3,000 received during the preceding twelve months from a relative as defined in section 6 hereof.

g. A list of any offices, trusteeships, directorships or positions of any nature, whether compensated or uncompensated, held by the public

employee or public officer, his or her spouse, and dependent children with any firm, corporation, association, partnership or business. If any firm, corporation, association, partnership or business does business with or is licensed, regulated or inspected by a State agency or does business with a casino license holder or applicant, the State agency, casino or applicant must be identified.

2. Each statement shall contain a certification by the public employee or public officer that he or she has read the statement, that to the best of his or her knowledge and belief it is true, correct and complete and that he or she has not transferred and will not transfer any asset, interest or property for the purpose of concealing it from disclosure while retaining an equitable interest therein.

3. a. Within 60 days from the effective date of this Order, each public employee and public officer who has not already done so shall file the signed and notarized statement required herein or other such authentication as the Executive Commission may require to facilitate electronic filing with the Executive Commission. In furtherance of its duties under the Conflicts of Interest Law, N.J.S.A. 52:13D-12 et seq., and pursuant to this Executive Order, the Executive Commission shall review each statement to determine its conformity with the provisions of this Order and other applicable provisions of the law. Upon approving such a statement for filing, the Commission shall file and maintain a copy of it for public inspection and copying in accordance with the procedures set forth in N.J.S.A. 47:1A-1 et seq.;

b. After the expiration of the initial 60-day period set forth in subsection I.3.a., each prospective public employee and public officer shall satisfy the filing requirements of this Order within 60 days of assuming office or commencing employment, unless the Executive Commission or its staff grants to such public employee or public officer an extension from the filing deadline. Such an extension shall not be granted more than twice and shall not be for more than 30 days each;

c. Updated statements shall be filed on the May 15 next succeeding the submission of the original statement and each May 15 thereafter provided, however that public employees and public officers who file statements on or after January 15, 2002 but prior to May 15, 2002 need not file an updated statement on May 15, 2002.

4. The Executive Commission shall keep the approved statements on file for so long as the person submitting such statements is a public employee or public officer of this State, and for five years thereafter.

5. The Executive Commission shall have the primary responsibility for assuring the proper administration and implementation of this Order and shall have the power to perform acts necessary and convenient to this end, including, but not limited to, preparing and distributing forms and instructions to be utilized by public employees and public officers in complying with this Order.

6. Except as otherwise herein provided, for purposes of this Order:

a. "Public employee" shall mean any person holding any of the following offices in the Executive Branch of the State Government, together with any equivalent offices added to such a list by subsequent written determination of the Governor with notice to the persons affected:

(1) The Governor;

(2) The head of each principal department;

(3) The assistant or deputy heads of each principal department to include all assistant and deputy commissioners of such departments;

(4) The head and the assistant heads of a division of each principal department, or any person exercising substantially similar authority for any board or commission which is organized as in but not of a principal department or any independent authority;

(5) The executive or administrative head and assistant heads of

(i) any board or commission which is organized in but not of a principal department or

(ii) any independent authority;

(6) The following members of the staff of the Office of the Governor:

(a) Chief of Staff;

(b) Chief of Management and Operations;

(c) Chief of Policy and Communications;

(d) Chief Counsel to the Governor;

(e) Director of Communications;

(f) Policy Counselor to the Governor;

(g) Any deputy or principal administrative assistant to any of the foregoing members of the staff of the Office of the Governor;

(7) Members of the State Board of Agriculture;

(8) Members of the State Board of Education;

(9) Members of the State Board of Public Utilities;

(10) Members of the State Parole Board; and

(11) Presidents of the State Colleges and Universities.

b. "Public officer" shall mean:

(1) the members of the following boards, commissions, independent authorities and public corporations, together with any other equivalent

offices or bodies and such other offices or bodies added to such list by subsequent determination of the Governor:

(a) Agricultural Development Committee;
(b) Atlantic City Convention Center Authority;
(c) Capital City Redevelopment Corporation;
(d) Casino Reinvestment Development Authority;
(e) Council on Affordable Housing;
(f) Education Facilities Authority;
(g) Election Law Enforcement Commission;
(h) Hazardous Waste Facilities Siting Commission;
(i) Health Care Administration Board;
(j) Health Care Facilities Financing Authority;
(k) Low-Level Radioactive Waste Disposal Facility Siting Board;
(l) Merit System Board;
(m) New Jersey Building Authority;
(n) New Jersey Commission on Science and Technology;
(o) New Jersey Economic Development Authority;
(p) New Jersey Highway Authority;
(q) New Jersey Housing and Mortgage Financing Agency;
(r) New Jersey Meadowlands Commission;
(s) New Jersey Public Broadcasting Authority;
(t) New Jersey Racing Commission;
(u) New Jersey Sports and Exposition Authority;
(v) New Jersey State Council on the Arts;
(w) New Jersey Transit Corporation;
(x) New Jersey Transportation Trust Fund Authority;
(y) New Jersey Turnpike Authority;
(z) New Jersey Urban Enterprise Zone Authority;
(aa) North Jersey District Water Supply Commission;
(bb) Passaic Valley Sewerage Commission;
(cc) Passaic Valley Water Commission;
(dd) Pinelands Commission;
(ee) Public Employment Relations Commission;
(ff) South Jersey Food Distribution Authority;
(gg) South Jersey Port Corporation;
(hh) South Jersey Transportation Authority;
(ii) State Athletic Control Board;
(jj) State Lottery Commission;
(kk) State Planning Commission;
(ll) Tidelands Resource Council;
(mm) Urban Development Corporation;
(nn) Wastewater Treatment Trust; and

(oo) Water Supply Authority.

(2) Individuals appointed as a New Jersey member to the following agencies:

(a) Atlantic States Marine Fisheries Commission;
(b) The Delaware River and Bay Authority;
(c) Delaware River Basin Commission;
(d) Delaware River Joint Toll Bridge Commission;
(e) Delaware River Port Authority;
(f) Delaware Valley Regional Planning Commission;
(g) Interstate Sanitation Commission;
(h) Northeast Interstate Low-Level Radioactive Waste Commission;
(i) Palisades Interstate Park Commission;
(j) Port Authority of New York and New Jersey;
(k) The Port Authority Trans Hudson Corporation; and
(l) Waterfront Commission of New York Harbor.

c. "Government instrumentality" shall mean the Legislative, Judicial, and Executive Branches of State government including any office, department, division, bureau, board, commission, council, authority or agency therein and any county, municipality, district, public authority, public agency or other political subdivision or public body in the State;

d. "State agency" shall mean any of the principal departments in the Executive Branch of State Government, and any division, board, bureau, office, commission, or other instrumentality within or created by such department, and any independent State authority, commission, instrumentality or agency;

e. "Relative" shall mean a son, daughter, grandson, granddaughter, father, mother, grandfather, grandmother, great-grandfather, great-grandmother, brother, sister, nephew, niece, uncle or aunt. Relatives by adoption, half-blood, marriage or remarriage shall be treated as relatives of the whole kinship.

7. Further, in order to promote the highest ethical standards and to assure the fullest attention to the responsibilities of high-government office, it is appropriate and desirable to place limits on the outside income of the Governor, Cabinet members and Cabinet-level appointees (hereinafter "Cabinet-level appointee").

8. For purposes of this Section, Cabinet-level appointees shall include: the Governor, the Adjutant General, the Secretary of Agriculture, the Attorney General, the Commissioner of Banking and Insurance, the Secretary and Chief Executive Officer of the Commerce and Economic Growth Commission, the Commissioner of Community Affairs, the Commissioner of Corrections, the Commissioner of Education, the

Commissioner of Environmental Protection, the Commissioner of Health and Senior Services, the Commissioner of Human Services, the Commissioner of Labor, the Commissioner of Personnel, the President of the State Board of Public Utilities, the Secretary of State, the Superintendent of State Police, the Commissioner of Transportation, the State Treasurer, those members of the Governor's staff set forth herein in Section I, 6.a.(6)(a) through (g), and such other positions as the Governor may from time-to-time direct.

9. No Cabinet-level appointee shall accept any compensation other than that paid to him by or reimbursed to the State for the performance of his official duties, including salary, honoraria, fees and such other forms of income. Receipt of all other income that is not connected with the performance of official duties by a Cabinet-level appointee is banned, except for investment income from stocks, mutual funds, bonds, bank accounts, notes, a beneficial interest in a trust; financial compensation received as a result of prior employment or contractual relationships; and income from the disposition or rental of real property. In order to receive such income listed above, a Cabinet-level appointee must first seek review and approval by the Executive Commission staff to ensure that the receipt of such income does not violate the Conflicts of Interest Law or any applicable code of ethics, and does not undermine the full and diligent performance of the Cabinet-level appointee's duties. All income received by Cabinet-level appointees must be disclosed on their Financial Disclosure Statements.

II. BLIND TRUSTS

1. For those situations where a blind trust may be utilized by a public employee or public officer, his or her spouse or dependent children, and approved by the Executive Commission, such trust shall contain the following characteristics:

a. The trust shall not contain investments or assets in which the holder's ownership right or interest is required to be recorded in a public office or those assets whose permanency makes transfer by the trustee improbable or impractical; these investments or assets would include, but not be limited to, businesses, real estate, security interests in personal property and mortgages;

b. The trust shall contain a clear statement of its purpose, namely, to remove from the grantor control and knowledge of investment of trust assets so that conflicts between grantor's responsibilities and duties as a public employee or public officer and his or her private business or financial interests will be eliminated;

c. The trust shall be irrevocable, and shall be terminated only upon the death of the public employee or public officer or upon termination of his or her status as a public employee or public officer whichever shall first occur;

d. The trustee shall be directed not to disclose to the grantor any information about any of the assets in the trust;

e. The trustee shall be required either to:

(1) prepare and file the grantor's personal income tax returns, withholding from distribution of the trust's net income amounts sufficient to pay the grantor's tax; and further to participate in the audit of the grantor's returns during the period of the trust with authority to compromise the grantor's tax liability; or

(2) submit to the grantor, for income tax purposes, a certification of income paid without identifying the assets producing such income;

f. Among its other powers, the trustee shall have authority to determine whether any of the assets originally transferred to the trustee are to be sold and, if so, when;

g. A provision shall be included in the trust agreement prohibiting the trustee from investing the trust property in corporations or businesses which do a significant amount of business with the State of New Jersey or from knowingly making any investment in a corporation, business or venture over which the grantor has regulatory or supervisory authority by virtue of his or her official position;

h. The grantor shall retain no control over the trustee nor shall he or she be permitted to make any recommendations or suggestions as to the trust property;

i. The trustee shall be a commercial trustee and not a natural person;

j. The principal benefit to be retained by the grantor shall be the right to receive income from the assets transferred to the trust;

k. The trust shall not become effective until submitted and approved by the Executive Commission; and

l. The trust agreement shall provide the trustee will give the Executive Commission access to any records or information related to the trust which is necessary for the performance of the Commission's duties.

2. A copy of the executed blind trust agreement shall be filed with the Executive Commission and with the head of the department in which the regular State employee holds his or her position. Attached to such copy shall be a brief statement outlining the business or financial interests from which the regular State employee seeks to remove himself or herself and the actual or potential conflicts of interest, or appearance of such conflicts, which he or she seeks to avoid by use of the trust agreement.

III. INTERESTS IN CLOSELY-HELD CORPORATIONS OR SIMILAR ENTITIES

1. No regular State employee who is required by law or Executive Order to submit a Financial Disclosure Statement to the Executive Commission shall be permitted to retain any interest in any closely-held corporation, partnership, sole proprietorship, or similar business entity doing business with any federal, State, interstate or local government entity, except as provided in subsection 3 below.

a. Any such regular State employee who is employed as of the date of this Executive Order, and who retains any interest in any closely-held corporation, partnership, sole proprietorship, or similar business entity doing business with any federal, State, interstate or local government entity, shall notify the Executive Commission as to his or her interest, and his or her spouse's interest, in such a business entity within 120 days of the effective date of this Order. The Executive Commission shall review this disclosure statement to determine whether the business entities in which the employee has an interest are engaged in government-related business within the meaning of this Executive Order, and whether the holdings are in compliance with the Conflicts of Interest Law, N.J.S.A. 52:13D-12 et. seq. and this Executive Order. No later than 120 days from the Executive Commission's receipt of the Financial Disclosure Statement, the Executive Commission shall notify the employee of its findings. The employee shall be afforded 120 days after the date of notification to effectuate the orderly disposition of any asset, except as may be further extended by the Executive Commission or to demonstrate to the Executive Commission that the business entity has ceased to do business with a government entity in a manner prohibited by this Executive Order.

b. After the issuance of this Executive Order, no State agency shall employ any person in a covered position who at the time of employment holds any interest in any closely held corporation, partnership, sole proprietorship or similar business entity doing business with any federal, State, interstate or local government entity, except as provided in subsection 3 below. No individual seeking employment in such a position shall divest a covered asset in a manner otherwise prohibited by this Executive Order for the purpose of satisfying the provisions of this Executive Order. Furthermore, no employee shall obtain any prohibited interest in a business entity during the employee's tenure.

c. The provisions of subsections III A1 and III A2 shall not apply to any purchase, sale, contract or agreement with any government entity other than a State agency, which is made or awarded after public notice and competitive bidding as provided by the Local Government Contracts Law,

N.J.S.A.40A:11-1 et. seq., or such similar provisions contained in the public bidding laws or regulations applicable to any government entity in this State or any other jurisdiction, provided that any such purchase, sale, contract or agreement, including a change in orders and amendments thereto, shall receive the prior approval of the Executive Commission. The provisions of subsections III A1 and III A2 do apply where the purchase, sale, contract or agreement is authorized by any of the exceptions (e.g., professional or technical services, emergent matters, and unique compatibility) provided by the Local Government Contracts Law, N.J.S.A. 40A:11-1 et. seq., or such similar provisions contained in the public bidding laws or regulations of any other jurisdiction.

2. No regular State employee or special State officer who is required by law or Executive Order to submit Financial Disclosure Statements to the Executive Commission shall be permitted to retain any interest in any closely-held corporation, partnership, sole proprietorship, or similar business entity unless the Executive Commission shall have first determined that the employee or officer may retain such an interest in such business entity.

a. Each regular State employee or special State officer employed or appointed as of the date of this Executive Order shall notify the Executive Commission as to his or her interest, and his or her spouse's interest, in any such business entity within 120 days of the effective date of this Order. The Executive Commission shall review the disclosure statement and shall determine whether the employee or officer may retain such interest in the business entity consistent with the standards set forth in the Conflicts of Interest Law, N.J.S.A.52:13D-12 et. seq., and this Executive Order. The Executive Commission shall notify the State employee or officer of its findings no later than 120 days from the Executive Commission's receipt of the Financial Disclosure Statement. The employee or officer shall be afforded 120 days after the date of notification to effectuate the orderly disposition of any asset or to demonstrate that the business entity has ceased the business activity in question.

b. After the issuance of this Executive Order, no State agency shall employ or appoint any regular State employee or special State officer to a covered position if such person holds any interest in any closely-held corporation, partnership, sole proprietorship or similar business entity, unless the Executive Commission has reviewed such interest and determined that the employee or officer may retain such an interest. A person seeking such employment or appointment shall disclose to the Executive Commission his or her interest, and his or her spouse's interest, in any such business entity as soon as practicable, and the Executive Commission shall

render a determination no later than 30 days after receiving such a disclosure, or at its next regularly scheduled meeting. No individual seeking employment or appointment to such a position shall divest a covered asset in a manner otherwise prohibited by this Executive Order for the purpose of satisfying the provisions of the Executive Order.

3. The Executive Commission shall review all financial disclosure statements as they may from time to time be submitted by regular State employees and special State officers to determine whether the covered persons have obtained ownership or interest in any assets that give rise to a present or potential conflict of interest, or present or potential appearance of conflict of interest, within the meaning of this Executive Order.

4. Each regular State employee or special State officer shall amend his or her financial disclosure statement within 30 days of gaining knowledge of (a) his or her, or his or her spouse's acquisition of any interest in any closely-held corporation, partnership, sole proprietorship or similar business entity; or (b) the commencement of any business activity covered by the provisions of this Executive Order and as determined by the Executive Commission, including, for example, a change in business plan authorizing business activity with a federal, State, interstate or local government entity, by a business in which the officer or employee or the employee's or officer's spouse has an interest covered by this Executive Order.

5. Any regular State employee or special State officer subject to this Executive Order who acquires an interest prohibited under this Executive Order by way of inheritance, bequest or similar circumstances beyond his or her control shall follow the procedures for disclosure and disposition set forth in Section III A and Section III B of this Executive Order.

6. All required divestitures shall be subject to the following conditions:

a. Divestiture must occur within the time periods prescribed above, unless otherwise extended by the Executive Commission.

b. Ownership or control of the asset may not be transferred to a member of the regular State employee's or special State officer's immediate family.

c. The terms and conditions of any conveyance of ownership and control of the asset shall not contain any provision regarding the return of the asset to the regular State employee or special State officer subsequent to his or her State service.

7. For the purpose of Section II and Section III of this Order:

a. "Member of the immediate family" shall mean a spouse, child, parent or sibling residing in the same household.

b. "Asset" shall mean property of any kind, real and personal, tangible and intangible, having a value greater than $1,000.

c. "Interest" in a closely-held corporation, partnership, sole proprietorship or similar business entity shall mean any ownership or control of any profits or assets of such a business entity.

d. "Doing business" with any federal, State or local government entity shall mean business or commercial transactions involving the sale, conveyance or rental of any goods or services, and shall not include such activities as compliance with regulatory procedures.

e. "Regular State employee" shall have the same meaning as "State officer or employee" as set forth at N.J.S.A.52:13D-13b, and "special State officer" shall have the same meaning as "Special State officer or employee" as set forth at N.J.S.A. 52:13D-13e.

f. "State agency" shall mean any of the principal departments of State government and any entity allocated therein in conformance with N.J. Const. (1947), Art. V, Sec. IV para. 1.

IV. CODES OF ETHICS REVIEW

1. In order to ensure that Codes of Ethics adopted pursuant to N.J.S.A.52:13D-23 fully conform to the most exacting ethical principles, each department, agency, board, bureau, commission, division or other instrumentality within a department of State government is hereby directed to undertake an immediate comprehensive review and thorough examination of their codes of ethics to ensure the strictest conformance with the Conflicts of Interest Law and this Executive Order and to report the findings of that review and to submit any revised codes of ethics to the Executive Commission within 120 days of this Order.

2. Thereafter, the staff of the Executive Commission shall require that newly-appointed officers and employees who are covered by this Executive Order attend a training session designed to educate them regarding the requirements of the Conflicts of Interest Law, any applicable code of ethics and this Executive Order. The Executive Commission staff shall also offer an annual training session to all officers and employees who are covered by this Executive Order.

3. Every State department, board, commission, authority, agency and instrumentality shall appoint an individual to serve as an ethics liaison officer. The Executive Commission staff shall hold quarterly meetings with

all ethics liaison officers to ensure that the requirements of the Conflict of Interest Law and this Executive Order are being understood and followed.

V. SANCTIONS

1. The failure of any regular or special State employee or officer covered by this Executive Order to comply with the provisions of this Executive Order shall constitute good cause for his or her removal from employment or office.

VI. RECISSION

1. Executive Order No. 2 of Governor Christine Todd Whitman and any subsequent Executive Orders issued in conjunction therewith are hereby rescinded, and any regulations adopted and promulgated thereunder are hereby declared null and void.

VII. EFFECTIVE DATE

1. This Executive Order shall take effect immediately.

Dated February 28, 2002.

