ACTS

OF THE

Second Annual Session

OF THE

Two Hundred and Thirteenth Legislature

OF THE

STATE OF NEW JERSEY



2009

CHAPTER 108

AN ACT concerning the operation of personal watercraft and amending P.L.1993, c.299.

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

1. Section 2 of P.L.1993, c.299 (C.12:7-63) is amended to read as follows:

C.12:7-63 Restrictions on operation of personal watercraft.

2. A person shall not operate a personal watercraft:

a. On the waters of this State between sunset and sunrise, or during any time of restricted visibility as determined by an agent or officer of the Marine Law Enforcement Bureau, Division of State Police;

b. Within the confines of the Point Pleasant Canal in the County of Ocean, or the Cape May Canal in the County of Cape May;

c. Above minimum headway speed within 100 feet of:

(1) Buoys or signs that mark the boundaries of a swimming area;

(2) The shoreline;

(3) Any person in the water; or

(4) Residential dwelling units; or

d. In such a manner as to make the vessel completely leave the water or otherwise become airborne within 100 feet of another vessel.

2. Section 8 of P.L.1993, c.299 (C.12:7-69) is amended to read as follows:

C.12:7-69 Violations; fines, penalties.

8. A person who violates any provision of P.L.1993, c.299 (C.12:7-62 et seq.) shall be subject to the fines and penalties enumerated pursuant to section 8 of P.L.1952, c.157 (C.12:7-51). The Division of State Police in the Department of Law and Public Safety, and any officer of a county or municipal police department are authorized to enforce the provisions of P.L.1993, c.299 (C.12:7-62 et seq.) in a proceeding before a court of competent jurisdiction concerning the operation of personal watercraft, however, the Division of State Police shall maintain primary jurisdiction over the investigation of accidents and crimes involving the operation of personal watercraft.

3. This act shall take effect immediately.

Approved August 6, 2009.

CHAPTER 109

AN ACT concerning the establishment of interscholastic adapted athletic programs and supplementing chapter 11 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:11-3.2 Findings, declarations relative to adapted athletic programs.

1. The Legislature finds and declares that high school athletics often serve an integral role in the development of students. In addition to providing healthy forms of exercise, high school athletics foster friendships and camaraderie while promoting sportsmanship and fair play and instill the value of competition. The benefits and values of participating in high school athletics should be actively promoted and made available to all students, regardless of cognitive or physical limitations.

C.18A:11-3.3 Interscholastic adapted athletic programs.

2. The New Jersey State Interscholastic Athletic Association, in consultation with the American Association of Adapted Sports Programs, shall establish interscholastic athletic programs adapted for participation by student-athletes with physical disabilities or visual impairments who are participating in an adapted athletic program developed by a school district. The New Jersey State Interscholastic Athletic Association shall require any coach of an adapted athletic program to receive training specific to that program.

3. This act shall take effect immediately.

Approved August 6, 2009.

CHAPTER 110

AN ACT concerning the mailing of sample ballots and amending R.S.19:14-21, R.S.19:23-30, and R.S.19:23-33.

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

1. R.S.19:14-21 is amended to read as follows:

Preparation; delivery of sample ballots and envelopes to municipal clerk or commissioner of registration.

19:14-21. The county clerk shall cause samples of the official general election ballot to be printed in English, but for each election district within the county in which the primary language of 10% or more of the registered voters is Spanish, shall cause samples of the official general election ballot to be printed bilingually in English and Spanish.

a. In counties not having a superintendent of elections where the county board of elections does not have the equipment or facilities to address and mail sample ballot envelopes, the county clerk not later than noon of the eighth day prior to the general election shall furnish to the municipal clerk of each municipality in his county one and one-tenth times as many such sample ballots and stamped envelopes as there are voters registered, less the number of voters who have been sent a confirmation notice pursuant to subsection d. of R.S.19:31-15 and have not responded, to enable each district board in each municipality to mail one of such sample ballots to each voter who is registered in the municipality, except those voters who have been sent a confirmation notice pursuant to subsection d. of R.S.19:31-15 and have not responded, for such election and shall take a receipt for the same from each of the municipal clerks, which receipt shall indicate the number of such sample ballots and stamped envelopes delivered by the county clerk and the date and hour of their delivery.

b. In counties having a superintendent of elections, and in other counties where the county board of elections may have the equipment or facilities to prepare a properly stamped envelope addressed to each registered voter in the county for mailing, the county clerk, not later than the thirtieth day preceding the general election, shall furnish to the commissioner of registration located in his county one and one-tenth times as many stamped envelopes as there are registered voters in the county, less the number of voters who have been sent a confirmation notice pursuant to subsection d. of R.S.19:31-15 and have not responded, and not later than noon of the twelfth day preceding the general election shall furnish to the commissioner of registration located in the county, one and one-tenth times as many sample ballots as there are registered voters in the county to enable the commissioner of registration of the county to mail one of such sample ballots to

each voter registered in the county, except those voters who have been sent a confirmation notice pursuant to subsection d. of R.S.19:31-15 and have not responded, for such election and shall take a receipt for the same from the commissioner of registration, which receipt shall indicate the number of such sample ballots and stamped envelopes delivered by the county clerk and the date and hour of their delivery. County boards of elections which elect to operate under the provisions of this paragraph shall notify their county clerk in sufficient time to enable him to make the necessary arrangements the first year.

c. The county clerk in counties having a superintendent of elections shall also deliver to the county board not later than the twelfth day preceding the general election 10 such sample ballots of each election district of each municipality in the county.

2. R.S.19:23-30 is amended to read as follows:

Number of ballots and envelopes; printing; delivery; cost paid by municipalities.