EXECUTIVE ORDER NO. 11

WHEREAS, New Jersey has suffered from unusually dry weather conditions since 1998 and precipitation throughout the State during the past twelve-month period has been among the lowest on record; and

WHEREAS, New Jersey has had to declare water supply emergencies as recently as 1999 and 1995 and the unusually dry weather conditions over these time periods highlight the importance of preserving and protecting the State's water resources to sustain our natural resources and economy; and

WHEREAS, New Jersey is divided into six drought regions, based on watershed location and other conditions relevant to water supply, as follows: Central Drought Region (Middlesex, Somerset and Union Counties, and parts of Hunterdon, Mercer and Morris Counties); Coastal North Drought Region (parts of Monmouth and Ocean Counties); Coastal South Drought Region (Atlantic, Cape May and Cumberland Counties, and parts of Burlington, Camden, Gloucester, Ocean and Salem Counties); Northeast Drought Region (Bergen, Passaic, Hudson and parts of Essex and Morris Counties);

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Northwest Drought Region (Sussex and Warren Counties, and part of Hunterdon County) and Southwest Drought Region (parts of Burlington, Camden, Gloucester, Mercer, Monmouth and Salem Counties); and

WHEREAS, On January 24, 2002, the New Jersey Department of Environmental Protection issued a drought warning for the Northeast, Northwest, Southwest, Coastal South and Coastal North Drought Regions, due to the precipitation deficit, record low ground water levels and stream flows, and depleted reservoir levels; and

WHEREAS, Voluntary efforts to curtail nonessential consumption of water resources and the transfer of water among the Northeast Drought Region reservoir systems have not succeeded in maintaining adequate storage levels of existing water supplies in that region; and

WHEREAS, The consumption of water in all of the drought regions of New Jersey must be managed and reduced in order to preserve an adequate and dependable supply of water for the State; and

WHEREAS, The Commissioner of the Department of Environmental Protection has found that there exists or impends a water supply shortage, resulting from the prolonged drought, of a dimension which endangers the public health, safety and welfare of the residents and industry of the State of New Jersey; and

WHEREAS, The full cooperation of every person in the affected regions, including every business, State agency and political subdivision, is urgently needed in order to avert more severe restrictions on water use; and

WHEREAS, It is essential that steps be taken immediately to ensure the maximum conservation of all water resources in the State and to provide for the equitable distribution of the existing water supply; and

WHEREAS, The Commissioner of the Department of Environmental Protection and the Drought Coordinator, with the assistance of the Water Emergency Task Force, have 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;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 in each of the six drought regions by reason of the facts and circumstances set forth above.

2. I invoke such emergency powers as are conferred upon me by the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq., and the Disaster Control Act, N.J.S.A. App. A:9-33 et seq., and all amendments and supplements thereto.

3. The Commissioner of the Department of Environmental Protection, the Water Emergency Task Force and the Drought Coordinator are directed pursuant to N.J.S.A. 58:1A-1 et seq. and N.J.A.C. 7:19-1 et seq., and other relevant authority, to take whatever steps are necessary and proper to alleviate the water emergency and to effectuate this Order, including the following:

- Identify and impose such water use restrictions and conservation measures to the extent deemed necessary for each specific drought region, taking into consideration region- specific hydrogeologic conditions, infrastructure characteristics, and other relevant factors.
- Identify and implement Statewide strategies for the use of alternate water supplies, including the restoration of surface and groundwater resources currently not available for potable use.
- Identify and implement measures to establish Statewide priorities for the distribution of any water supply so as to mitigate and prevent drought through protection of surface and groundwater resources, and other natural resources.
- Work with State departments and agencies to identify and implement water conservation measures in order to reduce the consumption of water at those departments and agencies.
- Develop appropriate processes to incorporate stakeholder input in order to identify the above Statewide measures and strategies.

4. It shall be the duty of every person in the State, including every business, State agency and political subdivision, to fully cooperate in all matters concerning this water emergency, and to comply with the mandatory restrictions on adjustable uses of water as defined in the Administrative Orders to be issued by the Commissioner of the Department of Environmental Protection.

5. Any person who shall violate any of the provisions of this Order or shall impede or interfere with any action ordered or taken pursuant to this Order shall be subject to the penalties provided by law 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.

6. Furthermore, pursuant to the Laws of 1942, Chapter 251, as supplemented and amended (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 in any way conflicts 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, or any Administrative Order issued under authority of this Order by the Commissioner of the Department of Environmental Protection.

7. This Order shall take effect immediately and shall remain in effect until terminated by action of the Governor.

Dated March 4, 2002.

EXECUTIVE ORDER NO. 12

WHEREAS, On April 25, 1988, in commemoration of the 40th anniversary of the founding of the State of Israel, the State of New Jersey entered into a Sister State Agreement with Israel (hereinafter referred to as "Agreement") as a symbol of the potential for cooperation that exists between our two states; and

WHEREAS, This agreement calls for the development of trade and cultural and educational exchanges, in addition to encouraging the development of capital investment and joint business ventures; and

WHEREAS, On May 31, 1989, the State of New Jersey established the New Jersey-Israel Commission (hereinafter referred to as "Commission") by Executive Order No. 208 (Kean) to enhance New Jersey's ability to implement the stated goals of this Agreement; and

WHEREAS, The Commission was continued by Executive Orders Nos. 35 and 90 (Florio) through and including May 31, 1995; and

WHEREAS, The Commission was continued by Executive Orders Nos. 37 and 70 (Whitman) until it expired on January 1, 2002; and

WHEREAS, The Commission has effectively fostered a spirit of cooperation between the citizens of the State of Israel and the citizens of the State of New Jersey that should continue in order to further the goals of the Agreement;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 New Jersey-Israel Commission shall continue in existence through and including January 1, 2007.

2. The membership of the Commission shall be modified to consist of a minimum of fifteen (15) members and a maximum of one hundred twenty-five (125) members.

3. All other provisions of Executive Order No. 208 (Kean), Executive Orders Nos. 35 and 90 (Florio) and Executive Orders Nos. 37 and 70 (Whitman) which are not inconsistent with the foregoing, shall remain in full force and effect.

4. This Order shall take effect immediately and shall apply retroactively to January 1, 2002.

Dated March 5, 2002.

EXECUTIVE ORDER NO. 13

WHEREAS, Research clearly demonstrates that teacher quality is the single greatest factor affecting student achievement; and

WHEREAS, The State of New Jersey has a compelling interest to develop and support a high quality teaching force ; and

WHEREAS, Like the rest of the country, the State of New Jersey is experiencing a severe teacher shortage, particularly in certain subject matter areas such as mathematics, science, special education and world languages, which is expected to worsen during this decade; and

WHEREAS, The State of New Jersey has a compelling interest to attract capable people to the teaching profession particularly in areas of critical shortage; and

WHEREAS, The State of New Jersey has a compelling interest to identify best practices and innovative programs utilized by teachers in classrooms throughout the state; and

WHEREAS, Best practices and innovative programs that improve learning in the classroom should be recognized and celebrated; and

WHEREAS, The State of New Jersey has a compelling interest to end intellectual isolation among teachers by building communities of learners.

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 the Governor's Teacher Advisory Committee.

2. The members of the Committee shall be as follows:
a. The current New Jersey Teacher-of-the-Year
b. The two immediate past New Jersey Teachers-of-the-Year
c. A representative from each of the following organizations, chosen by their respective organization:
i. New Jersey Education Association
ii. American Federation of Teachers
iii New Jersey Association for Gifted Children
iv. Technology Educators of New Jersey
d. Twelve teachers to be selected by the Governor to include geographic, grade level, and subject matter diversity.

3. The mission of the Committee shall be as follows:
a. To advise the Governor on the experiences of teachers in the classroom
b. To examine factors that attract bright students to the profession
c. To identify teachers that employ best practices and improve student achievement, and to propose ways to recognize and celebrate those accomplishments

d. To recommend ways to end intellectual isolation among teachers by building and supporting communities of learners

4. Teachers shall serve for a one-year term, beginning July 1 of each year, except that the first set of appointees shall serve from the date of this Order until June 30, 2003.

5. The Governor and Commissioner of Education shall serve as ex-officio members. The Committee shall be staffed by the Governor's Special Counsel for Education.

6. The Committee shall meet quarterly, beginning in March, 2002.

7. This Order shall take effect immediately.

Dated March 5, 2002.

EXECUTIVE ORDER NO. 14

WHEREAS, Our State institutions of medical and allied healthcare education are important assets to New Jersey and the nationwide medical and healthcare community; and

WHEREAS, These institutions of medical and allied healthcare education appear to be operating independently of one another and at variable levels of quality and competitiveness; and

WHEREAS, A comprehensive analysis of these institutions of medical and allied healthcare education is necessary in order to evaluate their current status and to formulate appropriate recommendations to enhance the quality of education, to increase their overall competitiveness as institutions of healthcare learning and to foster healthy synergy amongst these institutions;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 the Commission on Health Science, Education, and Training, hereinafter referred to as the Commission.

2. The Commission shall consist of up to fifteen (15) members appointed by the Governor, including the Commissioner of Health and Senior Services. The members of the Commission shall be selected from among representatives of the medical and allied healthcare industry; medical and allied healthcare educational institutions located both within this State and beyond; and persons familiar with the these institutions as they relate directly to State Government. The Governor shall appoint the Chair of the Commission.

3. It shall be the charge and duty of the Commission to accomplish the following:

a. Identify specific gaps and requirements necessary to enhance the overall quality and competitiveness of health education in the State of New Jersey including, but not limited to, health research, basic science and clinical education, and healthcare professional training; and

b. Review the existing nationally recognized medical and allied healthcare models and work to design a framework to help guide the relationship between the medical and allied healthcare educational institutions, hospitals, and healthcare agencies within the State of New Jersey; and

c. Determine the appropriate governance structure of the State institutions of medical and allied healthcare education; and

d. Determine any prospective institutional alliances and/or relationships between these schools.

4. The Commission shall report directly to the Governor, outlining specific recommendations that address the charge and duty stated above with respect to the quality of medical and allied healthcare education within the State of New Jersey.

5. The Commission is authorized to call upon any department, 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, office, division and agency of this State is hereby required to cooperate with the Commission and to furnish it with such information, personnel and assistance as is necessary to accomplish the purposes of this Order.

6. Members of the Commission shall serve without compensation, except that they may receive per diem and travel expenses.

7. This order shall take effect immediately.

Dated March 5, 2002.

EXECUTIVE ORDER NO. 15

WHEREAS, Three separate instrumentalities of the State of New Jersey currently operate the New Jersey Turnpike, Garden State Parkway and Atlantic City Expressway (collectively, the "authorities"); and

WHEREAS, In light of the State's severe fiscal crisis it has become necessary to examine the fiscal prudence of maintaining three separate instrumentalities to operate these toll roads; and

WHEREAS, These authorities are at present jointly acquiring and operating electronic toll collection systems and may in the future make other joint investments in intelligent transportation systems; and

WHEREAS, The authorities are confronting the need to implement state-of-the-art security systems made necessary by the threat of terrorist activities; and

WHEREAS, In light of the age and condition of the existing toll roads, the authorities are confronting the need to rehabilitate and/or modernize their facilities and roads consistent with the State's smart growth policies; and

WHEREAS, The authorities now have widely disparate available capital funds for these purposes; and

WHEREAS, There is a need for the authorities to engage in more coordinated planning in the allocation of their capital budgets; and

WHEREAS, It has become necessary to reassess the operational aspects of the authorities to optimize efficiency and capacity and to reduce duplication of effort; and

WHEREAS, In light of the State's serious fiscal crisis it has become necessary to reexamine whether the functions of these authorities to acquire, construct, administer, operate and maintain their respective toll roads are duplicative and can be consolidated to promote operational efficiency and economic savings;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and the statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created a Toll Road Consolidation Study Commission (the "Commission").

2. The Commission shall consider all issues related to the consolidation of the authorities including but not limited to (a) legal matters, including review of bond covenants and labor issues, (b) operational matters, (c) financial savings or costs, including an assessment of market conditions and whether they make consolidation a viable or costly option, and (d) the need for more coordinated planning in the allocation of the authorities' capital budgets.

3. The Commission shall consist of the following members appointed by the Governor:

a. The chairpersons of each of the respective authorities;

b. The executive directors of each of the respective authorities;

c. At least one specialist in public finance matters;

d. At least one specialist in public sector labor matters;

e. One representative of a labor union from each of the three authorities;

f. One toll payer of the State of New Jersey;

g. One individual who commutes via bus or railroad;

h. The Chief of the Governor's Office of Management and Operations or his designee;

i. The Chief of the Governor's Authorities Unit or his designee; and

j. The Commissioner of the State Department of Transportation or his designee.

4. The Chief of the Governor's Authorities Unit shall serve as chairperson of the Commission.

5. The Commission shall report its findings and recommendations concerning toll road consolidation to the Governor not later than August 1, 2002.

6. The members shall serve without compensation except for reimbursement of necessary expenses.

7. The Commission is authorized to engage the services of an independent management consulting firm if necessary for the purposes of conducting a management reorganization plan in order to clarify and detail

the business vision of the authorities and integrate management and reengineer operations of the authorities where necessary.

8. The Commission is authorized to utilize the services of each of the authorities, both internal staff as well as outside legal, engineering, financial and other professionals, including those professionals engaged pursuant to Paragraph 7 thereof, as necessary to complete its charge and related analyses. Any fees accrued by the Commission for these services shall be assumed by the authorities.

9. All State departments and agencies are hereby directed, to the extent not inconsistent with law and within budgetary constraints, to cooperate with the Commission to furnish it with such information, personnel, and assistance as are necessary to accomplish the purposes of this Order.

10. This Executive Order shall take effect immediately.

Dated March 26, 2002.

EXECUTIVE ORDER NO. 16

WHEREAS, On September 11, 2001, terrorists killed and injured thousands of persons in an unprovoked attack against the United States; and

WHEREAS, Many of these victims were New Jersey residents including several hundred who were parents of dependent children or who had spouses or other persons who relied on them for financial assistance or contributions to meet their daily needs; and

WHEREAS, Children and others who were dependent on the victims, who are college students, may be experiencing difficulties meeting their tuition expenses because of the sudden loss of their loved ones;

WHEREAS, In recognition of the need and desirability of providing scholarship funds to children and spouses of the victims, the World Trade Center Scholarship Act (P.L.2001, c.442) (hereinafter, Scholarship Act) was approved on January 11, 2002 to provide scholarships to children and spouses of the victims of the September 11, 2001 attacks, through the administration of a newly created

Board in the Higher Education Student Assistance Authority (HESAA);

WHEREAS, The implementation of the Scholarship Act requires the establishment of a Board, whose membership is to be chosen by the Governor and the Legislature, with the advice and consent of the Senate, and the establishment of guidelines for the program, is likely to take several months, despite best efforts;

WHEREAS, Although the Scholarship Act appropriated $250,000 for implementation of the Scholarship program, current college students have not yet been able to receive tuition assistance through the scholarship program, because it has not yet been fully implemented;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and the Statutes of this State, do hereby ORDER and DIRECT:

1. That all State Colleges and Universities subject to N.J.S.A. 18A:64-1 et seq. and the New Jersey Institute of Technology shall hereby forego and desist collecting tuition and fees charged for the Fall 2001 semester and subsequent semesters, from students who are New Jersey residents, who demonstrate that their parent, spouse or another person on whom they relied for significant financial assistance or contribution to meet their daily needs (hereinafter, dependent student), was killed in the September 11, 2001 attacks;

2. That any junior or county college or independent four-year college or university that voluntarily foregoes or delays collection of tuition and fees for the Fall 2001 semester and subsequent semesters may submit to HESAA an application for reimbursement up to the amount currently charged for tuition and fees by any State college or university for a full-time student who is a New Jersey resident, or for actual tuition and fees charged, whichever is the lesser amount;

3. That all State Colleges and Universities subject to N.J.S.A. 18A:64-1 et seq., and the New Jersey Institute of Technology, may submit to the HESAA an application for reimbursement for tuition and fees incurred by any dependent student for the Fall 2001 semester and subsequent semesters;

4. That HESAA shall review such applications, and forward them to the Board of Trustees of the Scholarship Fund created pursuant to P.L.2001, c.442, which shall consider such applications for reimbursement in accordance with the provisions of that law and this Order; and

5. This Order shall take effect immediately, and shall remain in effect, unless rescinded, until such time as the scholarship program created pursuant to P.L.2001, c.442, is fully operational.

Dated April 9, 2002.

EXECUTIVE ORDER NO. 17

WHEREAS, The State of New Jersey is richly abundant with cultural and ethnic diversity, and the Hispanic community has played a very vital role in enhancing and contributing to that diversity; and

WHEREAS, There are currently more than 1.1 million New Jersey residents who identify themselves as Hispanic, and that New Jersey's Hispanic population represents 13.3% of its total population; and

WHEREAS, By 2015, the State's Hispanic population is projected to exceed 1.5 million or 17% of the State's projected total population, and will thus become the largest minority group in the State;

WHEREAS, New Jersey is committed to addressing the community, economic, social, health and educational needs that are particular to the Hispanic community; and

WHEREAS, Engaging in evaluation and analysis on these essential policy matters empowers the Hispanic community and its leaders to shape solutions that address the needs of all Hispanics in New Jersey;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 a Governor's Hispanic Advisory Council for Policy Development, hereafter referred to as the Hispanic Advisory Council.

2. The Hispanic Advisory Council shall be comprised of no greater than 20 members to be appointed by the Governor who will serve at the pleasure of the Governor. These members shall represent the Latino members of his Cabinet and sub-Cabinet, and/or their designees, including the following: the Commissioner of Personnel, the Commissioner of Community Affairs, the Commissioner of Human Services, the Commissioner of Education, the Commissioner of Labor, the Commissioner of Health and Senior Services, the Commissioner of Corrections, the Director of the Division of State Police, and the Secretary of State. Additionally, the Governor shall appoint no fewer than seven public members from Hispanic organizations whose memberships represent the community Statewide.

3. The Chairperson of the Hispanic Advisory Council shall be selected by the Governor from among the membership of the Council. The Governor may also appoint an honorary chairperson.

4. The role of the Hispanic Advisory Council shall be to advise the Governor on substantive policy matters affecting the Hispanic community including, but not limited to, health, education, economic development, housing and urban revitalization, employment, and other public policy issues affecting Hispanics Statewide.

5. The Hispanic Advisory Council shall develop a working plan outlining its major policy concerns for action within 90 days of its first meeting. Beyond the first 90 days, the Hispanic Advisory Council shall meet periodically, but not less than quarterly, and report to the Governor no less than 45 days after each meeting on the status of the Hispanic Advisory Council's progress. The Hispanic Advisory Council shall additionally provide the Governor with information, analysis and recommendations for his consideration.

6. This Order shall take effect immediately.

Dated April 11, 2002.

EXECUTIVE ORDER NO. 18

WHEREAS, State and local governments issue certain vital records such as birth certificates, and counties also issue county identification cards (collectively, official identifying records); and

WHEREAS, Public and private enterprises at times may rely on such official identifying records to establish, support or confirm the bearer's identity; and

WHEREAS, Official identifying records may be presented to acquire other forms of personal identification, which may further support a bearer's claimed identity, or which may entitle the bearer to certain licenses, privileges and benefits, including but not limited to, access to travel, employment and certain secure locations; and

WHEREAS, The New Jersey Domestic Security Preparedness Task Force has supported measures to deter the misuse of vital records by establishing safeguards regarding the issuance of such records; and

WHEREAS, The misuse of official identifying records presents grave risks to the public by those seeking to perpetrate frauds and other crimes on our citizens, and, more critically, potentially by those within our borders who wish to endanger the safety and security of our State and our nation through terrorism;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and the Statutes of this State, including but not limited to the Disaster Control Act of 1941, P.L.1941, c.393, as supplemented and amended, do hereby ORDER and DIRECT that:

1. Within 90 days of the date of this order, the Commissioner of the Department of Health and Senior Services (Commissioner) shall designate specifications for uniform forms for the issuance of all vital records, which shall be used by registrars beginning on a date established by the Commissioner.

2. The form designated for certified copies of vital records shall contain safety features for authentication purposes and to deter forgery, and shall be readily distinguishable from the form designated for certifications of vital records.

3. A State or local Registrar may issue a certified copy of a vital record only to persons who establish themselves as the subject of the vital record, the subject's parent, legal guardian or legal representative, spouse, child, grandchild or sibling, if of legal age, to a State or federal agency for

official purposes, pursuant to court order or under other emergent circumstances as determined by the Commissioner.

4. Certifications may be issued in other circumstances and shall state that they are for informational purposes only, and are not to be used for identification or legal purposes.

5. The Registrar must authenticate the identity of the requestor and his or her relationship with the subject of the vital record.

6. The Director of the Division of Alcoholic Beverage Control shall forthwith review the regulations regarding the issuance of county identifications, and shall propose any appropriate amendment that would deter the fraudulent or other improper use of such cards.

7. This Order shall take effect immediately and shall remain in effect, unless rescinded, until such time as the requirements set forth in numbered paragraph 1 through numbered paragraph 4 of this Executive Order are passed into law by the Legislature and approved by the Governor.

Dated April 24, 2002.

EXECUTIVE ORDER NO. 19

WHEREAS, The Division of Motor Vehicle Services (DMV) has responsibility for issuing and certifying motor vehicle driver's licenses, ensuring the proper registration of motor vehicles, as well as conducting safety and emissions inspections of motor vehicles; and

WHEREAS, DMV has over 15 million contacts a year with the public, more than any other State agency; and

WHEREAS, The public has a right to expect courteous, efficient and accessible service from government agencies; and

WHEREAS, Historically the privately operated local motor vehicle agencies have been plagued with long lines, poor customer service, and inadequate business practices that routinely cause network delays and failures of 2-4 hours; and

WHEREAS, DMV's vulnerable security systems and weak document control have placed our State and the Nation at risk by enabling persons to obtain and use fraudulent driver's licenses in furtherance of terrorist activities; and

WHEREAS, DMV's failed security systems are contributing to a growing national problem of identity theft that is costing New Jersey and the Nation millions of dollars each week; and

WHEREAS, In a time of rapidly changing information technology and Internet communications, DMV operates on a decades-old computer network with patchwork hardware, antiquated software and obsolete display terminals that lack processing abilities; and

WHEREAS, By January 1, 2003 DMV is required to implement the EPA-mandated On Board Diagnostic Auto Inspection System, as well as a State-mandated Digital Drivers License; and

WHEREAS, Previous DMV efforts to implement complex technological mandates have failed, due to bureaucratic mismanagement, inefficient planning and inadequate oversight, as characterized by the State Commission of Investigations;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 a FIX DMV Commission, hereinafter referred to as the Commission.

2. The Commission shall be composed of 12 members, who shall include the Chief of the Governor's Office of Management and Operations, the Commissioner of the Department of Transportation, the Commissioner of the Department of Environmental Protection, the State Treasurer, the Commissioner of Banking and Insurance, the Commissioner of the Department of Personnel, the Director of the Division of Criminal Justice, the Assistant Attorney General in Charge of the Office for Counter-Terrorism, plus four members of the public, to be appointed by the Governor, who have experience with the Division of Motor Vehicle Services. The Governor shall appoint the Chair of the Commission.

3. The Commission shall form advisory groups and work with interested members of the public that include individuals and entities with experience in customer relations as well as constituent and customer groups who have regular contact with the Division of Motor Vehicle Services.

4. Within 120 days, the Commission shall conduct a comprehensive analysis of the Division and prepare a report with recommendations on restructuring and re-engineering the Division as an effective, modern, customer service oriented Division with the highest level of secure document processing and production.

5. The Commission is authorized to call upon any department, 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, officer, division and agency of this State is required to cooperate with the Commission and to furnish it with such information and assistance as is necessary to accomplish the purposes of this Order.

6. This Order shall take effect immediately.

Dated April 25, 2002.

EXECUTIVE ORDER NO. 20

WHEREAS, The State of New Jersey has a compelling interest in guaranteeing that apparel acquired by the State of New Jersey is made in conditions that the State of New Jersey, its citizens, and its employees, can be proud of; and

WHEREAS, The apparel industry has a history of poor conditions for its workers; and

WHEREAS, The largest part of the apparel purchases of the State of New Jersey are for uniforms for New Jersey employees; and

WHEREAS, These uniforms are intended to project a positive image for the State, and pride in the job on the part of State employees; and

WHEREAS, The State of New Jersey has a compelling interest in ensuring that these uniforms are produced under excellent conditions in the United States of America;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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. For the purpose of this Order:

a. "Apparel" means any clothing, headwear, linens or fabric.

b. "Bidder" means any person making a bid with a public body to serve as a vendor to a public body.

c. "Public Body" means the State of New Jersey, any agency of the State or any authority created by the Legislature.

d. "Vendor" means any person or business selling or otherwise providing apparel to or for a public body, including the provision of apparel to a public body; or entering into a license agreement with a public body to produce or provide items of apparel bearing names, trademarks or images of, or related to, the public body.

e. "Apparel Contracts" shall include all purchases, rental or other acquisition of apparel products by the State of New Jersey, including authorizations by the State of New Jersey for vendors to sell apparel products through cash allowances or vouchers issued by the State of New Jersey, and license agreements with a public body.

f. "Apparel Production" shall include the cutting, manufacturing of apparel products performed by the vendor or by any sub-contractors, not including the production of supplies or sundries such as buttons, zippers, and thread.

2. When purchasing or otherwise obtaining apparel from a vendor, including approving a vendor for participation in allowance or voucher programs, a public body shall require that all apparel production be performed in the United States.

3. When purchasing or otherwise obtaining apparel from a vendor, including approving a vendor for participation in allowance or voucher programs, a public body shall require that all apparel production be performed in production facilities that meet the following requirements:

a. Vendors and their contractors and sub-contractors shall adapt a neutrality position with respect to attempts to organize by their employees, and agree to voluntarily recognize a union when a majority of workers have signed cards authorizing union representation.

b. Apparel production workers employed to fulfill an apparel contract will not be terminated except for just-cause and vendors and their contractors and sub-contractors shall provide a mechanism to resolve all disputes with apparel production workers.

c. Apparel Production workers employed to fulfill an apparel contract are provided a safe and healthy work environment, and a work environment free of discrimination on the basis of race, national origin, religion, sex and sexual preference.

d. Apparel contracts shall only be issued to contractors, and apparel production shall only be performed by contractors or sub-contractors, that do not have a pattern or practice of violation of legal employment protections not otherwise preempted, including laws and regulations governing wages and hours, discrimination, occupational safety and health.

e. Apparel contracts shall only be issued to contractors, and apparel production shall only be performed by contractors or sub-contractors, that provide non-poverty compensation at an hourly rate which at 40 hours of work a week for 50 weeks a year would be equal to but not less than the threshold family of three as published by the United States Department of Health and Human Services.

4. Information.

a. Every bidder for an apparel contract shall inform the contracting agency in writing of the following information, which shall be made available to the public as soon as possible, but in no case less than thirty (30) days before a decision is made to award an apparel contract to a vendor:

(1) Every location where apparel production is to take place, including any sub-contractor locations.

(2) The name, business address, and names of principal officers of each sub-contractor to be used for apparel production in fulfillment of an apparel contract.

(3) An affidavit that each Apparel Production location meets the standards defined above.

b. Any changes to the reported information during the term of an apparel contract must be reported by the vendor to the public body. The public body shall report all information required under this section to the Apparel Procurement Board, and shall make such information available upon request to the public.

5. Apparel Procurement Board. The Apparel Procurement Board shall be established as follows:

a. The Apparel Procurement Board shall be composed of:

(1) three individuals representing uniformed unions of employees of the State, selected by the New Jersey State AFL-CIO;

(2) three individuals representing agencies that employ uniformed personnel, selected by the Governor; and

(3) one individual chosen by the Commissioner of Labor.

b. The Apparel Procurement Board shall have the power to receive complaints that any bidder or contractor is not in compliance with this Order, and recommend an investigation into the merits of such complaints.

c. The Apparel Procurement Board shall be administered by the Commissioner.

6. Violations. If the Commissioner of Labor determines that a vendor, sub-contractor or bidder has not complied with the terms of this Order, including any finding of failure to provide truthful information as required by this Order, the Commissioner of Labor may:

a. Terminate an existing apparel contract at the earliest feasible date.

b. Bar the vendor or bidder from receiving pending or subsequent apparel contracts, unless preempted by federal law.

7. Severability. If any section, subsection, sentence, clause, phrase or other portion of this Order is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

8. Every apparel contract and bid application shall contain a provision or provisions detailing the requirements of this Order, and compliance with this Order shall be made a binding part of all apparel contracts.

9. Waiver. Specific requirements of this Order may be waived if it is determined by the public body that there is no vendor able to meet those specific requirements. In such event, the public body shall take every reasonable measure to contract with a vendor who is able to satisfy most closely the requirements of this section.

10. This Executive Order shall take effect immediately.

Dated June 11, 2002.

EXECUTIVE ORDER NO. 21

WHEREAS, In January, 2002, the New Jersey Legislature enacted and Acting Governor DiFrancesco signed into law Chapter 404, P.L.2001, commonly known as the Open Public Records Act; and

WHEREAS, The Open Public Records Act contained substantial revisions to Chapter 73, P.L.1963, the New Jersey Right to Know Law that had governed the public's access to government records for almost 40 years; and

WHEREAS, The Legislature in enacting the Open Public Records Act reaffirmed it to be the public policy of this State that public records shall be readily accessible for examination by the citizens of this State, with certain exceptions for the protection of the public interest; and

WHEREAS, The Legislature further found and declared in the Open Public Records Act that a public agency has a responsibility and an obligation to safeguard from public access a citizen's personal information with which it has been entrusted when disclosure thereof would violate the citizen's reasonable expectation of privacy; and

WHEREAS, The Open Public Records Act provides that all government records shall be subject to public access unless exempt from such access by the provisions of the Act; any other statute; a resolution of either or both houses of the Legislature; a regulation promulgated under the authority of a statute or Executive Order of the Governor; an Executive Order of the Governor; the Rules of Court; or any federal law, federal regulation or federal order; and

WHEREAS, The Legislature has found and declared in Chapter 246, P.L.2001 that domestic preparedness is essential to preventing and responding to the threat of terrorist attack; and

WHEREAS, The World Trade Center and Pentagon attacks and other significant events, both domestic and foreign, and the ongoing threat to security of our citizens have emphasized this State's compelling interest in developing and maintaining a precisely coordinated counter-terrorism and preparedness effort to enhance the public's safety; and

WHEREAS, In furtherance of this goal the Legislature has created the Domestic Security Preparedness Task Force and Executive Order No. 3 has established the Office of Counter-Terrorism to coordinate the State's counter-terrorism and preparedness efforts to provide for the public's safety and welfare; and

WHEREAS, The right of public access to government records as provided in the Open Public Records Act must be balanced against the risk of disclosing information that would facilitate terrorist activity and balanced against a citizen's reasonable expectation of privacy; and

WHEREAS, The Open Public Records Act does not afford county and local governments with any means for exempting access to their records, even where the public interest or a citizen's reasonable expectation of privacy would clearly be harmed by disclosure of those records; and

WHEREAS, The Open Public Records Act takes effect on July 7, 2002, the 180th day after its enactment; and

WHEREAS, The enactment of the Open Public Records Act occurred one week before this Administration took office; and

WHEREAS, It was necessary for all State agencies to conduct a comprehensive review of all records maintained by that agency, and a thoughtful analysis of those records to determine which of those records should be exempted from disclosure in order to protect the public interest or a citizen's reasonable expectation of privacy; and

WHEREAS, That review and analysis was required to be performed during a time of shifting personnel and priorities and changing the way government does business with its citizens; and

WHEREAS, That process has been largely completed and the various agencies have identified those documents that should be exempted from public disclosure in order to protect the public interest or a citizen's reasonable expectation of privacy; and

WHEREAS, The proposed regulations of the various agencies specifying which records under their jurisdiction are not to be subject to public examination have been published in the New Jersey Register on July 1, 2002; and

WHEREAS, Due to the provisions of the Administrative Procedure Act and the implementing regulations adopted pursuant to that Act, the agencies' proposed rules will not be finalized until October 1, 2002 at the earliest; and

WHEREAS, It is essential to preserve the confidentiality of certain records maintained by the Office of the Governor, in order to protect the public interest;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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. At all levels of government - State, county, municipal and school district -- the following records shall not be deemed to be public records under the provisions of Chapter 404, P.L.2001, and Chapter 73, P.L. 1963, and thus shall not be subject to public inspection, copying or examination:

(a) Any government record where the inspection, examination or copying of that record would substantially interfere with the State's ability to protect and defend the State and its citizens against acts of sabotage or terrorism, or which, if disclosed, would materially increase the risk or consequences of potential acts of sabotage or terrorism.

(b) The Attorney General is hereby directed to promulgate, in consultation with the Domestic Security Preparedness Task Force, a regulation to govern the determination of which government records shall be deemed to be confidential pursuant to subsection (a).

(c) Public agencies are hereby directed to handle all government records requests in a manner consistent with the standard contained in subsection (a) of this Order, until the regulation is proposed by the Attorney General pursuant to subsection (b). Once the rule has been proposed, public agencies shall respond to records requests in a manner consistent with this Order and the proposed regulation. When that regulation is finally adopted, it shall govern all government record requests filed thereafter.

2. In addition to those records of the Office of the Governor that are exempted by the provisions of the Open Public Records Act, the following records maintained by the Office of the Governor, or any part thereof, shall not be deemed to be government records under the provisions of Chapter 404, P.L.2001, and Chapter 73, P.L.1963, and thus shall not be subject to public inspection, copying or examination:

(a) All records that, prior to the effective date of Chapter 404, P.L.2001, have been found by a court to be confidential, or have been found not to be public records.

(b) All records or portions of records, including electronic communications, that contain advisory, consultative or deliberative information or other records protected by a recognized privilege.

(c) Records containing information provided by a person outside the Office of the Governor who has or would have had a reasonable expectation of privacy in that information when it was provided to the Office of the Governor.

3. In order to effectuate the legislative directive that a public governmental agency has the responsibility and the obligation to safeguard from public access a citizen's personal information with which it has been entrusted, an individual's home address and home telephone number, as well as his or her social security number, shall not be disclosed by a public agency at any level of government to anyone other than a person duly authorized by this State or the United States, except as otherwise provided by law, when essential to the performance of official duties, or when authorized by a person in interest. Moreover, no public agency shall disclose the resumes, applications for employment or other information concerning job applicants while a recruitment search is ongoing, and thereafter in the case of unsuccessful candidates.

4. In light of the fact that State departments and agencies have proposed rules exempting certain government records from public disclosure, and these regulations have been published for public comment, but cannot be adopted prior to the effective date of the Open Public Records Act, State agencies are hereby directed to handle all government records requests in a manner consistent with the rules as they have been proposed and published, and the records exempted from disclosure by those proposed rules are exempt from disclosure by this Order. Once those regulations have been adopted, they shall govern all government records requests filed thereafter.

5. Executive Orders Nos. 9 (Hughes), 11 (Byrne), 79 (Byrne) and 69 (Whitman) are hereby continued to the extent that they are not inconsistent with this Executive Order.

6. This Executive Order shall take effect immediately.

Dated July 5, 2002.

EXECUTIVE ORDER NO. 22

WHEREAS, Brendan T. Byrne distinguished his tenure during two terms as Governor of the State of New Jersey from 1974 through 1982 through bold leadership, political courage, keen vision and an unwavering commitment to the protection of New Jersey's natural resources in the face of debate and controversy; and

WHEREAS, Governor Byrne's initiatives for the protection of New Jersey's natural resources included Executive Order 56 (1977) which created the Pinelands Review Committee and Executive Order 71 (1979) which created the Pinelands Planning Commission; and

WHEREAS, Governor Byrne subsequently signed into law, amidst debate and controversy, the Pinelands Protection Act (L.1979, c.111, Sec.1, eff. June 28, 1979) which, in conjunction with federal legislation, established the New Jersey Pinelands and the 1 million acre Pinelands National Reserve (National Parks and Recreation Act of 1978, Pub.L. 95-625, Sec. 502); and

WHEREAS, The New Jersey Pinelands and the Pinelands National Reserve, this country's first National Reserve, were created through the leadership of Governor Byrne to protect this area through land acquisition and land use controls developed through a cooperative program involving federal, state and local governments; and

WHEREAS, The Pinelands Commission prepared a comprehensive management plan for the New Jersey Pinelands which adopted policies and regulations for land use management in coordination with local, state and federal programs and governments; and

WHEREAS, Governor Byrne's bold steps of over two decades ago have served to protect and preserve the vast pine-oak forests, cedar swamps, and the extensive surface and ground water resources of New Jersey's Pinelands, which lie within the most densely populated state in the nation; and

WHEREAS, New Jersey's Pinelands continue to provide a unique habitat for a wide diversity of rare, threatened and endangered plant and animal species and many other significant and unique natural, agricultural, scenic, cultural and recreational resources in an area

surrounded by burgeoning residential, commercial and industrial development; and

WHEREAS, The Pinelands National Reserve is recognized as the largest body of open space on the Mid-Atlantic seaboard between Richmond and Boston and has achieved worldwide recognition as a Biosphere Reserve by the U.S. Man and the Biosphere Program and the United Nations Educational, Scientific and Cultural Organization (UNESCO); and

WHEREAS, It is appropriate to recognize Governor Byrne as one of the major forces behind the permanent protection of New Jersey's Pinelands; and

WHEREAS, A fitting tribute to Governor Byrne's vision and commitment would be the designation of an area which exemplifies the natural resources which have been protected and preserved as the "Brendan T. Byrne State Forest"; and

WHEREAS, Lebanon State Forest, located in the center of New Jersey's Pinelands, comprises over 34,000 acres of forest, Atlantic white cedar swamps and iron-rich streams and recreational facilities which are exemplary of the many natural and recreational resources identified for protection and preservation;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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. Lebanon State Forest in its entirety shall henceforth be officially known, recognized and referred to as "Brendan T. Byrne State Forest."

2. The Department of Environmental Protection and the Department of Transportation shall implement this change in name in a manner best determined to notify the public of the designation of Brendan T. Byrne State Forest and shall take all reasonable efforts to include such designation in all literature, brochures, books, documents and maps to be published or distributed on or subsequent to the effective date of this Executive Order.

3. The Department of Transportation shall delineate the New Jersey Pinelands boundary on the New Jersey 2002 Transportation Map and all subsequent maps.

4. All State departments and agencies shall take actions consistent with the intent, goals and objectives of this Executive Order.

5. All municipalities and counties within the New Jersey Pinelands are requested and encouraged to take actions consistent with the intent, goals and objectives of this Executive Order.

6. This order shall take effect immediately.

Dated July 24, 2002.

EXECUTIVE ORDER NO. 23

WHEREAS, The State of New Jersey has an interest in the humane and proper treatment of animals; and

WHEREAS, The State of New Jersey has an interest in addressing the overpopulation of unwanted, abandoned and feral animals and in reducing the number of animals that are euthanized each year; and

WHEREAS, The State of New Jersey has an interest in preventing cruelty to animals and enforcing animal cruelty laws; and

WHEREAS, The State Commission of Investigation has found inadequacies with respect to the care and housing of unwanted and abandoned animals; and

WHEREAS, The State Commission of Investigation has found significant failures with respect to the enforcement of animal cruelty laws by the Societies for the Prevention of Cruelty to Animals in New Jersey; and

WHEREAS, The State of New Jersey has an interest in engaging the talents and expertise of capable individuals from throughout the State to address these important State interests;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 an Animal Welfare Task Force, herein referred to as the Task Force.

2. The Task Force shall consist no more than 30 members appointed by the Governor. The members shall be selected from among individuals with knowledge or experience in the areas of animal treatment, population control and animal welfare. The Governor shall select the Chair.

3. The Task Force shall do the following:

a. Examine the current laws concerning animal abuse and neglect, animal population control, and animal welfare.

b. Examine the manner in which the anti-cruelty laws are enforced throughout the State.

c. Examine the status of population control and the animal shelter systems in the State.

d. Recommend changes to the laws and regulations of this State so as to protect the State's animals from inhumane treatment, improve the enforcement of anti-cruelty laws, and address the problem of unwanted, abandoned and euthanized animals in the State.

4. The Task Force shall issue its report to the Governor, the Attorney General and the Commissioner of the Department of Health and Senior Services within 24 months of its initial meeting.

5. The Task Force is authorized to call upon any department, office, division or agency of this State to supply it with records and other information, personnel or assistance it deems necessary to discharge its duties under this Order. Each department, officer, division or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate with the Task Force and to furnish it with such records, information, personnel and assistance as is necessary to accomplish the purposes of this Order.

6. This Order shall take effect immediately.

Dated July 25, 2002.