19:23-30. a. In counties not having a superintendent of elections where the county board of elections does not have the equipment or facilities to address and mail sample ballot envelopes, the municipal clerk shall cause to be printed as herewith prescribed a sufficient number of official primary sample ballots of each political party in each election district and shall furnish a sufficient number of stamped envelopes to enable every district board to mail one copy of such ballot of each political party to each voter who is registered in the district for the primary election, less the number of voters who have been sent a confirmation notice pursuant to subsection d. of R.S.19:31-15 and have not responded. The municipal clerk shall deliver to the county clerk in all counties and the county board in counties having a superintendent of elections one official primary sample ballot of each political party for each district in his municipality. The cost of printing the official primary sample ballots and the stamped envelopes therefor shall be paid by the respective municipalities.

b. In counties having a superintendent of elections, and in other counties where the county board of elections may have the equipment or facilities to prepare a properly stamped envelope addressed to each registered voter in the county for mailing, the municipal clerk shall cause to be printed as herewith prescribed a sufficient number of official primary sample ballots of each political party for each election district and shall furnish a sufficient number of stamped envelopes to enable the commissioner of registration of the county to mail one copy of such ballot of each political party

to each voter who is registered in the district for the primary election, less the number of voters who have been sent a confirmation notice pursuant to subsection d. of R.S.19:31-15 and have not responded. The municipal clerk shall also deliver to the county board ten official primary sample ballots of each political party for each district in his municipality. The cost of printing of the official primary sample ballots and stamped envelopes therefor shall be paid for by the respective municipalities. County boards of elections which elect to operate under the provisions of this paragraph shall notify their respective municipal clerks in sufficient time to enable them to make the necessary arrangements the first year.

3. R.S.19:23-33 is amended to read as follows:

Sample ballots and envelopes furnished to district boards or commissioner of registration.

19:23-33. In counties not having a superintendent of elections where the county board of elections does not have the equipment or facilities to address and mail sample ballot envelopes, the municipal clerk in each municipality shall furnish to a member of each district board in his municipality, at his office, or in any other way that he sees fit, on or before Tuesday preceding the primary election in each year, sufficient sample ballots and sufficient stamped envelopes to enable the board to mail sample ballots to the voters as hereinbefore provided. Each of the boards shall give the municipal clerk a receipt for such sample ballots and envelopes signed by one of its members.

In counties having a superintendent of elections, and in other counties where the county board of elections shall elect to operate under the provisions of subsection b of section 19:23-30 of this Title, the municipal clerk in each municipality shall furnish to the commissioner of registration of his county not later than thirty days preceding the primary election of each year, sufficient stamped envelopes to enable the commissioner of registration to mail sample ballots to each voter who is registered in the county, less the number of voters who have been sent a confirmation notice pursuant to subsection d. of R.S.19:31-15 and have not responded, and shall, not later than noon of the twelfth day preceding the primary election furnish sufficient sample ballots to the commissioner of registration of his county for that purpose. The commissioner of registration shall give the municipal clerk a receipt for such sample ballots and envelopes.

4. This act shall take effect immediately.

Approved August 6, 2009.

CHAPTER 111

AN ACT authorizing the State Treasurer to sell certain surplus real property owned by the State in Mercer County.

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

1. a. The Department of the Treasury, on behalf of the Department of Children and Families, is authorized to sell and convey, as surplus real property, all of the State's interest in the 60+ acre parcel of vacant land located at 1600 Stuyvesant Avenue in the Township of Ewing and the City of Trenton, Mercer County, designated as Block 322, part of Lots 6, 78 and 79 on the tax map of the Township of Ewing and Block 36402, part of Lot 1 on the tax map of the City of Trenton, that has been declared surplus to the needs of the State.

b. The sale and conveyance authorized by subsection a. of this section shall be executed in accordance with the terms and conditions approved by the State House Commission.

2. This act shall take effect immediately.

Approved August 6, 2009.

CHAPTER 112

AN ACT concerning involuntary commitment to treatment and amending and supplementing chapter 4 of Title 30 of the Revised Statutes and amending P.L.1991, c.270.

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

1. Section 1 of P.L.1987, c.116 (C.30:4-27.1) is amended to read as follows:

C.30:4-27.1 Findings, declarations.

1. The Legislature finds and declares that:

a. The State is responsible for providing care, treatment and rehabilitation services to mentally ill persons who are disabled and cannot provide basic care for themselves or who are dangerous to themselves, others or property; and because some of these mentally ill persons do not seek treatment or are not able to benefit from voluntary treatment provided on an outpatient basis, it is necessary that State law provide for the voluntary admission and the involuntary commitment to treatment of these persons as well as for the public services and facilities necessary to fulfill these responsibilities.

b. Because involuntary commitment to treatment entails certain deprivations of liberty, it is necessary that State law balance the basic value of liberty with the need for safety and treatment, a balance that is difficult to effect because of the limited ability to predict behavior; and, therefore, it is necessary that State law provide clear standards and procedural safeguards that ensure that only those persons who are dangerous to themselves, others or property, are involuntarily committed to treatment.

c. It is the policy of this State that persons in the public mental health system receive inpatient treatment and rehabilitation services in the least restrictive environment in accordance with the highest professional standards and which will enable those persons committed to treatment to return to full autonomy in their community as soon as it is clinically appropriate.

In addition, it is the policy of this State to ensure that appropriate outpatient treatment services are readily available to all persons with mental illness, such that involuntary commitment to treatment is rarely required; but that persons with mental illness who are determined to be dangerous to themselves, others or property should be subject to involuntary treatment in the least restrictive environment possible, in an inpatient or outpatient setting clinically appropriate to their condition.