EXECUTIVE ORDER NO. 24

WHEREAS, The Legislature in July 2000 enacted the "Educational Facilities Construction and Financing Act," P.L.2000, c.72 ("the Act") to address the inadequacies in the quality, utility and safety of

educational facilities throughout the State of New Jersey and to meet the constitutional requirement for a thorough and efficient system of free public schools; and

WHEREAS, The Act commits significant State and local resources to address the compelling, urgent need to construct new school facilities and rehabilitate existing school facilities; and

WHEREAS, The Act provides that the New Jersey Economic Development Authority ("NJEDA") is responsible for funding and undertaking the repair, renovation and construction of all the school facilities projects determined by the Commissioner of the Department of Education ("DOE") to meet the school facilities efficiency standards in the Abbott Districts and for undertaking construction of school facilities projects in the districts receiving over 55% in State aid for education and the "Level II" monitoring districts; and

WHEREAS, The Act also provides for State funding of a significant portion of the costs of school facilities projects in the districts receiving less than 55% State aid for education through grants administered by the NJEDA; and

WHEREAS, In the two years since adoption of the Act, the NJEDA has made progress in implementing the school construction program, through development of an infrastructure, policies, procedures and regulations, and the hiring of the staff and consultants required to implement a program of this complexity and magnitude; and

WHEREAS, Many projects have already been undertaken and completed throughout the State largely in the nature of repair of "health and safety conditions" but most new construction, renovation and addition projects remain to be done; and

WHEREAS, The State now enjoys a unique and timely opportunity to design and construct schools for the 21st century which will be adequate to serve the needs of children for years to come, will incorporate long life cycles and reduce operating costs; and

WHEREAS, The primary purpose of these new and renovated school facilities is to serve as places of learning for children, and as such should incorporate "high performance" design features that accommodate and enhance the learning process; and

WHEREAS, The Legislature provided in Section 2(d) of the Act that "design of school facilities should incorporate maximum operating efficiencies and new technologies to advance the energy efficiency of school facilities and the efficiency of other school building systems;" and

WHEREAS, School facilities are public buildings, and should be designed in a manner to provide maximum access and benefit to the residents of the communities where they are situated, in order to serve as centers of community; and

WHEREAS, Schools that are true centers of community must be sited and designed with the participation of the members of the community to be served by the school facility; and

WHEREAS, It is in the best interests of the people of New Jersey that school facilities developed under the Act shall be modern facilities of the 21st century, combining all of these features: the best possible learning environment, the most energy-efficient design, the most environmentally sustainable systems, and the highest community-relevance; and

WHEREAS, In February 2002 pursuant to Executive Order the Abbot Implementation and Compliance Coordinating Council was created to coordinate and direct State policy regarding education reform implementation and school facility construction in the Abbott districts; and

WHEREAS, The Abbott Implementation Council formed a facilities working group that included representation from school districts, community organizations, and the architectural and construction community to recommend improvements to the School Construction Program; and

WHEREAS, In order to accomplish the purposes of the Act, to begin implementation of the recommendations of the Abbott Facilities Work Group, and to ensure that schools are equipped for the 21st century, it is necessary now to focus, streamline and coordinate the activities of various State agencies involved in this monumental and most important effort;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 order to establish the school construction program as a separate activity of the NJEDA apart from its economic development mission and to provide for more focused attention, the NJEDA shall establish a subsidiary corporation, which will be responsible for the school facilities project. This shall include:

a. The creation of a corporation Board of Directors consisting of the following members: the Commissioner of Education; Commissioner of Labor; Commissioner of Community Affairs; State Treasurer; CEO/Secretary of Commerce and Economic Growth Commission; Executive Director of EDA; Member of the Governor's Executive Staff; Three public members of the EDA Board of Directors selected by the Governor; and two members of the public to be appointed by the Governor.

b. The Schools Corporation will be headed by a CEO to oversee the program, which individual will have experience in construction management commensurate with the task of overseeing a multi-billion dollar, long-term program.

2. The NJEDA and all school districts developing school facilities projects to be funded under the Act should attempt to incorporate community design features to maximize public access to the building and enhance the utility of the building to the needs of the community.

3. The NJEDA and all school districts developing school facilities projects to be funded under the Act are strongly encouraged to provide opportunity for the community at large to have meaningful participation in the site selection process for the school facilities projects, and in the design of school facilities.

4. All new school designs shall incorporate the guidelines developed by the United States Green Building Council known as "Leadership in Energy & Environmental Design ("LEED"), Version 2.0 to achieve maximum energy efficiency and environmental sustainability in the design of schools.

5. The DOE shall not approve any school facilities project for funding under the Act and the NJEDA shall not construct any project unless the project is designed using best design practices to create space that

enhances the learning process and accommodates modern teaching techniques.

6. In order to improve the delivery of early childhood services, the Commissioner of DOE should adopt regulations, which will establish facilities efficiency standards for early childhood education facilities and criteria for the use by districts of community providers.

7. The NJEDA should undertake actions to ensure that there is an adequate pool of qualified contractors and consultants to carry out the school facilities projects funded under the Act. The NJEDA should explore with other agencies, including the Department of Treasury, the feasibility of consolidating and integrating the current multiple systems for the classification and pre-qualification of consultants and contractors.

8. To facilitate and expedite the completion of school facilities projects, the NJEDA is hereby directed to take the following actions:

(a) Streamline the procurement process and make it more efficient through the use of term contracts where appropriate to provide for such things, as the (i) acquisition and installation of furniture, fixtures and equipment; (ii) acquisition of items requiring long-lead times such as boilers, chillers and windows; (iii) services related to land acquisition, and (iv) the ability to respond on an expedited basis to health and safety issues in school facilities.

(b) Examine and implement changes in the process for delegating school facilities projects under $500,000 back to the districts pursuant to Section 13(a) of the Act and for funding grants to the under 55% districts pursuant to Section 15 of the Act so that these projects can be completed more rapidly while still maintaining moral and fiscal integrity.

9. The NJEDA is authorized to call upon any department, 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, officer, division and agency of this State is required to cooperate with the Authority and to furnish it with assistance necessary to accomplish the purposes of this Order. Furthermore, the DOE is directed to establish a satellite office at the NJEDA staffed by DOE personnel involved in the review and approval of school facilities projects to better coordinate and share information with the NJEDA.

10. This Order shall take effect immediately.

Dated July 29, 2002.

EXECUTIVE ORDER NO. 25

WHEREAS, The Legislature passed and Governor Whitman signed into law the Electric Discount and Energy Competition Act ("EDECA") in February of 1999; and

WHEREAS, EDECA required the State's electric utilities to divest themselves of their electric generation assets and mandated a reduction in electricity rates for a period of four years which was to be justified by anticipated competition in the electricity marketplace; and

WHEREAS, EDECA authorizes utilities to recover from ratepayers the difference between the market cost of the electricity and the mandated rates, also known as "deferred balances," such recovery to occur after the mandated rate cuts expire; and

WHEREAS, The competition in the electricity marketplace anticipated under EDECA has, to a large degree, not occurred and the market cost of electricity has not declined below the mandated rates; and

WHEREAS, The Board of Public Utilities ("BPU") now projects that accumulated deferred balances in the State will total approximately $1 billion dollars; and

WHEREAS, According to BPU projections the deferred balances will be unevenly distributed among the State's electric utilities, including: Jersey Central Power and Light with an estimated $687 million in deferred balances, averaging approximately $675 per ratepayer; Rockland Electric with an estimated $119 million in deferred balances, averaging approximately $1,700 per ratepayer; Connectiv with an estimated $165 million in deferred balances, averaging approximately $325 per ratepayer; and Public Service Electric and Gas Company which is not projected to have any deferred balances; and

WHEREAS, N.J.S.A.48:2-23 requires utilities to provide New Jersey consumers with safe, adequate and proper utility service at reasonable rates and there is a compelling State interest in maintaining affordable utility prices for New Jersey consumers; and

WHEREAS, EDECA mandates that BPU permit the recoupment of deferred balances sought by utility companies, which will likely result in rate increases for consumers in the upcoming years; and

WHEREAS, The utilities that incurred deferred balances will file for rate increases by August 30, 2002 to recover those balances beginning August 1, 2003, when the statutory period for the rate caps expires; and

WHEREAS, Senate Bill No. 869 would grant the BPU the express authority to allow utilities to securitize deferred balances by issuing long-term bonds and has been presented to me for signature into law; and

WHEREAS, Such bonds could extend the time period to up to 15 years for recovering deferred balances, thereby reducing the short term rate increases but increasing overall payments because of interest costs; and

WHEREAS, The BPU will in its review of deferred balance filings determine how best to balance and resolve the potential impact of increased rates on consumers with the need to ensure the fiscal integrity of electric utilities; and

WHEREAS, A Task Force will assist in examining the reasons why some of the State's electric utilities have accumulated large deferred balances and how these deferred balances should be addressed;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 "Deferred Balances Task Force."

2. The Task Force shall consist of eight (8) members including the Treasurer and the Deputy Treasurer of the State of New Jersey and six (6) public members appointed by the Governor. The public members shall

include members with training and expertise in a variety of areas, including the needs and interests of consumers, senior citizens and those living on fixed incomes, the generation of electrical power, the marketing of electrical power, the deregulation of formerly regulated markets and the management and operation of electric utilities.

3. The Task Force shall convene immediately and shall report to the Governor before the Legislature reconvenes in September. The report shall address the reasons why the deferred balances were accumulated, what mitigation steps utilities took to reduce deferred balances and how they ought to be addressed to best protect the interests of ratepayers, including an evaluation of the merits of securitizing deferred balances.

4. The Task Force may draw upon the services of State agencies as necessary to achieve its goal, and may consult with consumer groups, utility companies and energy suppliers, experts from the Board of Public Utilities and members of the public.

5. This order shall take effect immediately.

Dated August 12, 2002.

EXECUTIVE ORDER NO. 26

WHEREAS, The Open Public Records Act, Chapter 404, P.L.2001, became effective on July 8, 2002; and

WHEREAS, That Act authorizes the Governor to exempt certain government records from public access by Executive Order; and

WHEREAS, Pursuant to that authority, Executive Order No. 21 was issued on July 5, 2002; and

WHEREAS, Executive Order No. 21 exempted certain records of the Office of the Governor from public disclosure; and

WHEREAS, Executive Order No. 21 further exempted from disclosure home addresses and telephone numbers of individual citizens, as well as their social security numbers; and

WHEREAS, Since the issuance of Executive Order No. 21, this Administration has continued to engage in a constructive dialogue with representatives of the media and other advocates of open government concerning the proper implementation of the Open Public Records Act and Executive Order No. 21; and

WHEREAS, Discussions following the issuance of Executive Order No. 21 have demonstrated the need to clarify certain provisions of that Executive Order; and

WHEREAS, This Administration remains committed to open, accessible government, and to ensuring the successful implementation of the Open Public Records Act;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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. Paragraphs 2 and 3 of Executive Order No. 21 are hereby rescinded and replaced with the following paragraphs.

2. In addition to those records of the Office of the Governor that are exempted by the provisions of the Open Public Records Act, the following records maintained by the Office of the Governor, or part thereof, shall not be deemed to be government records under the provisions of Chapter 404, P.L. 2001, and Chapter 73, P.L. 1963, and thus shall not be subject to public inspection, copying or examination:

(a) Any record made, maintained, kept on file or received by the Office of the Governor in the course of its official business which is subject to an executive privilege or grant of confidentiality established or recognized by the Constitution of this State, statute, court rules or judicial case law.

(b) All portions of records, including electronic communications, that contain advisory, consultative or deliberative information or other records protected by a recognized privilege.

(c) All portions of records containing information provided by an identifiable natural person outside the Office of the Governor which contains information that the sender is not required by law to transmit and which would constitute a clearly unwarranted invasion of personal privacy if disclosed.

(d) If any of the foregoing records shall contain information not exempted by the provision of the Open Public Records Act or the preceding

subparagraphs (a), (b) or (c) hereof then, in such event, that portion of the record so exempt shall be deleted or excised and access to the remainder of the record shall be promptly permitted.

3. No public agency shall disclose the resumes, applications for employment or other information concerning job applicants while a recruitment search is ongoing. The resumes of successful candidates shall be disclosed once the successful candidate is hired. The resumes of unsuccessful candidates may be disclosed after the search has been concluded and the position has been filled, but only where the unsuccessful candidate has consented to such disclosure.

4. The following records shall not be considered to be government records subject to public access pursuant to N.J.S.A.47:1A-1 et seq., as amended and supplemented:

(a) Records of complaints and investigations undertaken pursuant to the Model Procedures for Internal Complaints Alleging Discrimination, Harassment or Hostile Environments in accordance with the State Policy Prohibiting Discrimination, Harassment and Hostile Environments in the Workplace adopted by Executive Order No. 106 (Whitman 1999), whether open, closed or inactive.

(b) Information concerning individuals as follows:

(1) Information relating to medical, psychiatric or psychological history, diagnosis, treatment or evaluation;

(2) Information in a personal income or other tax return;

(3) Information describing a natural person's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness, except as otherwise required by law to be disclosed.

(c) Test questions, scoring keys and other examination data pertaining to the administration of an examination for public employment or licensing.

(d) Records of a department or agency in the possession of another department or agency when those records are made confidential by a regulation of that department or agency adopted pursuant to N.J.S.A.47:1A-1 et seq. and Executive Order No. 9 (Hughes 1963), or pursuant to another law authorizing the department or agency to make records confidential or exempt from disclosure.

(e) Records of a department or agency held by the Office of Information Technology (OIT) or the State Records Storage Center of the Division of Archives and Records Management (DARM) in the Department of State, or an offsite storage facility outside of the regular business office of the agency. Such records shall remain the legal property of the department or agency and be accessible for inspection or copying only through a

request to the proper custodian of the department or agency. In the event that records of a department or agency have been or shall be transferred to and accessioned by the State Archives in the Division of Archives and Records Management, all such records shall become the legal property of the State Archives, and requests for access to them shall be submitted directly to the State Archives.

5. The Privacy Study Commission created by Chapter 404, P.L. 2001, is hereby directed to promptly study the issue of whether and to what extent the home address and home telephone number of citizens should be made publicly available by public agencies and to report back to the Governor and the Legislature within six months.

6. The remaining provisions of Executive Order No. 21 are hereby continued to the extent that they are not inconsistent with this Executive Order.

7. This Executive Order shall take effect immediately.

Dated August 13, 2002.

EXECUTIVE ORDER NO. 27

WHEREAS, Severe weather conditions on August 2, 2002 caused torrential thunderstorms, hailstorms and strong damaging winds which produced severe flooding, multi-day power outages, and widespread damage to and destruction of buildings, roads, trees and crops in the State of New Jersey, in particular Monmouth County; and

WHEREAS, The State Emergency Operations Center, already activated for homeland security considerations, shifted its emphasis to response operations; and

WHEREAS, On August 3, 2002, the State Emergency Operations Plan was activated and a State Police Rapid Deployment Team from the New Jersey Office of Emergency Management was dispatched to Monmouth County; and

WHEREAS, 25 State Troopers and a command operations center bus were dispatched to assist Monmouth County authorities with manual traffic control throughout the County; and

WHEREAS, The State Department of Transportation provided regional assistance teams to provide electric signed and other traffic control devices; and

WHEREAS, The New Jersey Board of Public Utilities deployed its Emergency Coordinators to establish liaison with major power suppliers and assist with the reinforcement efforts from outside agencies; and

WHEREAS, The New Jersey Department of Environmental Protection Division of Solid Waste provided advisory assistance to Monmouth County Department of Public Works on the disposal of debris generated by the storm; and

WHEREAS, The New Jersey Department of Banking and Insurance sent field representatives to the affected areas of Monmouth County to advise citizens of their insurance options; and

WHEREAS, Comprehensive field surveys were performed by the Federal Emergency Management Agency in close coordination with the New Jersey Office of Emergency Management and other State agencies and these surveys have evaluated, quantified and verified the extent, magnitude and impact of these extraordinarily destructive weather events upon the affected county; and

WHEREAS, These weather events and the damage therefrom pose a continuous threat and constitute a disaster from a natural cause which threatens and endangers the health, safety and resources of the residents of Monmouth County, and these events have caused damage that is too large in scope to be handled in its entirety by normal municipal operating services; and

WHEREAS, The Constitution and Statutes of the State of New Jersey, particularly the provisions of the Laws of 1942, Chapter 251 (N.J.S.A.App. A:9-33 et seq.) and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 hereby ORDER and DIRECT:

1. A State of Emergency exists in the County of Monmouth and has existed since August 2, 2002.

2. The State Director of Emergency Management, in accordance with N.J.S.A.App. A:9-33 et seq. as supplemented and amended, and through the New Jersey Office of Emergency Management, shall coordinate the recovery effort from this natural disaster with all Federal, State, county and local government agencies, volunteer organizations and the private sector.

3. In accordance with N.J.S.A.App. A:9-33 et seq. as supplemented and amended, I reserve the right to utilize and employ all available resources of the State government and all available resources of each and every political subdivision within the County of Monmouth, whether persons, properties or instrumentalities, necessary to protect against this emergency.

4. This order shall take effect immediately, and it shall remain in effect until such time as I determine that an emergency no longer exists.

Dated August 14, 2002.

EXECUTIVE ORDER NO. 28

WHEREAS, On May 30, 2002, a commercial vehicle traveling along I-295 South struck the overpass for Creek Road over I-295 near milepost #26 in Bellmawr, Camden County, New Jersey near the border of Gloucester County; and

WHEREAS, The accident shattered the facia beam and the fifth interior beam causing serious damage to and catastrophic failure of the overpass; and

WHEREAS, The overpass was found to be structurally unsound requiring closure of the both I-295 and Creek Road until temporary repairs could be made and replacement of a portion of the deck and structural members down to the abutments is required; and

WHEREAS, Traffic was and will periodically continue to be diverted from Creek Road and I-295 onto surrounding network roads, causing abnormally heavy traffic in those areas; and

WHEREAS, Damage to the overpass has been of such an extent that immediate repairs have been necessary. Such conditions constitute an emergency as is contemplated by the terms of Sections 125 and 120(e) of Title 23, U.S.C.; and

WHEREAS, The aforesaid circumstances constitute a hazard that has threatened and endangered and continues to threaten and endanger the health, safety and resources of the residents of one or more municipalities of this State; and which is too large in scope to be handled by the normal municipal operating services; 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. and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and the Statutes of this State including the provisions of N.J.S.A. Appendix A:9-33 et seq., in order to protect the health, safety and welfare of the people of the State of New Jersey, do hereby ORDER and DIRECT THAT:

1. A State of Emergency has existed since May 30, 2002 and presently exists in Camden and Gloucester Counties as a result of the aforementioned accident and consequent danger to life and damage to property including Federal-aid highways. The immediate repair and reconstruction of the damaged highways is vital to the security, well-being, and health of the citizens of the State of New Jersey; and the Federal Highway Administrator is hereby requested to concur in the declaration of this emergency; and

2. The State Director of Emergency Management, in accordance with N.J.S.A.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 such vehicular traffic on any State Highway, municipal or county 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; and

3. In accordance with N.J.S.A.App. A:9-33 et seq. as supplemented and amended, the Attorney General, pursuant to the provisions of N.J.S.A.39:4-213 to determine the control and direction of the flow of vehicular traffic on any State or Interstate highway, and its access roads, including the right to detour, reroute or divert any or all traffic, and to prevent ingress or egress from any area to which the declaration of emergency applies, and further authorize all law enforcement; and

4. The Commissioner of Transportation to undertake immediately all acts necessary to accomplish, as expeditiously as possible, the restoration and repair of the damaged portion of Creek Road and I-295 and to take all necessary steps to obtain emergency repair funds available pursuant to 23 U.S.C. s.125 and any other applicable law; and

5. It shall be the duty of every person or entity in this State or doing business in this State, and the members of the governing body, and of each and every official, agent or employee of every political subdivision in this State and of each member of other governmental bodies, agencies and authorities in this State of any nature whatsoever, fully to cooperate with the Commissioner of Transportation, the Attorney General, and the State Director of Emergency Management in all matters concerning this emergency; and

6. Pursuant to the N.J.S.A.App. A:9-40, that 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.

7. 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 August 28, 2002.

EXECUTIVE ORDER NO. 29

WHEREAS, The terrible events of September 11, 2001 have had a profound impact on the lives of all Americans; and

WHEREAS, New Jersey was particularly affected by the attacks, with many residents suffering the loss of family members, loved ones, friends and neighbors; and

WHEREAS, At least 691 New Jersey residents were killed on September 11, 2001, a number that represents more than one-quarter of the total number of victims lost in these attacks; and

WHEREAS, The victims, who came from all walks of life, and possessed a myriad of talents, abilities and virtues, contributed to their communities and our State in countless ways, and we feel their loss deeply; and

WHEREAS, These fallen heroes deserve to be honored with a permanent memorial in their home State; and

WHEREAS, It is wholly appropriate that the wishes, thoughts and preferences of family members, loved ones, and survivors, be considered and incorporated in the design, planning and construction of a New Jersey September 11th memorial (Memorial) to the victims; and

WHEREAS, The "memorial walls," which include tributes to the victims composed by family members and loved ones at the New Jersey Family Assistance Center in Liberty State Park, are moving remembrances to those lost New Jersey residents that many family members wish to have preserved in a permanent display; and

WHEREAS, It is appropriate that the funds necessary to design, construct and maintain the aforementioned Memorial and the memorial walls should be identified, marshaled and maintained by a not-for-profit entity, and should include any available private and public funds or grants; and

WHEREAS, The New Jersey Family Advocate Management Corporation, a not-for-profit organization, which has been involved with September 11th issues in this State, and been instrumental in

providing relief to New Jersey victims and victim family members, is an appropriate vehicle to develop and maintain this fund;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 that:

1. There is hereby established a Family and Survivor Memorial Committee, who shall be selected from adult family member volunteers and other interested parties who lost loved ones or survived the September 11, 2001 attacks.

2. The work of the Committee shall be organized and coordinated by an Administrative Director, to be designated by the Office of Recovery and Victim Assistance. The Administrative Director shall, with the guidance of the Commission and the Office of Recovery and Victim Assistance, select the committee members. The Committee may elect by a majority vote a chairperson, recording secretary and any other officers it sees fit to lead the committee, subject to the Administrative Director's organization and coordination responsibilities.

3. The Committee shall review and develop suggestions, plans and designs, or a suitable Memorial and for the preservation of the memorial walls.