Further, it is the policy of this State that the public mental health system shall be developed in a manner which protects individual liberty and provides advocacy and due process for persons receiving treatment and insures that treatment is provided in a manner consistent with a person's clinical condition.

d. It is the policy of this State to encourage each county or designated mental health service area to develop a screening service, outpatient treatment provider and short-term care facility which will meet the needs for evaluation and treatment of mentally ill persons in the county or service area. The State encourages the development of screening services as the public mental health system's entry point in order to provide accessible crisis intervention, evaluation and referral services to mentally ill persons in

the community; to offer mentally ill persons clinically appropriate alternatives to inpatient care, if any; and, when necessary, to provide a means for involuntary commitment to treatment. Similarly, the State encourages the development of community-based outpatient treatment providers and short-term care facilities to enable a mentally ill person to receive outpatient or acute, inpatient care near the person's community. Development and use of screening services, outpatient treatment providers and short-term care facilities throughout the State are necessary to strengthen the Statewide community mental health system, lessen inappropriate hospitalization and reliance on psychiatric institutions and enable State and county facilities to provide the rehabilitative care needed by some mentally ill persons following their receipt of acute care.

2. Section 2 of P.L.1987, c.116 (C.30:4-27.2) is amended to read as follows:

C.30:4-27.2 Definitions.

2. As used in P.L.1987, c.116 (C.30:4-27.1 et seq.) and P.L.2009, c.112:

a. "Chief executive officer" means the person who is the chief administrative officer of an institution or psychiatric facility.

b. "Clinical certificate" means a form prepared by the division and approved by the Administrative Office of the Courts, that is completed by the psychiatrist or other physician who has examined the person who is subject to commitment within three days of presenting the person for involuntary commitment to treatment, and which states that the person is in need of involuntary commitment to treatment. The form shall also state the specific facts upon which the examining physician has based his conclusion and shall be certified in accordance with the Rules of the Court. A clinical certificate may not be executed by a person who is a relative by blood or marriage to the person who is being screened.

c. "Clinical director" means the person who is designated by the director or chief executive officer to organize and supervise the clinical services provided in a screening service, short-term care or psychiatric facility. The clinical director shall be a psychiatrist, however, those persons currently serving in the capacity will not be affected by this provision. This provision shall not alter any current civil service laws designating the qualifications of such position.

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

e. "County counsel" means the chief legal officer or advisor of the governing body of a county.

f. "Court" means the Superior Court or a municipal court.

g. "Custody" means the right and responsibility to ensure the provision of care and supervision.

h. "Dangerous to self" means that by reason of mental illness the person has threatened or attempted suicide or serious bodily harm, or has behaved in such a manner as to indicate that the person is unable to satisfy his need for nourishment, essential medical care or shelter, so that it is probable that substantial bodily injury, serious physical harm or death will result within the reasonably foreseeable future; however, no person shall be deemed to be unable to satisfy his need for nourishment, essential medical care or shelter if he is able to satisfy such needs with the supervision and assistance of others who are willing and available. This determination shall take into account a person's history, recent behavior and any recent act, threat or serious psychiatric deterioration.

i. "Dangerous to others or property" means that by reason of mental illness there is a substantial likelihood that the person will inflict serious bodily harm upon another person or cause serious property damage within the reasonably foreseeable future. This determination shall take into account a person's history, recent behavior and any recent act, threat or serious psychiatric deterioration.

j. "Department" means the Department of Human Services.

k. "Director" means the chief administrative officer of a screening service, short-term care facility or special psychiatric hospital.

l. "Division" means the Division of Mental Health Services in the Department of Human Services.

m. "In need of involuntary commitment" or "in need of involuntary commitment to treatment" means that an adult with mental illness, whose mental illness causes the person to be dangerous to self or dangerous to others or property and who is unwilling to accept appropriate treatment voluntarily after it has been offered, needs outpatient treatment or inpatient care at a short-term care or psychiatric facility or special psychiatric hospital because other services are not appropriate or available to meet the person's mental health care needs.

n. "Institution" means any State or county facility providing inpatient care, supervision and treatment for persons with developmental disabilities; except that with respect to the maintenance provisions of Title 30 of the Revised Statutes, institution also means any psychiatric facility for the treatment of persons with mental illness.

o. "Mental health agency or facility" means a legal entity which receives funds from the State, county or federal government to provide mental health services.

p. "Mental health screener" means a psychiatrist, psychologist, social worker, registered professional nurse or other individual trained to do outreach only for the purposes of psychological assessment who is employed by a screening service and possesses the license, academic training or experience, as required by the commissioner pursuant to regulation; except that a psychiatrist and a State licensed clinical psychologist who meet the requirements for mental health screener shall not have to comply with any additional requirements adopted by the commissioner.

q. "Mental hospital" means, for the purposes of the payment and maintenance provisions of Title 30 of the Revised Statutes, a psychiatric facility.

r. "Mental illness" means a current, substantial disturbance of thought, mood, perception or orientation which significantly impairs judgment, capacity to control behavior or capacity to recognize reality, but does not include simple alcohol intoxication, transitory reaction to drug ingestion, organic brain syndrome or developmental disability unless it results in the severity of impairment described herein. The term mental illness is not limited to "psychosis" or "active psychosis," but shall include all conditions that result in the severity of impairment described herein.

s. "Patient" means a person over the age of 18 who has been admitted to, but not discharged from a short-term care or psychiatric facility, or who has been assigned to, but not discharged from an outpatient treatment provider.

t. "Physician" means a person who is licensed to practice medicine in any one of the United States or its territories, or the District of Columbia.

u. "Psychiatric facility" means a State psychiatric hospital listed in R.S.30:1-7, a county psychiatric hospital, or a psychiatric unit of a county hospital.

v. "Psychiatrist" means a physician who has completed the training requirements of the American Board of Psychiatry and Neurology.

w. "Psychiatric unit of a general hospital" means an inpatient unit of a general hospital that restricts its services to the care and treatment of persons with mental illness who are admitted on a voluntary basis.

x. "Psychologist" means a person who is licensed as a psychologist by the New Jersey Board of Psychological Examiners.

y. "Screening certificate" means a clinical certificate executed by a psychiatrist or other physician affiliated with a screening service.

z. "Screening service" means a public or private ambulatory care service designated by the commissioner, which provides mental health services including assessment, emergency and referral services to persons with mental illness in a specified geographic area.

aa. "Screening outreach visit" means an evaluation provided by a mental health screener wherever the person may be when clinically relevant information indicates the person may need involuntary commitment to treatment and is unable or unwilling to come to a screening service.

bb. "Short-term care facility" means an inpatient, community based mental health treatment facility which provides acute care and assessment services to a person with mental illness whose mental illness causes the person to be dangerous to self or dangerous to others or property. A short-term care facility is so designated by the commissioner and is authorized by the commissioner to serve persons from a specified geographic area. A short-term care facility may be a part of a general hospital or other appropriate health care facility and shall meet certificate of need requirements and shall be licensed and inspected by the Department of Health and Senior Services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) and in accordance with standards developed jointly with the Commissioner of Human Services.

cc. "Special psychiatric hospital" means a public or private hospital licensed by the Department of Health and Senior Services to provide voluntary and involuntary mental health services, including assessment, care, supervision, treatment and rehabilitation services to persons with mental illness.

dd. "Treatment team" means one or more persons, including at least one psychiatrist or physician, and may include a psychologist, social worker, nurse and other appropriate services providers. A treatment team provides mental health services to a patient of a screening service, outpatient treatment provider, or short-term care or psychiatric facility.

ee. "Voluntary admission" means that adult with mental illness, whose mental illness causes the person to be dangerous to self or dangerous to others or property and is willing to be admitted to a facility voluntarily for care, needs care at a short-term care or psychiatric facility because other facilities or services are not appropriate or available to meet the person's mental health needs. A person may also be voluntarily admitted to a psychiatric facility if his mental illness presents a substantial likelihood of rapid deterioration in functioning in the near future, there are no appropriate community alternatives available and the psychiatric facility can admit the person and remain within its rated capacity.

ff. "County adjuster" means the person appointed pursuant to R.S.30:4-34.

gg. "Least restrictive environment" means the available setting and form of treatment that appropriately addresses a person's need for care and the need to respond to dangers to the person, others or property and respects, to the greatest extent practicable, the person's interests in freedom of movement and self-direction.

hh. "Outpatient treatment" means clinically appropriate care based on proven or promising treatments directed to wellness and recovery, provided by a member of the patient's treatment team to a person not in need of inpatient treatment. Outpatient treatment may include, but shall not be limited to, day treatment services, case management, residential services, outpatient counseling and psychotherapy, and medication treatment.

ii. "Outpatient treatment provider" means a community-based provider, designated as an outpatient treatment provider pursuant to section 8 of P.L.1987, c.116 (C.30:4-27.8), that provides or coordinates the provision of outpatient treatment to persons in need of involuntary commitment to treatment.

jj. "Plan of outpatient treatment" means a plan for recovery from mental illness approved by a court pursuant to section 17 of P.L.2009, c.112 (C.30:4-27.15a) that is to be carried out in an outpatient setting and is prepared by an outpatient treatment provider for a patient who has a history of responding to treatment. The plan may include medication as a component of the plan; however, medication shall not be involuntarily administered in an outpatient setting.

kk. "Reasonably foreseeable future" means a time frame that may be beyond the immediate or imminent, but not longer than a time frame as to which reasonably certain judgments about a person's likely behavior can be reached.

3. Section 3 of P.L.1987, c.116 (C.30:4-27.3) is amended to read as follows:

C.30:4-27.3 Involuntary commitment.

3. The standards and procedures in this act apply to all adults involuntarily committed to treatment, including those assigned to an outpatient treatment provider or admitted to a short-term care facility, psychiatric facility or special psychiatric hospital and all adults voluntarily admitted from a screening service to a short-term care facility or psychiatric facility. The standards and procedures in this act shall not apply to adults voluntarily

admitted to psychiatric units in general hospitals or special psychiatric hospitals, except as provided in section 11 or 20 of P.L.1987, c.116 (C.30:4-27.11 or C.30:4-27.20).

4. Section 4 of P.L.1987, c.116 (C.30:4-27.4) is amended to read as follows:

C.30:4-27.4 Screening service.

4. The commissioner, in consultation with the appropriate county mental health board and consistent with the approved county mental health plan, shall designate one or more mental health agencies or facilities in each county or multi-county region in the State as a screening service. The commissioner shall so designate an agency or facility only with the approval of the agency's or facility's governing body. In designating the screening services, the commissioner shall ensure that screening services are accessible to all persons in the State who need these services and that screening service evaluation is the preferred process for entry into outpatient treatment, short-term care facilities or psychiatric facilities so that appropriate consideration is given to less restrictive treatment alternatives.

5. Section 5 of P.L.1987, c.116 (C.30:4-27.5) is amended to read as follows:

C.30:4-27.5 Screening service procedures.

5. The commissioner shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) regarding a screening service and its staff that effectuate the following purposes and procedures:

a. A screening service shall serve as the facility in the public mental health care treatment system wherein a person believed to be in need of involuntary commitment to outpatient treatment, a short-term care facility, psychiatric facility or special psychiatric hospital undergoes an assessment to determine what mental health services are appropriate for the person and where those services may be most appropriately provided in the least restrictive environment.

The screening service may provide emergency and consensual treatment to the person receiving the assessment and may transport the person or detain the person up to 24 hours for the purposes of providing the treatment and conducting the assessment.

b. When a person is assessed by a mental health screener and involuntary commitment to treatment seems necessary, the screener shall provide, on a screening document prescribed by the division, information regarding the person's history and available alternative facilities and services that are deemed inappropriate for the person. When appropriate and available, and as permitted by law, the screener shall make reasonable efforts to gather information from the person's family or significant others for the purposes of preparing the screening document. If a psychiatrist, in consideration of this document and in conjunction with the psychiatrist's own complete assessment, concludes that the person is in need of commitment to treatment, the psychiatrist shall complete the screening certificate. The screening certificate shall be completed by a psychiatrist except in those circumstances where the division's contract with the screening service provides that another physician may complete the certificate.