4. The Committee shall submit its findings and recommendations to the Memorial Commission established by Executive Order 134 (2001), which shall incorporate these findings into their report, as well as to the Office of Recovery and Victim Assistance, and the Governor's Office.

5. The Committee is hereby authorized to call on the Commission and the Family Advocate Management Corporation for assistance and resources, and with the approval of the Commission or the Administrative Director, to seek the assistance of any agency of State government or public or private entity to provide resources, information or other assistance or services deemed necessary to discharge its responsibilities under this Order.

6. The duties of the Office of Recovery and Victim Assistance shall be expanded to include the following:

a. To cooperate and coordinate with private and public agencies, as well as with the Family Advocate Management Corporation, or other not-for-profit corporations, and to enter into agreements with these entities

to further the purposes this Executive Order, and especially, to further the creation of an appropriate New Jersey September 11th Memorial and the preservation of the memorial walls; and

b. To coordinate and provide assistance in the development and management of a charitable fund within the Family Advocate Management Corporation, which fund shall be developed to provide the costs necessary to create the Memorial, and to preserve the memorial walls, including but not limited to costs for the solicitation, marshaling and accounting of private and public funds, costs for administrative and other services necessary for the selection, design, construction and maintenance of permanent memorial and the preservation and maintenance of the memorial walls.

7. This Order shall take effect immediately and to the extent it is inconsistent with the Executive Order 134 (2001) that order is hereby rescinded.

Dated August 28, 2002.

EXECUTIVE ORDER NO. 30

WHEREAS, September 11, 2002 marks the first anniversary of the terrorist attacks on New York, Washington and Pennsylvania; and

WHEREAS, On this date, remembrance ceremonies and other memorial events, both public and private, will be taking place;

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, The lives of hundreds of New Jersey families have been drastically affected, through the loss of a parent, spouse, child or other loved one; and

WHEREAS, It is fitting that this day be observed with appropriate solemnity, in tribute to the thousands of innocent victims who perished in the attacks;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 September 11, 2002 in recognition and mourning of all of those lost in the September 11th attacks, and particularly, those lost from our home State.

2. State employees who lost an immediate family member in the attacks on September 11, 2001 and who wish to take the day off from work on September 11, 2002 shall be granted a paid day off on that date, upon written notice to the agency or division at which they are employed.

3. Immediate family member for purposes of this ORDER means an employee's spouse, child, legal ward, foster child, grandchild, father, mother, legal guardian, grandfather, grandmother, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law and other individuals residing in the employee's household.

4. This Order shall take effect immediately.

Dated August 28, 2002.

EXECUTIVE ORDER NO. 31

WHEREAS, Faith-based community organizations are among New Jersey's most valuable resources; and

WHEREAS, Faith-based community organizations play an indispensable role in meeting the fundamental needs of many New Jersey citizens; and

WHEREAS, The State must ensure that its efforts to assist faith-based programs are as strong, coordinated and effective as possible in light of current budgetary circumstances; and

WHEREAS, It is vital for the State to provide an effective mechanism for guaranteeing active participation by representatives of the faith-based community concerning the formulation and implementation of government programs to assist faith-based organizations; and

WHEREAS, The State will foster the growth of faith-based initiatives by integrating and coordinating its existing faith-based initiatives with the network of resources which are currently available within the Department of State; and

WHEREAS, It is also appropriate to create an advisory commission comprised of Cabinet officials, representatives of the faith-based community, as well as representatives of the business community, to provide recommendations for coordinating and maximizing the effectiveness of the State's efforts to foster faith-based programs and initiatives;

NOW THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established an Office of Faith-Based Initiatives in the Department of State.

2. The Office of Faith-Based Initiatives currently in the Department of Community Affairs is abolished and all of its functions, powers, duties and responsibilities, except as herein otherwise provided, are continued in the Office of Faith-Based Initiatives established under this Executive Order.

3. All appropriations and other moneys available and to become available to the Office of Faith-Based Initiatives abolished under this Executive Order are hereby continued in the Office of Faith-Based Initiatives established under this Executive Order, and shall be available for the objects and purposes for which appropriated, subject to any terms or conditions of such appropriations.

4. Employees of the Office of Faith-Based Initiatives abolished under this Executive Order shall become employees of the Office of Faith-Based Initiatives established under this Executive Order, and shall retain their present employment status under Title 11A and their collective negotiations status.

5. The transfer of personnel, appropriations, other funds, records, equipment and other property from the Department of Community Affairs to the Department of State shall be effectuated pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C. 52:14D-1 et seq.).

6. The Office of Faith-Based Initiatives established under this Executive Order shall be managed by a Director, who shall be appointed by, and serve at the pleasure of, the Secretary of State.

7. Additionally, there is hereby created an Advisory Commission on Faith-Based Initiatives.

8. The Advisory Commission on Faith-Based Initiatives shall be comprised of twenty-three (23) members to be appointed by the Governor as follows: the Commissioner of Community Affairs, or her designee; the Commissioner of Education, or his designee; the Commissioner of Human Services, or her designee; the Commissioner of Labor, or his designee; the Secretary of State, or her designee; the Secretary and CEO of Commerce, or his designee; the Commissioner of Corrections, or his designee; the Attorney General, or his designee; and fifteen (15) public members. The Governor shall appoint the Chair of the Commission.

9. The Director of the Office of Faith-Based Initiatives established under this Executive Order shall serve as Executive Director of the Advisory Commission on Faith-Based Initiatives.

10. The role of the Advisory Commission on Faith-Based Initiatives shall be to advise the Governor regarding matters affecting the public faith-based organizations including, but not limited to, making recommendations to the Governor concerning the future of existing State programs and initiatives.

11. The Advisory Commission on Faith-Based Initiatives shall report periodically to the Governor and provide him with information and recommendations for his consideration.

12. All agencies of State government are directed to cooperate fully with the Office of Faith-Based Initiatives and the Advisory Commission on Faith-Based Initiatives, both established under this Executive Order, to promote and coordinate appropriate programs and initiatives.

13. This Order shall take effect immediately.

Dated September 11, 2002.

EXECUTIVE ORDER NO. 32

WHEREAS, The Water Supply Management Act, N.J.S.A.58:1A-1 et seq., vests the Governor with significant authority to address water supply emergencies in the State; and

WHEREAS, The State has a statutory obligation to manage its water resources efficiently and effectively as public assets of the State held in trust for its citizens to ensure their health, safety and welfare; and

WHEREAS, It is a fundamental obligation of government to ensure a safe and adequate supply of drinking water; and

WHEREAS, The State is now in the seventh month of a water emergency declared in Executive Order No. 11, dated March 4, 2002, which water emergency period is part of a larger sustained period in which 35 of the last 49 months have experienced below normal rainfall, with 8 of the last 12 months being significantly below normal, including several periods that have been the driest in recorded New Jersey meteorological history; and

WHEREAS, The current pace of development in the Pinelands Regional Growth Areas in Atlantic County threatens to create seriously adverse ecological and water supply consequences to the Kirkwood-Cohansey aquifer system; and such consequences could result prior to the completion of the long-term study of the ability of the aquifer to meet the water supply needs of the Pinelands area currently being performed pursuant to P.L.2001, Chapter 165; and

WHEREAS, The water purveyor for the Townships of Egg Harbor and Galloway has exceeded its permitted water allocation and will be unable to supply water for additional growth in the Regional Growth Areas unless additional water can be allocated; and

WHEREAS, The Township of Hamilton is currently operating within its permitted water allocation limits, but with current rates of development, is likely to face serious water supply shortfalls unless additional capacity can be allocated; and

WHEREAS, A range of regulatory programs may be encouraging development expectations and private investments in the Townships of Egg

Harbor, Galloway and Hamilton that may worsen the ecological and water supply impacts which may, in turn, exacerbate the current water emergency or may cause other water emergencies in the future;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 Department of Environmental Protection, in consultation with the Department of Community Affairs, the Pinelands Commission, Rutgers University, the State Climatologist, the United States Geological Survey, Atlantic County and any other entity which may provide expertise deemed necessary by the Commissioner of DEP shall, within one year of the effective date of this Order, assess the adequacy of the water supply in relation to approved and anticipated growth in Egg Harbor, Galloway and Hamilton Townships.

2. The Department of Environmental Protection, consistent with the Water Emergency Orders previously issued, shall hold in abeyance, during the duration of the water emergency currently in effect, all decisions on any new or modified water allocation permits or water use registrations for water supply under N.J.A.C. 7:19 in Egg Harbor, Galloway and Hamilton Townships.

3. During the state of water emergency, pursuant to N.J.S.A.58:1A-4(d), I hereby suspend the applicability of any laws, rules or regulations pertaining to the Department of Environmental Protection, to the extent they would prevent the implementation of Department of Environmental Protection Administrative Order No. 2002-22, a copy of which is attached hereto.

4. For the duration of the water emergency currently in effect, the Water Emergency Task Force, established pursuant to N.J.A.C.7:19-12, shall consider and make recommendations to the Commissioner regarding any applications for hardship exemption from Section 2 above and from Department of Environmental Protection Administrative Order No. 2002-22, based upon the Hardship Exemption Procedures set forth in N.J.A.C. 7:19-16.

5. This Executive Order shall take effect immediately.

Dated September 22, 2002.

EXECUTIVE ORDER NO. 33

WHEREAS, The Legislature has found and declared in P.L.2001 c.246 the threat of terrorist attack presents a serious and continuing danger, to the residents of the State of New Jersey; and

WHEREAS, The World Trade Center and Pentagon attacks and other significant events, both domestic and foreign, have emphasized the State's compelling interest in developing and maintaining a precisely coordinated counter-terrorism and preparedness effort to enhance the public safety; and

WHEREAS, A uniform and cooperative Statewide response is required to effectively ensure domestic preparedness; and

WHEREAS, The effectiveness of law enforcement's counter-terrorism efforts will depend to a large degree on its regular compilation of intelligence information regarding terrorism activities; and

WHEREAS, A centralized office to coordinate the State's counter-terrorism and preparedness efforts is essential to provide for the public's safety and welfare;

NOW, THEREFORE, I, James E. McGreevey, 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 that:

1. The Office of Counter-Terrorism (OCT) is created and empowered to administer, coordinate and lead New Jersey's counter-terrorism and preparedness efforts with the goals of identifying, deterring and detecting terrorist-related activities, consistent with the New Jersey Domestic Security Preparedness Act.

2. To counter the threat of terrorism, the OCT shall be organized as a separate office within the Department of Law and Public Safety, with all of the powers conferred by law to the Department, subject to approval by the Attorney General, including the powers conferred by the Criminal Justice Act of 1970, P.L.1970 c.74, as amended by P.L.1981 c.187, in addition to the powers and duties set forth below.

3. The OCT shall be led by a Director of Counter-Terrorism, who will direct and supervise the work of the OCT, and who shall report directly

to the Attorney General or his designee, and, at the direction of the Governor, to the Governor or his designee, as appropriate.

4. The Director for Counter-Terrorism and the OCT shall, with the approval of the Attorney General, and in consultation with the Department of Personnel and the Director of the Office of Management and Budget, utilize and employ all such personnel as are necessary to carry out the duties of OCT.

5. To protect the public from terrorist acts, the OCT shall gather and disseminate intelligence for the State and local law enforcement entities and shall coordinate the counter-terrorism efforts of State and local law enforcement agencies under the direction and on behalf of the Attorney General, and shall serve as a liaison with federal authorities concerning counter-terrorism issues.

6. The OCT shall be authorized to call upon the expertise and assistance of all State departments, divisions and agencies in order to carry out its mission, and in particular, shall be authorized to call upon personnel of the Office of Information Technology in but not of the Department of the Treasury, the Computer and Technology Crimes and Money Laundering Units of the Division of Criminal Justice, and the High Tech Crime Unit within the Division of State Police for this purpose. Each department, division and agency of this State is hereby required, to the extent not inconsistent with law, to cooperate with the Attorney General and provide such assistance to the OCT as is necessary to accomplish the purpose of this Order.

7. To the extent not inconsistent with any other law, the OCT may, with the approval of the Attorney General, employ, consult and contract with private and public entities, and enter into such agreements with any public or private person or entity as is appropriate for the purposes of furthering the mission of the OCT, including but not limited to consulting with experts from any State college or university.

8. The OCT is authorized to draw on the assistance of any county or municipal governmental agency, or any independent authority, for the purposes of carrying out its duties and responsibilities under this Order.

9. In order to optimize the State's intelligence gathering and analysis capabilities regarding terrorist activities, the OCT shall develop and

maintain a databank of information regarding terrorists and terrorist-related activities.

10. To compile such a databank, the OCT is empowered to access all appropriate information in the possession of State departments, divisions and agencies and State and local law enforcement agencies, including but not limited to individual and compiled criminal and intelligence case files and information obtained or maintained by the Division of State Police in the Department of Law and Public Safety.

11. The OCT also shall seek relevant counter-terrorism intelligence information from all other appropriate sources, including the private sector and private individuals, and shall develop appropriate cooperative relationships with private industry, utility companies and other entities that may be potential targets of terrorism.

12. All documents, materials and information pertaining to counter-terrorism investigation, intelligence, training and protocols created, compiled, obtained or maintained by the OCT shall be deemed to be confidential, non-public and not subject to the Open Public Records Act, P.L.1963, c.73, as amended and supplemented.

13. To maximize State intelligence capabilities, the OCT shall develop and administer training programs for both law enforcement and non-law enforcement entities on counter-terrorism and intelligence gathering and analysis on a Statewide basis, and all State departments, divisions, facilities and agencies shall provide appropriate assistance to the OCT in regard to such training programs.

14. The OCT shall review all State legislation regarding counter-terrorism and report to the Attorney General and the Governor regarding such legislation, as appropriate, and further, shall review existing laws and recommend to the Attorney General and the Governor any appropriate modifications, amendments or initiatives to support or enhance the State's counter-terrorism and preparedness capabilities.

15. The OCT shall seek out and monitor federal and State grant programs regarding counter-terrorism; and further, shall identify and may participate in any appropriate federal or multi-State law enforcement programs and efforts that would support or compliment the OCT's efforts.

16. Executive Order Number 3 is hereby rescinded.

17. This ORDER shall take effect immediately.

Dated October 3, 2002.

EXECUTIVE ORDER NO. 34

WHEREAS, Assemblyman Tom Smith, a devoted family man, served honorably with the United States Army during World War II, and dedicated many years in public service to the people of the State of New Jersey; and

WHEREAS, Assemblyman Smith held several important public offices in the City of Asbury Park, including Police Chief for 11 of his 38 years on the City's police force, Councilmember for four years and Mayor of Asbury Park for four years; and

WHEREAS, Assemblyman Smith was elected to the General Assembly in 1992 as the first African American from Monmouth County to win a State legislative seat; and

WHEREAS, Assemblyman Smith held numerous leadership positions including service as Deputy Speaker from 1998 to 2001 and was the senior member of the State Legislature; and

WHEREAS, It is with deep sadness that we mourn the loss of Assemblyman Smith and extend our sincerest sympathy to his family and friends; and

WHEREAS, It is fitting and appropriate to honor the memory and the passing of Assemblyman Smith;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 Thursday, October 17, 2002 in recognition and mourning of the passing of Assemblyman Smith.

2. This Order shall take effect immediately.

Dated October 16, 2002.

EXECUTIVE ORDER NO. 35

WHEREAS, Assemblyman Melvin Cottrell, a devoted family man, dedicated many years in public service to the people of the State of New Jersey; and

WHEREAS, Assemblyman Cottrell served the residents of Ocean County as Assistant Superintendent of Public Property; and

WHEREAS, Assemblyman Cottrell held public office in Jackson Township from 1986 to 1991 as a member of the Township Committee, and served as Mayor during 1988 and 1989; and

WHEREAS, Assemblyman Cottrell was elected to the General Assembly in 1992 and was a respected member of that House, where he served on the Family Women and Children's Services and as a former Chair of the Senior Issues Committees; and

WHEREAS, Assemblyman Cottrell sponsored laws amending the State's murder statute to permit the display of a murder victim's photograph at the sentencing phase of a murder trial and amending the Consumer Fraud Act to impose stronger penalties against those who defraud senior citizens; and

WHEREAS, It is with deep sadness that we mourn the loss of Assemblyman Cottrell and extend our sincerest sympathy to his family and friends; and

WHEREAS, It is fitting and appropriate to honor the memory and the passing of Assemblyman Cottrell;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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, October 18, 2002 in recognition and mourning of the passing of Assemblyman Cottrell.

2. This Order shall take effect immediately.

Dated October 16, 2002.

EXECUTIVE ORDER NO. 36

WHEREAS, The New Jersey Division of Youth and Family Services in the Department of Human Services will undergo federal review of its agency under the Children and Family Services Review ("CFSR") conducted by the United States Department of Health and Human Services, Administration for Children and Families, beginning with a self assessment in 2003 and an onsite review in or about March 2004; and

WHEREAS, The CFSR monitors and evaluates the State's child and family services, including protective services, family preservation and support, foster care, independent living and adoption services; and

WHEREAS, The New Jersey Division of Youth and Family Services is establishing a steering committee for the participation of external stakeholders as required by the United States Department of Health and Human Services, Administration for Children and Families, and has commenced the preparation for the CFSR; and

WHEREAS, A portion of the CFSR will monitor and evaluate systematic factors, such as service array accessibility to such circumstances as domestic violence and substance abuse; and

WHEREAS, There exists involvement of all branches of government and multiple levels within these branches of government in circumstances such as domestic violence and substance abuse; and

WHEREAS, September is Substance Abuse Awareness Month and October is Domestic Violence Awareness Month; and

WHEREAS, The Governor has expressed his strong support of the improvement of services for New Jersey's children and families; and

WHEREAS, The Governor has expressed his commitment to partner with other branches of government to work collaboratively to improve the services New Jersey provides to its citizens; and

WHEREAS, The Legislature has expressed a desire to partner with the Department of Human Services to conduct its own review of the interplay between domestic violence and the welfare of children and families and the interplay between substance abuse and the welfare of children and families;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 Commissioner may jointly conduct hearings with the Legislature where joint invitations are sent to interested parties for participation in two hearings; one involving the interplay between domestic violence and the welfare of children and families, the other involving the interplay between substance abuse and the welfare of children and families.

2. The Commissioner, in cooperation with the Legislature, may establish two separate work groups, one for domestic violence and one for substance abuse, the membership of which shall be comprised of persons jointly recommended, representatives of various branches of government, various State departments, community providers, advocacy groups, and interested parties, provided that at least two persons from the existing steering committee formed by the Division of Youth and Family Services under the CFSR, shall be a member of each work group to facilitate shared ideas, to avoid duplication and to promote cooperative endeavors for the common goal.

3. Within one year, the work groups shall present a joint report to the Commissioner and the Legislature in open session, focusing on how the various branches and levels of government, the various State departments, the multitude of community partners, advocacy groups and interested parties can be instrumental in the Division of Youth and Family Services better serving the interests of children and families through implementation of initiatives regarding issues of domestic violence and substance abuse, across

systems in a collaborative fashion. The report shall include, but not be limited to, recommendations regarding modifications of existing policies/procedures and legislation/regulations, as well as interdepartmental and advocacy group partnerships, as may be applicable.

4. This Order shall take effect immediately.

Dated October 23, 2002.

EXECUTIVE ORDER NO. 37

I, JAMES E. McGREEVEY, 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. November 29, 2002, the day following Thanksgiving, shall be granted as a day off to employees who work in the Executive Departments of State Government and who are paid from State funds or from federal funds made available to the State, whose functions, in the opinion of their appointing authority, permit such absence.

2. An alternate day shall be granted to the aforementioned category of employees whose functions, in the opinion of their appointing authority, precludes such absence on November 29, 2002.

Dated October 23, 2002.

EXECUTIVE ORDER NO. 38

WHEREAS, We are faced with a challenge of accommodating continued growth in New Jersey while ensuring that the State's citizens retain a quality of life that is not diminished by congestion and sprawl; and

WHEREAS, We will only succeed in this planning effort if we adhere to smart growth principles - in particular, we must stop subsidizing sprawl, focus on redevelopment and push for smarter regulations; and

WHEREAS, The redevelopment of designated smart growth areas complements important public policy goals of revitalizing the State's urban,

suburban and rural centers and preventing endless sprawl, while avoiding the degradation of natural and agricultural resources, the impairment of environmental quality, increases in local property taxes, and the overburdening of local transportation systems and other infrastructure; and

WHEREAS, Various State agencies have important roles to play in the redevelopment of localities that should be redeveloped because of their proximity to existing public services and infrastructure; and

WHEREAS, Coordination among these agencies and the targeted utilization of available State resources are critical to ensuring smart growth and the conservation of undeveloped regions of the State;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 Housing and Mortgage Finance Agency is hereby directed to develop and implement a self-sufficient homebuyer's incentive program for first-time purchasers of homes in areas designated for smart growth.