Upon completion of the screening certificate, screening service staff shall determine, in consultation with the psychiatrist or another physician, as appropriate, the least restrictive environment for the appropriate treatment to which the person shall be assigned or admitted, taking into account the person's prior history of hospitalization and treatment and the person's current mental health condition. Screening service staff shall designate:

(1) inpatient treatment for the person if he is immediately or imminently dangerous or if outpatient treatment is deemed inadequate to render the person unlikely to be dangerous to self, others or property within the reasonably foreseeable future; and

(2) outpatient treatment for the person when outpatient treatment is deemed sufficient to render the person unlikely to be dangerous to self, others or property within the reasonably foreseeable future.

If the screening service staff determines that the person is in need of involuntary commitment to outpatient treatment, the screening service staff shall consult with an outpatient treatment provider to arrange, if possible, for an appropriate interim plan of outpatient treatment in accordance with section 9 of P.L.2009, c.112 (C.30:4-27.8a).

If a person has been admitted three times or has been an inpatient for 60 days at a short-term care facility during the preceding 12 months, consideration shall be given to not placing the person in a short-term care facility.

The person shall be admitted to the appropriate facility or assigned to the appropriate outpatient treatment provider, as appropriate for treatment, as soon as possible. Screening service staff are authorized to coordinate initiation of outpatient treatment or transport the person or arrange for transportation of the person to the appropriate facility.

c. If the mental health screener determines that the person is not in need of assignment or commitment to an outpatient treatment provider, or admission or commitment to a short-term care facility, psychiatric facility or special psychiatric hospital, the screener shall refer the person to an appropriate community mental health or social services agency or appropriate professional or inpatient care in a psychiatric unit of a general hospital.

d. A mental health screener shall make a screening outreach visit if the screener determines, based on clinically relevant information provided by an individual with personal knowledge of the person subject to screening, that the person may need involuntary commitment to treatment and the person is unwilling or unable to come to the screening service for an assessment.

e. If the mental health screener pursuant to this assessment determines that there is reasonable cause to believe that a person is in need of involuntary commitment to treatment, the screener shall so certify the need on a form prepared by the division.

6. Section 6 of P.L.1987, c.116 (C.30:4-27.6) is amended to read as follows:

C.30:4-27.6 Custody.

6. A State or local law enforcement officer shall take custody of a person and take the person immediately and directly to a screening service if:

a. On the basis of personal observation, the law enforcement officer has reasonable cause to believe that the person is in need of involuntary commitment to treatment;

b. A mental health screener has certified on a form prescribed by the division that based on a screening outreach visit the person is in need of involuntary commitment to treatment and has requested the person be taken to the screening service for a complete assessment;

c. The court orders that a person subject to an order of conditional discharge issued pursuant to subsection c. of section 15 of P.L.1987, c.116 (C.30:4-27.15) who has failed to follow the conditions of the discharge be taken to a screening service for an assessment; or

d. An outpatient treatment provider has certified on a form prescribed by the division that the provider has reasonable cause to believe the person is in need of evaluation for commitment to treatment.

The involvement of the law enforcement authority shall continue at the screening service as long as necessary to protect the safety of the person in custody and the safety of the community from which the person was taken.

7. Section 7 of P.L.1987, c.116 (C.30:4-27.7) is amended to read as follows:

C.30:4-27.7 Immunity from liability.

7. a. A law enforcement officer, screening service, outpatient treatment provider or short-term care facility designated staff person or their respective employers, acting in good faith pursuant to P.L.1987, c.116 (C.30:4-27.1 et seq.) and P.L.2009, c.112 who takes reasonable steps to assess, take custody of, detain or transport an individual for the purposes of mental health assessment or treatment is immune from civil and criminal liability.

b. An emergency services or medical transport person or their respective employers, acting in good faith pursuant to this act and pursuant to the direction of a person designated in subsection a. of this section, who takes reasonable steps to take custody of, detain or transport an individual for the purpose of mental health assessment or treatment is immune from civil and criminal liability.

For the purposes of this subsection, "emergency services or medical transport person" means a member of a first aid, ambulance, rescue squad or fire department, whether paid or volunteer, auxiliary police officer or paramedic.

8. Section 8 of P.L.1987, c.116 (C.30:4-27.8) is amended to read as follows:

C.30:4-27.8 Short-term care facilities designated.

8. a. The commissioner, in consultation with the Commissioner of Health and Senior Services, shall designate one or more mental health agencies or facilities in each county or multi-county region in the State as short-term care facilities. The commissioner shall so designate an agency or facility only with the approval of the agency's or facility's governing body.

b. The commissioner shall designate one or more mental health agencies in each county or multi-county region in the State as an outpatient treatment provider, and shall authorize the designated outpatient treatment provider to provide services to persons from a specified geographic area. The commissioner shall so designate an agency only with the approval of the agency's governing body.

C.30:4-27.8a Plan of outpatient treatment developed by provider.

9. a. An outpatient treatment provider shall develop a plan of outpatient treatment, in cooperation with screening service or short term care facility

staff or the court, as applicable, for patients committed and assigned to outpatient treatment by screening service staff or order of a court, or both. When appropriate and available, and as permitted by law, the provider shall make reasonable efforts to gather information from the patient's family or significant others for the purposes of developing the plan of outpatient treatment.

b. During the time a patient is assigned to the outpatient treatment provider for services pursuant to a commitment to outpatient treatment, the outpatient treatment provider shall provide and coordinate the provision of care consistent with the plan of outpatient treatment.

c. If a patient fails to materially comply with the plan of outpatient treatment during the time the patient is assigned by a screening service to the outpatient treatment provider for services pursuant to a commitment to outpatient treatment, or if the outpatient treatment provider determines that the plan of outpatient treatment is inadequate to meet the patient's mental health needs, the provider shall notify the screening service of the material noncompliance or plan inadequacy, as applicable, and the patient shall be referred to a screening service for an assessment to determine what mental health services are appropriate and where those services may be provided, in accordance with section 5 of P.L.1987, c.116 (C.30:4-27.5). In such a case, the patient shall be afforded the protections and procedures provided for in P.L.1987, c.116 and P.L.2009, c.112.

d. If a patient fails to materially comply with the plan of outpatient treatment during the time the patient is assigned by a court to the outpatient treatment provider for services pursuant to a commitment to outpatient treatment, or if the outpatient treatment provider determines that the plan of outpatient treatment is inadequate to meet the patient's mental health needs, the provider shall notify the court and screening service of the material noncompliance or plan inadequacy, as applicable, and the patient shall be referred to a screening service for an assessment to determine what mental health services are appropriate and where those services may be provided, in accordance with section 5 of P.L.1987, c.116 (C.30:4-27.5). In such a case, the patient shall be afforded the protections and procedures provided for in P.L.1987, c.116 and P.L.2009, c.112.

e. If an outpatient treatment provider determines that a plan of outpatient treatment is inadequate and needs to be modified, but referral to a screening service is not necessary, the provider shall seek court approval for such modification and shall notify the court, the patient's attorney and the county adjuster of the request for court approval of such modification.

10. Section 9 of P.L.1987, c.116 (C.30:4-27.9) is amended to read as follows:

C.30:4-27.9 Purposes, procedures.

9. Outpatient treatment providers, short-term care facilities, psychiatric facilities and special psychiatric hospitals shall effectuate the following purposes and procedures:

a. An outpatient treatment provider to which a person has been assigned pursuant to an order of continued involuntary commitment to treatment pursuant to section 15 of P.L.1987, c.116 (C.30:4-27.15) shall maintain the plan of outpatient treatment approved by the court pursuant to section 17 of P.L.2009, c.112 (C.30:4-27.15a), and shall notify the court, the person's attorney and the county adjuster of any material non-compliance with the plan by the person and of the inadequacy of the plan of outpatient treatment to meet the person's mental health needs, if applicable, and seek court approval for a modification to a plan of outpatient treatment, as provided for in section 9 of P.L.2009, c.112 (C.30:4-27.8a).

The director or chief executive officer of a short-term care facility, psychiatric facility or special psychiatric hospital shall have custody of a person while that person is detained in the facility and shall notify:

(1) appropriate public or private agencies to arrange for the care of any dependents and to ensure the protection of the person's property; and (2) appropriate ambulatory mental health providers for the purposes of beginning discharge planning.

If a person is admitted to a psychiatric facility, the chief executive officer of the facility shall promptly notify the county adjuster of the person's county of residence that the person has been admitted to the facility.

The facility is authorized to provide assessment, treatment and rehabilitation services and shall provide discharge planning services as required pursuant to section 18 of P.L.1987, c.116 (C.30:4-27.18).

The facility is authorized to detain persons involuntarily committed to the facility.

b. A person shall not be involuntarily committed to treatment at an outpatient treatment provider, short-term care or psychiatric facility, or special psychiatric hospital unless the person is in need of involuntary commitment to treatment.

The person shall be assigned involuntarily to an outpatient treatment provider or admitted involuntarily to a facility only by referral from a screening service or temporary court order. The person may be admitted voluntarily to a short-term care or psychiatric facility or special psychiatric hospital

only after the person has been advised orally and in writing of the discharge provisions established pursuant to P.L.1987, c.116 (C.30:4-27.1 et seq.) and P.L.2009, c.112 (C.30:4-27.8a et al.) and of the subsequent possibility that the facility may initiate involuntary commitment proceedings for the person.

c. A short-term care or psychiatric facility, or special psychiatric hospital may detain a person, admitted to the facility involuntarily by referral from a screening service without a temporary court order, for no more than 72 hours from the time the screening certificate was executed. During this period of time the facility shall initiate court proceedings for the involuntary commitment of the person pursuant to section 10 of P.L.1987, c.116 (C.30:4-27.10).

d. A person shall not be assigned to an outpatient treatment provider by referral from a screening service without a temporary court order, for more than 72 hours from the time the screening certificate was executed. During this period of time the provider shall initiate court proceedings for the involuntary commitment of the person pursuant to section 10 of P.L.1987, c.116 (C.30:4-27.10).

11. Section 10 of P.L.1987, c.116 (C.30:4-27.10) is amended to read as follows:

C.30:4-27.10 Court proceedings.

10. a. (1) A short-term care or psychiatric facility or a special psychiatric hospital shall initiate court proceedings for involuntary commitment to inpatient or outpatient treatment by submitting to the court a clinical certificate completed by a psychiatrist on the patient's treatment team and the screening certificate which authorized admission of the patient to the facility; provided, however, that both certificates shall not be signed by the same psychiatrist unless the psychiatrist has made a reasonable but unsuccessful attempt to have another psychiatrist conduct the evaluation and execute the certificate.

(2) A screening service or outpatient treatment provider shall initiate court proceedings for commitment to outpatient treatment by submitting to the court a clinical certificate completed by a psychiatrist on the patient's treatment team and the screening certificate which authorized assignment of the patient to outpatient treatment with the outpatient treatment provider; provided, however, that both certificates shall not be signed by the same psychiatrist unless the psychiatrist has made a reasonable but unsuccessful attempt to have another psychiatrist conduct the evaluation and execute the certificate.

b. Court proceedings for the involuntary commitment to treatment of any person not referred by a screening service may be initiated by the submission to the court of two clinical certificates, at least one of which is prepared by a psychiatrist. The person shall not be involuntarily committed before the court issues a temporary court order.

c. A court proceeding for involuntary commitment to treatment of an inmate who is scheduled for release upon expiration of a maximum term of incarceration shall be initiated by the Attorney General or county prosecutor by submission to the court of two clinical certificates, at least one of which is prepared by a psychiatrist.