2. In order to encourage redevelopment, the Economic Development Authority (EDA) shall make short-term loans available to developers to offset pre-development funding gaps and funding requirements for brownfields remediation. These loans shall be made at such rates and upon such terms as the EDA Board of Directors deems appropriate.

3. The Commerce and Economic Growth Commission (Commerce Commission) shall continue to act as a single point of entry for businesses and developers seeking to locate or expand in New Jersey. The Commerce Commission shall continue to provide financial incentives and/or information, consistent with its current programmatic responsibilities, to existing or prospective businesses or developers concerning available incentives for business expansion, relocation or related development projects.

4. In consultation with the Commerce Commission, the Office of Smart Growth within the Department of Community Affairs (DCA) shall establish a reasonable priority of projects and recommend investments through a "super-incentives" approach that targets existing resources for projects in areas designated for smart growth. This initiative shall coordinate, in a unified approach, all of the programs currently administered by

relevant state agencies. DCA shall identify a set of permissive criteria that will provide participating, qualifying municipalities priority consideration under this unified approach.

5. Relevant State agencies and the Office of Administrative Law shall develop and implement a system that will give priority to applications and appeals involving development and redevelopment in areas designated for smart growth.

6. DCA shall prioritize existing resources in order to enhance technical support to municipal zoning and planning boards that commit to smart growth principles.

7. DCA shall ensure timely inspections on a Statewide basis and implement a pilot program providing for immediate DCA inspection of projects in areas designated for smart growth whenever local code officers fail to meet the standards of timeliness set in the Uniform Construction Code.

8. DEP, in consultation with interested State agencies, municipal governments, and affected constituents, shall initiate a comprehensive program of regulatory reforms that will increase the predictability of regulatory outcomes, facilitate smart growth, strengthen regulatory protection of public health, safety and significant environmental resources, and integrate the assumptions and planning of other agencies. DEP shall closely coordinate this effort with the Office of Smart Growth.

9. DEP shall establish a mechanism, including appropriate safeguards, allowing the use of pre-qualified consultants to perform scientific and other professional reviews required of developers in order to expedite project review and implementation for brownfields redevelopment and in other smart growth areas as determined in coordination with the Office of Smart Growth.

10. DEP shall develop and implement a program utilizing mitigation fees, accounts and other market approaches that will expedite the restoration of environmentally impacted properties, facilitate regulatory review, reduce uncertainty and promote cost-effective and environmentally sound approaches to smart growth.

11. The Environmental Infrastructure Trust, under the direction of the DEP Commissioner, shall establish and implement a program to reduce

infrastructure finance costs in designated smart growth areas I coordination with the Office of Smart Growth.

12. In selected redevelopment areas (Asbury Park and Camden have been identified to date), DCA is hereby directed, in cooperation with municipalities, to develop a model approach that allows DCA to (a) serve as a point of contact for all permit applications to State agencies, track permit applications and expedite approval; (b) act as liaison between developer and State agencies granting approvals and provide the developer with status reports on the progress of State agency approvals; (c) assist in identifying features of the project that will require State agency approvals; (d) investigate areas where projects may require special consideration under State rules and assist in offering possible solutions; (e) review plans and specifications for compliance with the Uniform Construction Code; (f) issue building permits (verifying that all prior approvals have been granted) and (g) perform all necessary inspections under the Uniform Construction Code.

13. The Department of Transportation (DOT), together with appropriate independent and bi-state authorities, shall coordinate and consult regarding the planning and implementation of transportation infrastructure. DOT shall develop a Statewide master capital plan encompassing input from all transportation authorities.

14. DOT shall work with the DEP and all other State agencies, as required, to implement a permit coordination program to expedite capital transportation projects in designated smart growth areas.

15. DOT shall review the processing of permit applications, including highway access permit applications, and target resources to such applications that are located in areas designated for smart growth.

16. DOT is directed to work with New Jersey Transit and other transportation entities throughout the State to develop and maintain a master list of park-and-ride lots, including their parking capacity, at mass transit facilities and transportation centers in order to identify the capacity needs related thereto and to implement in its upcoming annual Transportation Capital Program a demonstrable commitment toward solving the parking capacity needs at the State's mass transit facilities.

17. This Order shall take effect immediately.

Dated October 24, 2002.

EXECUTIVE ORDER NO. 39

WHEREAS, The Asian American community represents a large segment of the population of the State of New Jersey and contributes significantly to the economic well being and cultural richness of this State; and

WHEREAS, Asian Americans are one of the fastest growing racial groups in New Jersey and the United States; and

WHEREAS, New Jersey is committed to understanding the community, economic, social, health and educational needs and issues that are important to the Asian American population in this State;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 Governor's Asian American Commission, hereinafter referred to as "the Commission".

2. The Commission shall be comprised of no greater than forty-five (45) members to be appointed by the Governor and to serve at the pleasure of the Governor. The Secretary of State, or her designee, shall be a member. The balance of the members shall represent a cross-section of the Asian American population in this State. All public members shall be appointed for a term of two (2) years and shall serve without compensation.

3. The Chair of the Commission shall be selected by the Governor from among the membership.

4. It shall be the charge and duty of the Commission to accomplish the following:

a. Develop and coordinate Statewide programs, recognizing the continuing contributions of Asian Americans in New Jersey;

b. Draw upon the membership's shared knowledge and expertise in creating activities designed to better educate all citizens of New Jersey as to Asian American issues and culture and to promote the spirit of Mahatma Gandhi and Dr. Martin Luther King, Jr. by celebrating the religious, ethnic and racial diversity within this State; and

c. Develop policies to improve the community, economic, social well-being, health and educational needs important to Asian American communities in New Jersey; and

d. Increase awareness among Asian Americans as to governmental affairs and community and social service resources that may benefit Asian American individuals and communities as a whole.

5. The Commission shall meet no less than quarterly and shall report directly to the Governor, outlining its progress and advising the Governor of the Commission's recommendations, as they relate to the charge and duties set forth above.

6. This Order shall take effect immediately.

Dated October 25, 2002.

EXECUTIVE ORDER NO. 40

WHEREAS, Females and males of all ages, racial, cultural and economic backgrounds are victims of sexual violence, which includes rape, incest, unwanted sexual contact, sexual harassment, prostitution or exposure to pornography and voyeurism; and

WHEREAS, 1 in 4 women and 1 in 6 men in the United States have experienced rape or attempted rape at some time in their lives; and

WHEREAS, Women who are sexually assaulted as children and adolescents are at greater risk of being sexually assaulted as adults; women who were raped before the age of 18 are twice as likely to be raped as an adult; and

WHEREAS, In the United States, violence against women is predominately intimate partner violence; 76 percent of women who have been raped or physically assaulted since the age of 18 are assaulted by a current or former husband, cohabitating partner or date; and

WHEREAS, In New Jersey, 1 in 10 victims report their assault to law enforcement, and a total of 1,277 rapes were reported in 2001; and

WHEREAS, In New Jersey, over 18,000 victims and family members received services in 2000 from New Jerseys 21 county rape care programs; and

WHEREAS, A function of the Office on the Prevention of the Violence Against Women (the Office) in the Division on Women within the Department of Community Affairs is to implement strategies to prevent violence against women and to explore prevention initiatives;

NOW, THEREFORE, I, James E. McGreevey, 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 the Advisory Council Against Sexual Violence within the Office on the Prevention of Violence Against Women in the Division on Women within the Department of Community Affairs. The Council shall review and recommend policies, procedures, protocols, training and standards relating to sexual violence and recommend solutions in the prevention of sexual violence.

2. The Council shall consist of the following 25 members:

a. The Commissioner of the Department of Community Affairs, the Director of the Division on Women in the Department of Community Affairs, the Commissioner of the Department of Health and Senior Services, the Commissioner of the Department of Education, the Attorney General, Director of the Administrative Office of the Courts with the approval of the Chief Justice, Superintendent of the State Police, the Chief of the Office of Victim-Witness Advocacy, the Supervisor of the Office on the Prevention of Violence against Women, the Coordinator of State Rape Care Program, or their designees.

b. 15 public members appointed by the Governor shall include the following representatives: a county assistant prosecutor, assigned to prosecute sexual assault cases, a licensed social worker or licensed clinical social worker with demonstrated expertise in the field of sexual violence, a law enforcement representative with experience in sexual violence, a representative from the New Jersey Hospital Association, a representative of the New Jersey State Nurses Association, a Sexual Assault Nurse Examiner, a survivor of sexual violence, a representative from a New Jersey college or university, a representative from the Violent Crime Compensation Board, a representative with expertise in child sexual abuse and treatment, a representative of the New Jersey Coalition for Battered

Women, and four representatives of the New Jersey Coalition Against Sexual Assault.

c. The Chairperson of the Advisory Council on Sexual Violence shall be selected by the Governor from among the membership of the Council.

3. The Advisory Council Against Sexual Violence shall:

a. Review the effectiveness of the current protocols, standards and practices for the examination and treatment of victims of sexual violence and attempted sexual assault and review the implementation of the protocols, standards and practices.

b. Develop specific protocols, standards and practices and recommendations to provide for an ongoing review and improvement of services for victims of sexual violence.

c. Study the needs, priorities, programs and policies relating to sexual violence throughout the State.

d. Monitor the effectiveness of the laws concerning sexual violence and make recommendations for their improvement.

e. Review proposed legislation governing sexual violence and make recommendations to the Governor and the Legislature.

f. Ensure that service providers and citizens are aware of the needs of victims and services available to victims of sexual violence and make recommendations for community education and training programs.

4. The Advisory Council Against Sexual Violence shall report its progress to the Governor within one year of the effective date of this order, and thereafter, on a regular basis as determined by the Council.

5. On the effective date of this order, all of the records and files of the Sexual Assault Protocol Council shall be transferred to the Advisory Council Against Sexual Violence.

6. This order shall take effect immediately.

Dated November 22, 2002.

EXECUTIVE ORDER NO. 41

WHEREAS, Christopher S. Scales joined the New Jersey State Police in May, 1987, and was assigned to Troop D, New Jersey Turnpike Tactical Patrol Unit; and

WHEREAS, Trooper Scales served with exceptional courage and professionalism, genuine courtesy and abiding commitment to the finest traditions of the New Jersey State Police; and

WHEREAS, Trooper Scales served proudly as part of the finest State Police force in the Nation; and

WHEREAS, Trooper Scales has made the ultimate sacrifice, giving his life in the line of duty while protecting New Jersey citizens and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory.

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 mast at all State departments, offices, agencies and instrumentalities during appropriate hours for one week, commencing Wednesday, December 4, 2002, in recognition and mourning of New Jersey State Trooper Christopher S. Scales, Badge 5475.

2. This Order shall take effect immediately.

Dated December 5, 2002.

EXECUTIVE ORDER NO. 42

WHEREAS, Executive Order No. 14 created the Commission on Health Science, Education and Training, hereinafter referred to as the Commission, to examine ways to enhance the overall quality of medical and health education in New Jersey, and to increase the State institutions' national competitiveness; and

WHEREAS, The Commission examined a range of possible solutions, and steps that could be taken to create a comprehensive university system that promotes excellence in all schools and disciplines including medical and health education and attracts top students,

distinguished faculty, and significant research funding from public and private sources; and

WHEREAS, On October 14, 2002, the Commission issued its Report recommending that the current institutional structure be re-aligned by restructuring Rutgers, the State University of New Jersey (Rutgers), the University of Medicine and Dentistry (UMDNJ) and the New Jersey Institute of Technology (NJIT) into a single, research university system with three distinct, university campuses in North, Central and South Jersey; and

WHEREAS, The Commission's Report has been reviewed by and discussed with various leaders of the State's higher education community and the administration and faculty of the public research institutions, and its recommendations and vision have merit; and

WHEREAS, The vision of academic excellence in New Jersey's public research universities and its higher education system is worthy of implementation;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 a Review, Planning and Implementation Steering Committee, hereinafter referred to as the Steering Committee.

2. The Steering Committee shall consist of twenty-one (21) members appointed by the Governor. The Steering Committee will be supported by three University Committees, several Issues Working Groups, and Advisory Groups. The Steering Committee shall be chaired by Dr. P. Roy Vagelos. Members of the Steering Committee will include the Commissioner of the Department of Health and Senior Services, the Chairs of the Boards of Trustees of Rutgers, UMDNJ and NJIT; the Chair of the Board of Governors of Rutgers; and the Presidents of Rutgers and NJIT, and the Executive Vice President of Academic Affairs of UMDNJ. The remaining members will be selected from among representatives of higher education, research foundations, business and industry, the Governor's Education Cabinet, and the community.

3. The Steering Committee is authorized on behalf of the Governor to examine the rules, procedures and practices of the public research

universities in order to recommend in what respect such rules, procedures and practices may be altered or improved with a view toward carrying out the purpose of this Order.

4. The charge of the Steering Committee shall be to:

a. Review the impact of the Commission's recommendations on the three institutions and to create a comprehensive plan for the restructuring;

b. Facilitate the collection from the three public research universities of information pertaining to the restructuring;

c. Examine, and advise the Governor through the Chair of the Steering Committee concerning the prioritization of the implementation of specific strategies to restructure the three public research universities;

d. Within thirty (30) days of the first meeting of the Steering Committee, outline a proposed work plan for the preparation of an assessment and implementation plan;

e. Recognizing that the actual restructuring will likely be a multi-year effort, deliver an assessment and implementation interim report to the Governor that includes, for the various stages of implementation, the actions required, a timeline for those actions, specific milestones and responsibilities.

5. The Chair of the Steering Committee is hereby empowered to organize its work and committee structure as he deems it necessary including but not limited to:

a. Establishing an Executive Advisory Committee consisting of academic experts, community members, constituents and other stakeholders who will provide their unique perspectives to the Steering Committee and appointing its chair(s).

b. Establishing sub-committees to address specific issues that have strategic and system-wide implications. Such sub-committees may be charged with developing proposals on topics including but not be limited to: academic affairs, health affairs, faculty, students, finance/accounting, operations, accreditation, human resources, physical plant, community relations, alumni affairs, information technology/communications. Each sub-committee shall be chaired by a designee of the Committee and may also include representatives from outside the public research universities with relevant expertise.

6. Upon the request of the Chair of the Steering Committee, acting directly or through his staff, the Administration of the three public research universities shall provide the Steering Committee with such information as the Steering Committee may need for the purpose of carrying out its charge.

7. The Steering Committee is authorized to call upon any department, office, agency, authority, instrumentality or institution of State Government to provide such information, resources, or other assistance deemed necessary to discharge its responsibilities under this Order. Each department, office, division, agency, authority, instrumentality and institution of this State is hereby required to cooperate with the Steering Committee and its staff and to furnish it with such information, personnel and assistance as is necessary to accomplish the purposes of this Order.

8. Members of the Steering Committee shall serve without compensation, except that they may receive per diem and travel expenses.

9. This Order shall take effect immediately.

Dated December 10, 2002.

EXECUTIVE ORDER NO. 43

WHEREAS, A vital transportation system in New Jersey is essential for the health and well being of our communities, our working families, and our economy; and

WHEREAS, New Jersey is already the most densely populated state in the country and its population is expected to grow by 1 million people by the year 2020; and

WHEREAS, New Jersey's highway and bridge system is overburdened and in need of repair; and

WHEREAS, New Jersey's public transportation system is over capacity and suffering from ten years of deferred maintenance; and

WHEREAS, The aging transportation infrastructure in New Jersey poses a significant and ongoing safety and security concern; and

WHEREAS, New Jersey drivers waste 261 million hours sitting in traffic, costing each New Jersey driver nearly $1,300 per year, negatively impacting our quality of life and losing valuable time that could be better spent with our families; and

WHEREAS, Improving the transportation system to meet the needs of the 21st century is an important goal of this Administration, especially as it relates to reducing congestion, enhancing safety, and improving the quality of life for all working families in New Jersey; and

WHEREAS, The needs of New Jersey's transportation system outweigh the resources available; and

WHEREAS, In this time of limited resources it is important to identify and prioritize transportation needs and allocate available resources by incorporating the principles of "Fix it First" and "Smart Growth"; and

WHEREAS, A "Fix it First" strategy will focus our efforts on improving aging bridges and rehabilitating highways, rail and aviation systems first, instead of pursuing an expansion policy; and

WHEREAS, Smart growth principles will focus and direct transportation investments into the redevelopment of our older urban and suburban areas, protect existing open space, conserve natural resources, increase transportation options and transit availability, reduce automobile traffic and dependency, stabilize property taxes, and provide affordable housing; and

WHEREAS, The Transportation Equity Act for the 21st Century is a vital funding mechanism for the Department of Transportation to address the transportation system needs in New Jersey; and

WHEREAS, The United States Congress is scheduled to reauthorize the Transportation Equity Act for the 21st Century in 2003; and

WHEREAS, The Transportation Trust Fund was created in July 1984 to provide a stable and predictable funding source for state and local transportation capital improvements in New Jersey; and

WHEREAS, Of the 36,000 miles of roadway in New Jersey, 32,000 miles are controlled by county and municipal governments whose responsibility it is to maintain the quality of this local infrastructure; and

WHEREAS, The Local Aid programs funded through the Transportation Trust Fund were created to provide counties and municipalities the

tools and resources needed to maintain and operate these local roadways, which account for nearly 90% of New Jersey's roadways; and

WHEREAS, The Transportation Trust Fund must be renewed by July of 2004; and

WHEREAS, The current and future transportation needs of New Jersey are greater than the resources provided by the Transportation Trust Fund and the Transportation Equity Act for the 21st Century;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 a Blue Ribbon Transportation Commission ("Commission") to examine and make recommendations on the pressing transportation issues facing New Jersey over the next ten years. The Commission shall also identify the means necessary to address these pressing transportation issues and recommendations for their consideration during the upcoming renewal of the Transportation Trust Fund. The Commission shall issue a final report containing its findings and recommendations, including any recommendations for legislation that it deems appropriate, within one year after the Commission organizes.

2. The Commission shall consist of seven (7) public members appointed by the Governor, and the Commissioner of the New Jersey Department of Transportation (DOT), ex officio. The Commissioner of DOT shall serve as Chair of the Commission. The public members shall include representatives of the business, labor and environmental communities, as well as individuals with expertise in New Jersey transportation issues. The Commission shall organize as soon as may be practicable after the appointment of its members. The members shall appoint a secretary, who need not be a member of the Commission.

3. The Commission shall meet at the call of the chairperson. The Commission shall be entitled to call to its assistance and avail itself of the services of the employees of any State department, board, bureau, commission or agency, as it may require and as may be available for its purposes, and to employ stenographic and clerical assistance and incur traveling and other miscellaneous expenses as may be necessary in order to perform its

duties, within the limits of funds appropriated or otherwise made available to it for its purposes.

4. DOT shall work closely with the New Jersey congressional delegation and with other similarly situated states to establish funding priorities and develop a strategy to maximize the State's share of federal resources. This strategy shall consider proposals to provide DOT with the flexibility to ensure the expedited and efficient completion of transportation infrastructure improvements.

5. DOT, New Jersey Transit (NJT), the New Jersey Turnpike Authority (NJTA), the New Jersey Parkway Authority (NJPA) and the South Jersey Transportation Authority (SJTA) shall implement:

a. An expedited project delivery pipeline initiative, that will shave 1 to 4 years off the time to deliver a typical project, reduce project cost and increase the total number of projects that can be advanced in a year. This initiative will replace the "one-size-fits-all" schedule historically used by State agencies, whether projects are minor or major in nature. This improved project delivery process will accelerate the amount of work contracted by State agencies, create jobs and ensure that State agencies spend the maximum possible on transportation improvements; and

b. A highway safety initiative designed to reduce accidents on our highways through improved infrastructure, driver education, and traffic safety compliance enforcement; and

c. A Statewide rail plan designed to increase the efficiency of freight movement and thereby reduce the number of trucks on our highways; and

d. An improved access permit process that will expedite regulatory review and incorporate the principles of Smart Growth, when allowing access to New Jersey highways. This new process will curtail sprawl by directing development in growth areas, such as urban and older suburban corridors, and prevent it in environmentally sensitive and overdeveloped areas; and

e. An information and signage program that will convey clear, concise, consistent, and "smart" information to the motoring public. This initiative will consist of a Pilot Program to identify the resources necessary for Statewide implementation. DOT, NJT, NJTA, NJHA and SJTA will immediately begin to take steps to implement this Pilot Program and report to the Governor's Office on its progress in sixty days. The Pilot Program will fix confusing directional signs and implement technology to provide real-time traffic information. The Pilot Program will also reduce red tape by transferring traffic engineering decision-making from the State to local

6. DOT, NJT, NJTA, NJHA and SJTA, in conjunction with the Smart Growth Policy Council, shall develop plans that are consistent with New Jersey's smart growth policies and that promote and encourage the use of public transportation.