d. The Attorney General, in exercise of the State's authority as parens patriae, may initiate a court proceeding for the involuntary commitment to treatment of any person in accordance with the procedures set forth in subsection a. or b. of this section. When the Attorney General determines that the public safety requires initiation of a proceeding pursuant to subsection b. of this section, the Attorney General may apply to the court for an order compelling the psychiatric evaluation of the person. The court shall grant the Attorney General's application if the court finds that there is reasonable cause to believe that the person may be in need of involuntary commitment to treatment. The Attorney General may delegate the authority granted pursuant to this subsection, on a case by case basis, to the county prosecutor.

e. Any person who is a relative by blood or marriage of the person being screened who executes a clinical certificate, or any person who signs a clinical certificate for any purpose or motive other than for purposes of care, treatment and confinement of a person in need of involuntary commitment to treatment, shall be guilty of a crime of the fourth degree.

f. Upon receiving these documents the court shall immediately review them in order to determine whether there is probable cause to believe that the person is in need of involuntary commitment to treatment.

g. If the court finds that there is probable cause to believe that the person, other than a person whose commitment is sought pursuant to subsection c. of this section, is in need of involuntary commitment to treatment, it shall issue a temporary order authorizing the assignment of the person to an outpatient treatment provider or the admission to or retention of the person in the custody of the facility, that is both appropriate to the person's condition and is the least restrictive environment, pending a final hearing.

h. If the court finds that there is probable cause to believe that a person whose commitment is sought pursuant to subsection c. of this section is in need of involuntary commitment to treatment, it shall issue an order setting a date for a final hearing and authorizing the Commissioner of the De-

partment of Corrections to arrange for temporary commitment pursuant to section 2 of P.L.1986, c.71 (C.30:4-82.2) to the Ann Klein Forensic Center in Trenton or other facility designated for the criminally insane pending the final hearing and prior to the expiration of the person's term. The order shall specifically provide for transfer of custody to the Ann Klein Forensic Center in Trenton or other facility designated for the criminally insane if the person's maximum term will expire prior to the final hearing.

i. In the case of a person committed to treatment at a short-term care facility or special psychiatric hospital, after the facility's treatment team conducts a mental and physical examination, administers appropriate treatment and prepares a discharge assessment, the facility may transfer the patient to a psychiatric facility prior to the final hearing; provided that: (1) the patient, his family and his attorney are given 24 hours' advance notice of the pending transfer; and (2) the transfer is accomplished in a manner which will give the receiving facility adequate time to examine the patient, become familiar with his behavior and condition and prepare for the hearing. In no event shall the transfer be made less than five days prior to the date of the hearing unless an unexpected transfer is dictated by a change in the person's clinical condition.

12. Section 11 of P.L.1987, c.116 (C.30:4-27.11) is amended to read as follows:

C.30:4-27.11 Patient rights.

11. A patient admitted to a short-term care or psychiatric facility or special psychiatric hospital either on a voluntary or involuntary basis, or assigned to an outpatient treatment provider has the following rights:

a. The right to have examinations and services provided in the patient's primary means of communication including, as soon as possible, the aid of an interpreter if needed because the patient is of limited English-speaking ability or suffers from a speech or hearing impairment;

b. The right to a verbal explanation of the reasons for admission to the facility or assignment to the provider, as applicable, the availability of an attorney and the rights provided in P.L.1987, c.116 (C.30:4-27.1 et seq.) and P.L.2009, c.112; and

c. The right to be represented by an attorney and, if unrepresented or unable to afford an attorney, the right to be provided with an attorney paid for by the appropriate government agency. An attorney representing a patient has the right to inspect and copy the patient's clinical chart.

The clinical director of the facility, or the outpatient treatment provider, as appropriate, shall ensure that a written statement of the rights provided in

P.L.1987, c.116 (C.30:4-27.1 et seq.) and P.L.2009, c.112 is provided to patients at the time of admission or assignment, as applicable, as soon as possible thereafter, and to patients and their families upon request.

13. Section 12 of P.L.1987, c.116 (C.30:4-27.12) is amended to read as follows:

C.30:4-27.12 Court hearing.

12. a. A patient who is involuntarily committed to treatment and assigned to an outpatient treatment provider or involuntarily committed to treatment and admitted to a short-term care or psychiatric facility or special psychiatric hospital shall receive a court hearing with respect to the issue of continued need for involuntary commitment within 20 days from initial commitment unless the patient has been administratively discharged pursuant to section 17 of P.L.1987, c.116 (C.30:4-27.17). However, if a person is involuntarily committed pursuant to subsection c. or d. of section 10 of P.L.1987, c.116 (C.30:4-27.10), that person immediately shall be committed to the Ann Klein Forensic Center in Trenton or other facility designated for the criminally insane for the duration of the 20-day waiting period.

b. Except as provided in subsection c. of this section, the assigned county counsel is responsible for presenting the case for the patient's involuntary commitment to the court, unless the county adjuster is licensed to practice law in this State, in which case the county adjuster shall present the case for the patient's involuntary commitment to the court.

c. Notwithstanding the provisions of subsection b. of this section and upon notice to the county adjuster:

(1) The Attorney General, or the county prosecutor acting at the request of the Attorney General, may supersede the county counsel or county adjuster and assume responsibility for presenting any case for involuntary commitment to treatment or may elect to participate with the county counsel or county adjuster in presenting any such case; and

(2) The county prosecutor may supersede the county counsel or county adjuster and assume responsibility for presenting any case for involuntary commitment to treatment initiated by the county prosecutor pursuant to subsection c. of section 10 of P.L.1987, c.116 (C.30:4-27.10) or may elect to participate with the county counsel in the presentation of any such case.

d. A patient subject to involuntary commitment to treatment shall have counsel present at the hearing and shall not be permitted to appear at the hearing without counsel.

14. Section 13 of P.L.1987, c.116 (C.30:4-27.13) is amended to read as follows:

C.30:4-27.13 Notice of hearing.