7. DOT, NJT, NJTA, NJHA and SJTA shall include in their capital investment strategy a process that will expedite projects determined to advance the principles of "Fix It First" and "Smart Growth." These projects shall receive priority treatment. Such projects shall include, but not be limited to, preserving and rehabilitating bridges and roadways, increasing capacity for all modes of public transportation, eliminating bottlenecks, preserving and rehabilitating airports, improving rail freight services, improving ferry services, enhancing safety, and making our communities more livable.

8. The Port Authority of New York and New Jersey, the Delaware River Bay Authority, the Delaware River Joint Toll Bridge Commission and the Delaware River Port Authority shall consider incorporating, on a priority basis, policies consistent with "Smart Growth" and "Fix It First" principles, with respect to New Jersey projects. In addition, these bi-state authorities shall consider the following measures:

a. implementing an expedited project delivery pipeline initiative to reduce project costs and increase the number of projects that can be advanced in a year;

b. coordinating their efforts, where appropriate, with the development of a Statewide rail plan;

c. implementing highway safety initiatives;

d. improving their access permits process to allow expedited regulatory review, while incorporating smart growth principles;

e. implementing information and signage programs to convey accurate and appropriate information to the motoring public; and

f. supporting and contributing to the expanded Park and Ride initiative.

9. This Order shall take effect immediately.

Dated January 7, 2003.

EXECUTIVE ORDER NO. 44

WHEREAS, A state of water supply emergency was declared in 1995, 1999 and 2002; and

WHEREAS, New Jersey has suffered from unusually dry weather conditions since 1998, with precipitation throughout the State during 2000 and 2001 among the lowest on record; and

WHEREAS, New Jersey is divided in six drought regions, based on watershed location and other conditions relevant to water supply, as follows: Central Drought Region (Middlesex, Somerset and Union Counties, and parts of Hunterdon, Mercer and Morris Counties); Coastal South Drought Region (Atlantic, Cape May and Cumberland counties, and parts of Burlington, Camden, Gloucester, Ocean and Salem counties); Northeast Drought Region (Bergen, Passaic, Hudson and parts of Essex and Morris counties); Northwest Drought Region (Sussex and Warren counties, and part of Hunterdon County) and Southwest Drought Region (parts of Burlington, Camden, Gloucester, Mercer, Monmouth and Salem counties); and

WHEREAS, On January 24, 2002, the New Jersey Department of Environmental Protection issued a drought warning for the Northeast, Northwest, Southwest, Coastal South and Coastal North Drought Regions, due to the precipitation deficit, record low ground water levels and stream flows, and depleted reservoir levels; and

WHEREAS, Executive Order No. 11 was issued on March 4, 2002, for the purpose of declaring a state of water emergency due to drought conditions throughout New Jersey, characterized by a protracted period of dry weather conditions and significantly depleted surface and ground water levels, including unprecedented low stream flows across the State; and

WHEREAS, Coordinated water management measures exercised by water suppliers, citizens, businesses and institutions, municipalities, counties, and the State, including water conservation efforts and voluntary and mandatory water use restrictions, effectively curtailed water use demands and allowed for the preservation of available supplies; and

WHEREAS, Coordinated water management measures exercised by water suppliers, citizens, businesses and institutions, municipalities, counties, and the State, including water conservation efforts and voluntary and mandatory water use restrictions, effectively curtailed water use demands and allowed for the preservation of available supplies; and

WHEREAS, Abundant rainfall across the State this fall and early winter contributed significantly toward eradication of the precipitation deficit, restoration of stream flows, and replenishment of water supply storage in critical northeastern New Jersey reservoirs; and

WHEREAS, Concerns regarding long-term climatic trends suggest that considerable attention must still be devoted to the stabilization of available water supplies through efficient management and prudent use of the resource; and

WHEREAS, It is appropriate and necessary to remain vigilant by continuing voluntary water conservation practices that are beneficial and essential to the preservation of available water supplies;

NOW, THEREFORE, I, JAMES E. McGREEVEY, 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 state of water emergency declared by Executive Order No. 11 is hereby terminated in all six New Jersey drought regions based upon the facts and circumstances set forth above.

2. The Department shall strictly enforce the terms and conditions of all water allocation permits and water registrations.

3. With respect to the Atlantic County Townships of Egg Harbor, Galloway, and Hamilton, the Commissioner is to continue to exercise the authority and discretion granted to him by statute and regulation to ensure that new development and new water connections can be supported by the water supply on a sustained yield basis.

4. With respect to the Townships of Egg Harbor, Galloway, and Hamilton, and other growth receiving areas under the Pinelands Comprehensive Management Plan, the Commissioner shall coordinate with affected mayors and with the Chairman and Members of the Pinelands Commission

in developing a long-term strategy to address growth management needs in the area.

5. With respect to Statewide water supply challenges, the Commissioner is directed to develop and implement a short-term and long-term strategy to strengthen protection of New Jersey's water supply, and to reduce the frequency and severity of drought emergencies affecting our communities.

6. All persons are encouraged to use water wisely and to comply fully with any water use measures imposed by applicable municipalities and counties, or water suppliers servicing their areas.

7. This Order shall take effect immediately.

Issued January 8, 2003.

REORGANIZATION PLANS

(1279)

REORGANIZATION PLAN NO. 001-2002
A PLAN FOR THE TRANSFER, CONSOLIDATION AND RE-ORGANIZATION OF THE HISTORIC TRUST INTO THE DEPARTMENT OF COMMUNITY AFFAIRS

PLEASE TAKE NOTICE that on September 19, 2002, Governor James E. McGreevey hereby issues the following Reorganization Plan No.001-2002 to provide for the increased efficiency, coordination and integration of the State's grant making functions by the transfer of the functions, powers, duties and personnel of the Historic Trust from the Department of State to the Department of Community Affairs.

GENERAL STATEMENT OF PURPOSE

The purpose of this Reorganization Plan is to further centralize the State's local grant-making functions and services in one executive department, the Department of Community Affairs (Department). That Department long has had broad responsibility for making grants to local government entities and private entities, and has developed substantial expertise in the administration of such grants. The Historic Trust, established by P.L.1976, c.124, as amended (C.13:1B-15.111 et seq.) is currently located in but not of the Department of State. Its purpose is to assist in the preservation, improvement, restoration, rehabilitation or acquisition of historic properties in the State.

To that end, the Trust is authorized to accept gifts, bequests and legacies, to acquire and hold real and personal property and to apply for and accept grants of monies from the federal government for historic site preservation. It may cooperate with State and local government entities to further the purposes of the Trust.

Since the passage of the New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987, P.L.1987, c.265, the Trust has been involved in making grants for the preservation of historic sites to State, county or municipal governments or non-profit organizations. These grants funded the actual construction activities at the historic sites. These projects also included funds for any work related to providing access for handicapped or disabled persons in accord with the Americans with Disabilities Act, 42 U.S.C.ss.12101 through 12213. In later years the Trust was given additional funds for historic preservation grants with the passage of the Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992, P.L.1992, c.88, and the Green Acres, Farmland and Historic

Preservation, and Blue Acres Bond Act of 1995, P.L.1995, c.204. These bond acts provided grants to State, county and municipal government entities or non-profit organizations for historic preservation construction projects. In 1987, pursuant to P.L.1987, c.265, the State also established the Historic Preservation Revolving Loan Fund which authorized the Trust to make loans to county and municipal governments and nonprofit corporations for the purpose of historic preservation. Finally, in 1999 the State enacted the Garden State Preservation Trust Act, P.L.1999, c.152 (C.13:8C-1 et seq.), for the purpose of providing funds to acquire and preserve open space, farmland and historic properties in New Jersey. As stated in N.J.S.A.13:8C-2, "a significant number of these historic properties are located in urban centers, where their restoration and preservation with advance urban revitalization efforts of the State and local governments." In 2000, the Garden State Historic Preservation Trust Fund Grants program was established at N.J.A.C.15:34-1 et seq., which provides both construction and planning grants to local government units or nonprofit organizations for historic preservation.

Based on the above, it is clear that the Trust's main purpose now is to administer grant programs that make grants to local governmental units and nonprofit organizations for the preservation of historic properties. Most of the grants are for construction activities and even the planning grants made ultimately lead to construction activities. Grants are awarded to local governments and nonprofit organizations by the Trust on a competitive basis. All applicants are evaluated in accord with the rules and regulations adopted by the Trust. The applicants that score the highest in each grant round receive grants.

Once an applicant receives a grant, the applicant must enter into an agreement with the Trust. These grant agreements contain the terms and conditions grantees must comply with in order to be reimbursed for the construction or planning activities. Most of the construction standards that all grantees must meet are contained within the Uniform Construction Code, N.J.A.C.5:23-1 et seq. ("UCC") administered by the Department of Community Affairs. The U.C.C. contains standards for construction and preservation of historic property at N.J.A.C.5:23-6 and construction standards that meet the requirements of the Americans with Disabilities Act at N.J.A.C.5:23-7. Placing the Historic Trust in but not of the Department of Community Affairs would improve the ability of both the Trust and it's grantees to interact with the divisions and bureaus in the Department responsible for establishing and interpreting the construction standards for the State of New Jersey.

Many local government units have found it difficult to compete with well-funded nonprofit organizations for grant funds because they must comply with the public contracting requirements. The Department of Community Affairs is responsible for assisting local governments in fulfilling their governmental responsibilities and achieve their community goals, N.J.S.A.52:27D-9. Placing the Trust in but not of the Department, which is responsible for overseeing the finances of local public units, should make it possible for the local public units to better access the Department's expertise in financial matters. The transfer of the Trust to the Department will also increase the efficiency and coordination of the State's grant-making functions by improving the interaction between the Trust, its grantees, and the Department which oversees the construction standards grantees must comply with when implementing their grant. This greater access to financial and construction expertise will make it possible for local government units to better compete for grants in the first instance and will make it more likely that they will be able to successfully implement the grants once they have obtained them.

NOW, THEREFORE, in accordance with the provisions of the Executive Reorganization Act of 1969, P.L.1969, c.203 (C.52:14C-1 et seq.), I find with respect to the reorganization included in this Plan that it is necessary to accomplish the purposes set forth in section 2 of that act and will do the following:

1. promote more effective management of the Executive Branch and of its agencies and functions and the expeditious administration of the public business;

2. promote economy to the fullest extent consistent with the efficient operation of the Executive Branch;

3. increase the efficiency of the operations of the Executive Branch to the fullest extent practicable;

4. group, coordinate and consolidate functions in a more consistent and practical way according to major purpose;

5. eliminate overlapping and duplication of effort within the Executive Branch by reallocating certain functions and responsibilities and thereby better utilize the resources of the Executive Branch.

PROVISIONS OF THE REORGANIZATION PLAN

1. The New Jersey Historic Trust, created in the Department of Environmental Protection pursuant to P.L.1967, c.124, as amended (C.13:1B-15.111), and allocated in but not of the Department of Environmental Protection pursuant to P.L.1995, c.217, and transferred to the Department of State pursuant to Reorganization Plan No. 004-1998, and its functions, powers and duties as set forth in P.L.1967, c.124, as amended (C.13:1B-15.114, -115) and P.L.1999, c.152 (C.13:8C-1 et seq.), and personnel are continued and transferred to and established in but not of the Department of Community Affairs. A proportionate share of those support services or funds to purchase such services utilized for the support of the Historic Trust within the Department of State shall be transferred to the Department of Community Affairs. These transfers shall be made as determined by agreement between the Secretary of State and the Commissioner of the Department of Community Affairs after considering the number and type of positions presently utilized for support of the Historic Trust and the appropriateness of transferring personnel, positions or funding.

2. All records, property, revolving funds, including, but not limited to the Historic Preservation Revolving Loan FUND, created pursuant to P.L.1991, c.41 (C.13:1B-15.115a), appropriations and any unexpended balance of funds appropriated or otherwise available to the Department of State in connection with the administration of the Historic Trust shall be transferred to the Department of Community Affairs pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

3. Monies collected or received by the Department of Community Affairs shall be deposited in such accounts or funds as may be provided by law for deposit of such monies.

4. Whenever in any law, rule, regulation, order, contract, tariff, document, judicial or administrative proceeding or otherwise relating to the Historic Trust reference is made to the Department of State or the Secretary of State, the same shall mean the Department of Community Affairs or the Commissioner of the Department of Community Affairs, respectively.

GENERAL PROVISIONS

1. I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203. Specifically, this reorganization

will promote the more effective management of the Executive Branch and its agencies, and it will promote economy to the fullest extent consistent with the efficient operation of the Executive Branch according to major purposes. It will group, coordinate and consolidate functions in a more consistent and practical manner and eliminate overlapping and duplication of functions.

2. All acts and parts of acts and plans or parts of plans inconsistent with any of the provisions of this Plan are superseded to the extent of such inconsistencies.

3. If any provision of this Plan or the application thereof to any person, or circumstance, or the exercise of any power or authority hereunder is held invalid or contrary to law, such holding shall not affect other provisions or applications of the Plan, which can be given effect without the invalid provisions or applications of the Plan, or affect other exercises of power or authority under said provisions not contrary to law. To this end, the provisions of the Plan are declared to be severable.

4. This Plan is intended to protect and promote the public health, safety and welfare and shall be liberally construed to attain the objectives and effect the purposes thereof.

5. All transfers directed by this Plan shall be effected pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

A copy of this Reorganization Plan was filed on September 19, 2002 with the Secretary of State and the Office of Administrative Law for publication in the New Jersey Register. This Plan shall become effective in 60 days on November 18, 2002 unless disapproved by each House of the Legislature by the passage of a concurrent resolution stating in substance that the Legislature does not favor this Reorganization Plan, or at a date later than November 18, 2002, should the Governor establish such a later date for the effective date of the Plan, or any part thereof, by Executive Order.

PLEASE TAKE NOTICE that this Plan, if not disapproved, has the force and effect of law and will be printed and published in the annual edition of the Public Laws and in the New Jersey Register under the heading of "Reorganization Plans."

Filed September 19, 2002.
Effective November 18, 2002.

REORGANIZATION PLAN NO.002-2002
A PLAN TO PROVIDE FOR THE TRANSFER, CONSOLIDATION AND REORGANIZATION OF CERTAIN FUNCTIONS RELATED TO THE SAFE CONSTRUCTION AND MAINTENANCE OF BUILDINGS AND STRUCTURES FROM THE DEPARTMENT OF COMMUNITY AFFAIRS TO THE DEPARTMENT OF LABOR

PLEASE TAKE NOTICE that on November 18, 2002, Governor James E. McGreevey hereby issues the following Reorganization Plan No. 002-2002 to provide for the transfer, consolidation and reorganization of certain functions from the Department of Community Affairs to the Department of Labor. The Plan reverses two aspects of Reorganization Plan 002-1998: (1) the transfer of enforcement of the Asbestos Control and Licensing Act from the Department of Labor to the Department of Community Affairs and (2) the transfer of the Mechanical Inspection Bureau, which is responsible for the licensing and safety inspection of all engineers' and firemen's licenses, steam boilers, pressure vessels and refrigeration plants along with long boom crane operators from the Department of Labor to the Department of Community Affairs. Thus, under the Plan, the functions, powers, duties and personnel, as described herein, shall be returned to the Department of Labor.

GENERAL STATEMENT OF PURPOSE

This Plan transfers crucial licensing and safety oversight responsibilities from the Department of Community Affairs to the Department of Labor, which traditionally was responsible for these services and which is better situated to undertake them.

The Mechanical Inspection Bureau, which is approaching its centennial, is the licensing agency for long boom crane operators, pressure vessels and refrigeration equipment. Since its inception, the Mechanical Inspection Bureau was part of the Department of Labor, until it was transferred to the Department of Community Affairs in May 1998 by Reorganization Plan 002-1998. The Department of Labor is better equipped to oversee the Mechanical Inspection Bureau because one of the Department's historic central responsibilities has been the safety and inspection of equipment and the job performance of workers that handle this machinery. Indeed, a central focus of the Department of Labor is worker and workplace safety. Transferring the Mechanical Inspection Bureau back to the Department of Labor will enhance governmental efficiency and oversight for the benefit of

the men and women who operate these machines and also for those people that come within the machines' vicinity. Oversight and inspection of these machines is important to prevent dangerous occurrences such as leaks of hazardous substances and explosions that can injure the operators of the machines and the public located in the nearby area.

Similarly, asbestos worker licensing is an historic responsibility of the Department of Labor. At the present time, responsibility for licensing asbestos abatement contractors, issuing asbestos worker permits, receiving 10-day notices on pending asbestos abatement work and inspecting job sites for safety compliance is under the control of the Department of Community Affairs. Transferring this responsibility to the Department of Labor, which focuses on worker and job site safety, will provide for greater efficiency and, more importantly, greater safety for workers and the public at large.

NOW, THEREFORE, in accordance with the provisions of the Executive Reorganization Act of 1969, P.L.1969, c.203 (C.52:14C-1 et seq.), I find with respect to the transfer, consolidation and reorganization provided for in this Plan, that each aspect is necessary to accomplish the purposes set forth in section 2 of the act and that each aspect will:

1. promote the more effective management of the Executive Branch by consolidating similar functions and activities within one agency;

2. promote better and more efficient execution of the laws and expeditious administration of the public business by consolidating and integrating within one agency similar functions;

3. group, coordinate and consolidate functions in a more consistent and practical manner according to major purposes;

4. promote economy to the fullest extent consistent with the efficient operations of the Executive Branch;

5. increase the efficiency of the operations of the Executive Branch to the fullest extent practicable;

6. increase the safety goals of services rendered by the Executive Branch; and

7. eliminate overlapping and duplication in effort.

PROVISIONS OF THE REORGANIZATION PLAN

Therefore, I hereby order the following reorganization:

1.a. All of the powers, functions and duties exercised by the Commissioner of the Department of Community Affairs, or any division, bureau or office therein, pursuant to P.L.1984, c.173, as amended, to enforce the "Asbestos Control and Licensing Act of 1984," P.L.1984, c.173, as amended (C.34:5A-32 et seq.), or pursuant to Reorganization Plan 002-1998, are continued, transferred to, established within the Department of Labor and shall henceforth be exercised by the Commissioner of the Department of Labor.

b. All of the powers, functions and duties exercised by the Commissioner of the Department of Community Affairs, the Department of Community Affairs, or any division, bureau or office therein, pursuant to P.L.1913, c.363, as amended and P.L.1918, c.213, as amended (C.34:7-1 et seq. and 34:7-14 et seq.), to license engineers and firemen and to regulate and inspect steam boilers, pressure vessels and refrigeration plants, in accordance with section 7 of Title 34 of the Revised Statutes, are continued, transferred to, established within the Department of Labor and shall henceforth be exercised by the Commissioner of the Department of Labor.

c. The Mechanical Inspection Bureau, the Examining Board of the Mechanical Inspection Bureau and the Board of Boiler, Pressure Vessel and Refrigeration Rules established pursuant to section 1 of P.L.1960, c.134 (C.34:1-38.1) and section 1 of P.L.1917, c.185, as amended (C.34:1-47), are continued and are transferred to the Department of Labor. All the powers, functions, and duties exercised by the Commissioner of the Department of Community Affairs, the Mechanical Inspection Bureau, the Examining Board of the Mechanical Inspection Bureau and the Board of Boiler, Pressure Vessel and Refrigeration Rules pursuant to sections 1 and 2 of P.L.1960, c.134 (C.34:1-38.1 and 38.2), sections 2 and 9 of P.L.1913, c.363, as amended (C.34:1-40 and 41), sections 3, 4 and 5 of P.L.1918, c.213, as amended (C.34:1-44 and 45), section 1 of P.L.1917, c.185, as amended (C.34:1-47), are continued, transferred to, established within the Department of Labor and shall henceforth be exercised by the Commissioner of the Department of Labor.

d. A proportionate share of those support services or funds to purchase such services utilized for the support of the units transferred under this section and for the enforcement of the powers, functions and duties transferred under this section with the Department of Community Affairs

shall be transferred to the Department of Labor. These transfers shall be made as determined by agreement between the Commissioners of the Departments of Community Affairs and Labor after considering the number and type of positions presently utilized for support of the units transferred and the enforcement of the powers, functions and duties transferred, and the appropriateness of transferring personnel, positions or funding.

e. The powers, functions and duties hereby transferred shall be organized and implemented within the Department of Labor as determined by the Commissioner of the Department of Labor.

f. All employees of the Department of Community Affairs who are employed in the programs hereby transferred shall be employees of the Department of Labor and shall be transferred to that Department pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.). Additionally, all records, property, appropriations and any unexpended balance of funds appropriated or otherwise available to the Department of Community Affairs for purposes of the programs hereby transferred, including, without limitation, any fees, penalties or other monies authorized to be collected and applied to the enforcement and administration costs of the Department of Community Affairs for any of the programs hereby transferred, are transferred to the Department of Labor pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

g. Whenever, in any law, rule, regulation, order, contract, tariff, document, judicial or administrative proceeding or otherwise, that involves the programs hereby transferred, there shall be any reference to the Department of Community Affairs, the same shall mean the Department of Labor, except where the context clearly requires otherwise.

h. The Commissioner of Labor shall confer with the Commissioner of the Department of Community Affairs to ensure that the highest degree of safety is provided with regard to inspections.

GENERAL PROVISIONS

1. I find that each aspect of this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203. Specifically, this reorganization will promote the more effective management of the Executive Branch and its agencies, and it will promote economy to the fullest extent consistent with the efficient operation of the Executive Branch according to major purposes. It will group, coordinate and consolidate

functions in a more consistent and practical manner and eliminate overlapping and duplication of functions. The Plan will provide greater safety for workers and the public at large.

2. Any section or part of this Plan that conflicts with federal law or regulation shall be considered null and void unless and until addressed and corrected through an interagency agreement, federal waiver or other means.

3. All acts and parts of acts and plans or parts of plans inconsistent with any of the provisions of this Plan are superseded to the extent of such inconsistencies.

4. If any provisions of this Plan or the application thereof to any person, or circumstance, or the exercise of any power of authority hereunder is held invalid or contrary to law, such holding shall not affect other provisions or applications of the Plan, which can be given effect without the invalid provisions or applications of the Plan, or affect other exercises of power or authority under said provisions not contrary to law. To this end, the provisions of the Plan are declared to be severable.

5. This Plan is intended to protect and promote the public health, safety and welfare and shall be liberally construed to attain the objectives and affect the purposes thereof.

6. All transfers directed by this Plan shall be effected pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

7. A copy of this Reorganization Plan was filed on November 18, 2002 with the Secretary of State and the Office of Administrative Law for publication in the New Jersey Register. This Plan shall become effective in 60 days on January 17, 2003 unless disapproved by each House of the Legislature by the passage of a concurrent resolution stating in substance that the Legislature does not favor this Reorganization Plan, or at a date later than January 17, 2003, should the Governor establish such a later date for the effective date of the Plan, or any part thereof, by Executive Order.

PLEASE TAKE NOTICE that this Plan, if not disapproved, has the force and effect of law and will be printed and published in the annual edition of the Public Laws and in the New Jersey Register under the heading of "Reorganization Plans."

Filed November 18, 2002.
Effective January 17, 2003.

REORGANIZATION PLAN NO. 003-2002
A PLAN FOR THE REORGANIZATION OF THE DEPARTMENT OF AGRICULTURE

PLEASE TAKE NOTICE that on November 25, 2002, Governor James E. McGreevey hereby issues the following Reorganization Plan No.003-2002; (the "Plan"), to provide for the reorganization of four of six divisions within the Department of Agriculture. This Plan represents an ongoing effort to more properly align the structure and functions of the Department of Agriculture in the interests of greater efficiency, without loss of service delivery to the public.

GENERAL STATEMENT OF PURPOSE

Pursuant to its present statutory authority, the Department of Agriculture is a regulatory, service and promotion agency which conducts programs in support of agriculture and agribusiness as well as natural and renewable resources associated with open lands, for the benefit of all New Jersey citizens. Under current statutes, the Department of Agriculture consists of six divisions, each headed by a Division Director. This Plan would consolidate the Division of Markets, created by N.J.S.A.4:1-17 and the Division of Dairy and Commodity Regulation, created pursuant to Reorganization Plan No. 003-1995, issued March 13, 1995.

The Division of Dairy and Commodity Regulation conducts onsite inspections and grading services at agribusiness plants, farms, packers, processors, and wholesale and retail markets to assure a supply of the highest quality fresh fruits and vegetables, fish, shell eggs and egg and poultry products. The Division also operates the agricultural chemistry program which determines compliance with stated contents of animal feeds, fertilizers and liming materials offered for sale for farm and non-farm use. The dairy program licenses dealers that purchase milk from New Jersey farmers or who sell fluid dairy products to other dealers and retail outlets. Such licensing helps foster a stable and competitive dairy industry. In order to be licensed, dealers must post a bond with the Secretary of Agriculture conditioned upon the payment of all amounts due and owing to New Jersey Dairy farmers.

The Division of Markets conducts advertising, market development and promotion programs to increase the sale and use of New Jersey produced agricultural commodities both domestically and abroad. The Division's equine programs focus on promoting the State's equine industry, creating

incentives to help the industry thrive. A vibrant equine industry makes significant economic contribution to the State economy while retaining thousands of acres of scenic, taxpaying open space. Among its other responsibilities, the Division works with the not-for-profit group of equine interests which operate the Horse Park of New Jersey in Stone Tavern, Monmouth County, to oversee the continuing development of this 147-acre facility for horse shows and competitions. The Division also runs the New Jersey Sire Stakes program to encourage excellence in the breeding of harness racing standardbred horses. The Division completes its diverse mission by coordinating the State's commodity distribution, child nutrition and emergency feeding assistance programs. The commodity distribution and emergency feeding program assistance programs receive, store and distribute federal surplus foods to schools, institutions, soup kitchens and pantries as well as New Jersey's neediest citizens. Child nutrition programs provide cash reimbursement to school districts and other providers for their participation in a variety of nutritional programs aimed at improving the diets of children and senior citizens.

The purpose of the Plan is to create a structure that will foster an improved service delivery function for New Jersey's farmers and the State's citizens. The Plan accomplishes this by:

1. Consolidating the functions of the Division of Dairy and Commodity Regulation into a new Division named the Division of Marketing and Development. Consolidating these functions into the Division of Marketing and Development will increase the efficiency and effect of commodity inspection and grading efforts related to the development of specific promotion and advertising programs targeted to New jersey produced agricultural products. Inasmuch as the inspection and grading of agricultural products relates to the establishment of prices in the marketplace as well as sales and marketing efforts, the consolidation of these inspection and marketing functions into one Division will promote a more effective, consistent and practical marketing and regulatory effort by the Department.

2. The renaming of the Division of Markets to the Division of Marketing and Development. This name change more accurately reflects the mission of this organizational unit.

NOW, THEREFORE, in accordance with the provisions of the Executive Reorganization Act of 1969, P.L.1969, c.203 (C.52:14C-1 et seq.), I find with respect to the transfers and reorganization provided for in

this Plan, that each aspect is necessary to accomplish the purposes set forth in section 2 of the act and that each aspect will:

1. promote more effective management of the Executive Branch and more efficient execution of the law by consolidating similar programs;

2. group, coordinate and consolidate functions in a more consistent and practical manner according to major purposes;

3. promote economy to the fullest extent consistent with the efficient operation of the Executive Branch;

4. increase the efficiency of the Executive Branch to the fullest extent practicable;

5. reduce the number of agencies by consolidating those having similar functions;

6. eliminate duplication and overlapping of effort, thereby better utilizing State resources.

PROVISIONS OF THE REORGANIZATION PLAN

1. The Division of Markets, including the functions, powers and duties assigned to it pursuant to P.L.1916, c.268 (C.4:1-1 et seq.), as amended and supplemented, is hereby continued and renamed the Division of Marketing and Development.

2. The functions, powers and duties assigned to the Division of Dairy and Commodity Regulation, including the functions, powers and duties pursuant to P.L.1916, c.268 (C.4:1-1 et seq.), as amended and supplemented, are hereby continued and transferred to the Division of Marketing and Development.

3. The powers, functions and duties hereby transferred shall be organized and implemented within the Department of Agriculture as determined by the State Board of Agriculture.

4. All employees who serve the Division of Dairy and Commodity Regulation shall be transferred to the Division of Marketing and Development pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.). In addition, all records, property, appropriations and any unexpended balance of funds appropriated or otherwise available to the

Division of Dairy and Commodity Regulation shall be transferred to the Division of Marketing and Development, pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

5. Whenever in any law, rule, regulation, order, contract, tariff, document, judicial or administrative proceeding or otherwise thereunder, reference is made to the Division of Dairy and Commodity Regulation, the same shall mean and refer to the Division of Marketing and Development.

6. All acts and parts of acts, or Plans or parts of Plans, inconsistent with any of the provisions of this Plan are superseded to the extent of such inconsistencies.

7. Unless otherwise specified in this Plan, all transfers directed by this Plan shall be effected pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

8. If any provision of this Plan or the application thereof to any person, or circumstances, or the exercise of any power or authority hereunder is held invalid or contrary to law, such holding shall not affect other provision or application of the Plan, which can be given effect without the invalid provisions or applications of the Plan, or affect other exercises of power of authority under said provisions not contrary to law. To this end, the provisions of the Plan are declared to be severable.

9. This Plan is intended to protect and promote the public health, safety and welfare, and shall be liberally construed to obtain the objectives and effect the purposes thereof.

A copy of this Reorganization Plan was filed on November 25, 2002 with the Secretary of State and the Office of Administrative Law for publication in the New Jersey Register. This Plan shall become effective in 60 days on January 24, 2003 unless disapproved by each House of the Legislature by the passage of a concurrent resolution stating in substance that the Legislature does not favor this Reorganization Plan, or at a date later than January 24, 2003, should the Governor establish such a later date for the effective date of the Plan, or any part thereof, by Executive Order.

PLEASE TAKE NOTICE that this Plan, if not disapproved, has the force and effect of law and will be printed and published in the annual edition of the Public Laws and in the New Jersey Register under the heading of "Reorganization Plans."

Filed November 25, 2002.
Effective January 24, 2003.

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United We Stand license plates, issuance; authorized, "Rewards for Justice License Plate Fund"; established, C.39:3-27.131 et seq., Ch.52.

MUNICIPALITIES
Burial costs, certain, payment by county, responsibility for indigent, unidentified, unclaimed deceased persons; clarified, C.40A:9-49.1 et al., repeals R.S.44:1-157, Ch.121.
Deputy municipal clerks, appointment of two in municipalities, certain; permitted, amends N.J.S.11A:3-5 et al., Ch.59.
Employee benefit programs, authorization of appropriations to fund employee group insurance programs, certain, temporary; authorized, Ch.22.
Governing body, portion for public comment at public meetings; required, amends C.10:4-12, Ch.80.
Issuance of refunding bonds for certain ERI purposes; authorized, C.40A:2-51.3, amends C.18A:24-61.2 et al., Ch.42.
Land included in certain redevelopment plans, use for recreation, conservation purposes; clarified, amends C.13:8A-47 et al., Ch.124.
Liens for local improvements, continuous lien on land; provisions clarified, amends C.13:17-53 et al., Ch.15.
Municipalities, certain, contract with nonprofit entities for provision of water, wastewater treatment services; permitted, C.40A:12-17.1 et al., amends C.40A:11-2 et al., Ch.47.
"Municipal Rehabilitation and Economic Recovery Act," C.52:27BBB-1 et seq., amends C.34:1B-5 et al., Ch.43; provisions; clarified, C.52:27BBB-2.1 et al., amends C.52:27BBB-2 et al., Ch.108.
"Phase 2 Tourism Funding"; provided, C.40:54D-14.1 et al., amends C.40:54D-2 et al., Ch.72.
Real estate, municipally owned, controlled, lease to not-for-profit entities; permitted, amends C.40:60-51.12, Ch.19.
State aid, Energy Tax Receipts Property Tax Relief Fund, distribution period to calendar year municipalities; extended, amends C.52:27D-439, Ch.3.
Urban enterprise zone, joint, certain, eligibility requirements; changed, amends C.52:27H-66.7, Ch.68.
Urban enterprise zones; additional activities, services allowed as eligible projects, amends C.52:27H-88, Ch.64.

NURSING HOMES, ROOMING AND BOARDING HOUSES
Assisted living administrators, applicants for certificate of need, background checks, certain; required, C.26:2H-7.15 et al., Ch.25.

PENSIONS AND RETIREMENT
County pension funds, cost of living adjustments for certain retirees; permitted, C.43:10-5.5 et seq., Ch.109.
Essex County Board of Education Employees' Pension Fund, beneficiaries of deceased retirees, certain, receipt of pension; permitted, amends N.J.S.18A:66-110, Ch.132.
Judicial Retirement System:
Survivor benefit, reduction in allowance to provide; permitted, C.43:6A-16.1 et seq., Ch.54.
PERS, TPAF retirees, dependents, health care benefits, contributions, certain; suspended, use of money in fund for benefit costs, certain; permitted, amends C.18A:66-18.1 et al., Ch.11.
State, State college, autonomous authority employees, certain, additional benefits; provided, Ch.23.
Volunteer fire, first aid, rescue workers, died in line of duty; survivors pension, certain; required, amends C.43:12-28.1 et seq., Ch.134.

POLICE
Convention leave provisions; changed, amends N.J.S.11A:6-10 et al., Ch.41.
State Bureau of Identification, notice of charge pending against school employees, bus drivers, certain; required, amends C.18A:6-4.14 et al., Ch.119.

PROFESSIONS AND OCCUPATIONS
Health care professionals, criminal history record background check as condition of initial licensure; required, C.45:1-28 et seq., amends C.53:1-20.9a, repeals C.45:3D-18, Ch.104.
Health care service firms, inclusion of certain entities; provided, C.34:8-45.1 et seq., Ch.126.
"Interior Designers Certification Act," C.45:3-31 et seq., Ch.86.
Veterinary students, examination for licensure, in academic year of graduation; permitted, amends R.S.45:16-7, Ch.20.
"Safety Professional Truth in Advertising Act," C.56:8-113 et seq., Ch.50.

PROPERTY
Escheat of unclaimed property to State, regulations; changed, clarified, C.46:30B-7.2 et al., amends R.S.46:30B-1 et al., repeals R.S.46:30B-35, Ch.35.

PUBLIC CONTRACTS
Construction contracts, certain, payment of prevailing wage rate; required, C.52:27C-73.1, amends C.34:1B-5.1 et seq., Ch.78.
Project labor agreements with labor organizations relative to public works contracts; permitted, C.52:38-1 et seq., Ch.44.
Public works, certain, prevailing wage violations, administrative penalties; increased, amends C.34:11-56.35, Ch.95.
School facilities contracts, disqualification of low bidder, certain circumstances; permitted, amends N.J.S.18A:18A-4, Ch.90.

PUBLIC EMPLOYEES
Public employer, representation fee deducted instead of dues, certain circumstances, amends C.34:13A-5.5 et seq., Ch.46.

PUBLIC MEETINGS
Municipal governing bodies, portion for public comments; required, amends C.10:4-12, Ch.80.
Public meeting notices, availability on Internet; permitted, C.10:4-9.1 et seq., Ch.91.

PUBLIC UTILITIES
Electrical service, continuation for residential customers, certain, during periods of extreme heat; provided, C.48:2-29.44 et seq., Ch.62.
Securitization of deferred balances of electric public utilities for provision of basic generation service; Board of Public Utilities authorization, amends C.48:3-51 et al., Ch.84.
Service shutoffs to certain multifamily housing unit customers, notice to law enforcement; required, C.48:2-24.2, Ch.107.

RACING
Horses, standardbred, certain, eligibility for Sire Stakes Program; bred from out-of-State mare, amends C.5:5-91, Ch.21.
Self-exclusion from racetracks, off-track wagering facilities, certain; provided, C.5:5-65.1 et seq., Ch.89.
Thoroughbred breeder awards, certain owners of NJ-bred horses; authorized, amends C.5:5-66 et al., Ch.103.

REAL PROPERTY
Liens for local improvements, continuous lien on land; provisions clarified, amends C.13:17-53 et al., Ch.15.

RECREATION
Athletic code of conduct for youth sports events; established, C.5:17-1 et seq., Ch.74.

REORGANIZATION PLANS
Department of Agriculture; reorganized, No.003-2002.
Transfer, consolidation, reorganization of certain functions relative to construction, maintenance of buildings, from Department of Community Affairs to Department of Labor, No.002-2002.
Transfer, consolidation, reorganization of the Historic Trust into the Department of Community Affairs, No.001-2002.

SCHOOLS
Boards, issuance of refunding bonds for certain ERI purposes; authorized, C.40A:2-51.3, amends C.18A:24-61.2 et al., Ch.42.
Cell phone, use while driving school bus, certain circumstances; prohibited, C.39:3B-25, Ch.120.
Charter school application, notification to certain public officials; required, amends C.18A:36A-4, Ch.123.
Charter schools, construction of facilities with federal funds; permitted, amends C.18A:36A-10, Ch.10.
Disciplinary records, transferred to new school district with student; required, amends C.18A:36-19a et al., Ch.63.
Harassment and bullying prevention policies, adoption by public schools; required, C.18A:37-13 et seq., Ch.83.
Hepatitis B vaccinations for high school, college students, certain; required, C.18A:61D-8 et al., Ch.58.
Pupils, public schools, identifying information, certain, supplying; regulated, C.18A:36-36, Ch.92.
School budget, election calendar, notification to nontenured personnel, adjustments; authorized, Ch.2.
School employee, bus driver, notification of charges pending, certain circumstances; required, amends C.18A:6-4.14 et al., Ch.119.
School facilities contracts, disqualification of low bidder, certain circumstances; permitted, amends N.J.S.18A:18A-4, Ch.90.
"School Integrated Pest Management Act," C.13:1F-19 et seq., Ch.117.

SCHOOLS (Continued)
Teachers from foreign countries, U.S. citizenship requirement, exemption for temporary employment; provided, C.18A:27-2.2 et seq., amends N.J.S.18A:26-1 et al., Ch.9.
Textbooks, sharing between school districts, department coordination; required, C.18A:34-3 et seq., Ch.98.

SOLID WASTE
Computers, used, recycling, reuse; promoted, C.13:1E-208 et seq., amends C.13:1E-99.74, Ch.106.
Low-level radioactive waste disposal, facility siting, laws; revised, amends C.13:1E-179 et al., repeals C.13:1E-178 et al., Ch.105.

STATE GOVERNMENT
Amistad Commission; established, C.52:16A-86 et seq., Ch.75.
Fees, penalties, various; established, increased, C.2B:1-6 et al., amends C.4:1-11.1 et al., repeals N.J.S.22A:4-13, Ch.34.
"Tobacco Settlement Financing Corporation Act," C.52:18B-1 et seq., Ch.32.

TAXATION
Cigarette tax; increased, amends C.54:40A-8, Ch.33.
Corporation business tax; revised, C.54:10A-4.4 et al., amends C.54:10A-2 et al., repeals C.54:10D-1 et al., Ch.40.
Estate tax, method of computation; changed, amends R.S.54:38-1 et al., repeals R.S.54:38-8 et seq., Ch.31.
"Mobile Telecommunications Sourcing Act," implemented for purposes of sales and use tax, amends C.54:32B-2 et al., Ch.45.
State tax amnesty period, 2002; established, C.54:53-18, Ch.6.

TOBACCO
Cigarette tax; increased, amends C.54:40A-8, Ch.33.
"Tobacco Settlement Financing Corporation Act," C.52:18B-1 et seq., Ch.32.

TRANSPORTATION
Airports, certain, employment of individuals convicted of crimes, certain; prohibited, C.32:2-37 et al., Ch.73.
"David J. Goldberg Transportation Building," main office building of Department of Transportation; designated, C.27:1A-2.1, Ch.66.

UNEMPLOYMENT COMPENSATION
Election board work on election day, exemption from calculation of unemployment benefits; provided, amends R.S.43:21-4 et al., Ch.94.
Health Care Subsidy Fund, payroll taxes, certain, diverted from Unemployment Insurance Fund; UI benefits extended, C.43:21-24.26 et seq., amends C.26:2H-18.58 et al., Ch.13; payroll taxes, diverted from UI fund to Health Care Subsidy Fund, amends R.S.43:21-7 et al., Ch.29.
State disability benefits fund, withdrawal of $50 million, expenditures, certain; authorized, amends C.43:21-47, Ch.7.

VITAL STATISTICS
Marriage licenses, applications, inquiries relative to race; eliminated, amends R.S.26:8-27 et al., Ch.88.

WATER SUPPLY
Municipalities, certain, contract with nonprofit entities for provision of water, wastewater treatment services; permitted, C.40A:12-17.1 et al., amends C.40A:11-2 et al., Ch.47.

WEAPONS
Handguns, sales, certain; restricted, personalized handguns, sales; required, C.2C:58-2.2 et al., amends N.J.S.2C:39-1 et al., Ch.130.

WELFARE
Food stamp application form, ordinary, concise language; required, C.44:10-81.1, Ch.16.

WORKERS' COMPENSATION
Second Injury Fund, surcharges; calculation, amends R.S.34:15-94, Ch.5.
Witness fees in workers' compensation cases, limit; increased, amends R.S.34:15-64, Ch.112.