13. a. At least 10 days prior to a court hearing, the county adjuster of the admitting county or the Attorney General or county prosecutor if presenting the case for the patient's involuntary commitment to treatment, shall cause notice of the court hearing to be served upon the patient, the patient's guardian if any, the patient's next-of-kin, the patient's attorney, the director, chief executive officer, or other individual who has custody of the patient, the county adjuster of the county in which the patient has legal settlement and any other individual specified by the court. The notice shall contain the date, time and location of the court hearing. The patient and the patient's attorney shall also receive copies of the clinical certificates and supporting documents, the temporary court order and a statement of the patient's rights at the court hearing.

b. A psychiatrist on the patient's treatment team who has conducted a personal examination of the patient as close to the court hearing date as possible, but in no event more than five calendar days prior to the court hearing, shall testify at the hearing to the clinical basis for the need for involuntary commitment to treatment. Other members of the patient's treatment team and any other witness with relevant information offered by the patient or the persons presenting the case for civil commitment shall also be permitted to testify at the hearing.

c. The patient's next-of-kin may attend and testify at the court hearing if the court so determines.

d. The court shall transcribe the court hearing and arrange for the payment of expenses related thereto in the same manner as for other court proceedings.

15. Section 14 of P.L.1987, c.116 (C.30:4-27.14) is amended to read as follows:

C.30:4-27.14 Patient rights at hearing.

14. A person subject to involuntary commitment to treatment has the following rights at a court hearing and any subsequent review court hearing:

a. The right to be represented by counsel or, if indigent, by appointed counsel;

b. The right to be present at the court hearing unless the court determines that because of the person's conduct at the court hearing the proceeding cannot reasonably continue while the person is present;

c. The right to present evidence;
d. The right to cross examine witnesses; and
e. The right to a hearing in camera.

16. Section 15 of P.L.1987, c.116 (C.30:4-27.15) is amended to read as follows:

C.30:4-27.15 Court findings relative to involuntary commitment to treatment.

15. a. If the court finds by clear and convincing evidence that the patient needs continued involuntary commitment to treatment, it shall issue an order authorizing the involuntary commitment of the patient and the assignment or admission of the patient pursuant to section 17 of P.L.2009, c.112 (C.30:4-27.15a) and shall schedule a subsequent court hearing in the event the patient is not administratively discharged pursuant to section 17 of P.L.1987, c.116 (C.30:4-27.17) prior thereto.

b. If the court finds that the patient does not need continued involuntary commitment to treatment, the court shall so order. A patient who is serving a term of incarceration shall be returned to the appropriate State, county or local authority to complete service of the term of incarceration imposed until released in accordance with law, and any other patient shall be discharged by the facility within 48 hours of the court's verbal order or by the end of the next working day, whichever is longer, with a discharge plan prepared pursuant to section 18 of P.L.1987, c.116 (C.30:4-27.18).

c. (1) The court may discharge the patient subject to conditions, if the court finds that the person does not need involuntary or continued involuntary commitment to treatment and the court finds:

(a) that the patient's history indicates a high risk of rehospitalization because of the patient's failure to comply with discharge plans; or

(b) that there is substantial likelihood that by reason of mental illness the patient will be dangerous to himself, others or property if the patient does not receive other appropriate and available services that render involuntary commitment to treatment unnecessary.

(2) Conditions imposed pursuant to this section shall include those recommended by the facility and mental health agency and developed with the participation of the patient. Conditions imposed on the patient shall be specific and their duration shall not exceed 90 days unless the court determines, in a case in which the Attorney General or a county prosecutor participated, that the conditions should be imposed for a longer period. If the court imposes conditions for a period exceeding six months, the court shall provide for a review hearing on a date the court deems appropriate but in no

event later than six months from the date of the order. The review hearing shall be conducted in the manner provided in this section, and the court may impose any order authorized pursuant to this section.

(3) The designated mental health agency staff person shall notify the court if the patient fails to meet the conditions of the discharge plan, and the court shall issue an order directing that the person be taken to a screening service for an assessment. The court shall determine, in conjunction with the findings of a screening service, if the patient needs to be rehospitalized and, if so, the patient shall be returned to the facility. The court shall hold a hearing within 20 days of the day the patient was returned to the facility to determine if the order of conditional discharge should be vacated.

d. Notwithstanding subsection a. of this section, or any provision of section 16, 17 or 18 of P.L.1987, c.116 (C.30:4-27.16, 30:4-27.17 or 30:4-27.18), no person committed while serving a term of incarceration shall be discharged by the court or administratively discharged prior to the date on which the person's maximum term would have expired had he not been committed. If the person is no longer in need of involuntary commitment to treatment, the person shall be returned to the appropriate State, county or local authority to complete service of the term of incarceration imposed until released in accordance with law, and the person shall be given day for day credit for all time during which the person was committed.

e. Notwithstanding subsection a. of this section, or any provision of section 16, 17 or 18 of P.L.1987, c.116 (C.30:4-27.16, 30:4-27.17 or 30:4-27.18), no person committed pursuant to N.J.S.2C:4-8 concerning acquittal of a criminal charge by reason of insanity or pursuant to N.J.S.2C:4-6 concerning lack of mental competence to stand trial shall be discharged by the court or administratively discharged unless the prosecuting attorney in the case receives prior notice and an opportunity to be heard.

C.30:4-27.15a Court determination of assignment of patient to involuntary commitment to treatment.

17. a. The court shall determine whether a patient who has been found to need continued involuntary commitment to treatment pursuant to section 15 of P.L.1987, c.116 (C.30:4-27.15) should be assigned to an outpatient setting or admitted to an inpatient setting for treatment, and shall issue the order authorizing such placement pursuant to section 15 of P.L.1987, c.116 (C.30:4-27.15), in accordance with this section. In determining the commitment placement, the court shall consider the least restrictive environment for the patient to receive clinically appropriate treatment that would

ameliorate the danger posed by the patient and provide the patient with appropriate treatment.

b. If the court determines that the least restrictive environment for the patient to receive clinically appropriate treatment would be in an outpatient setting and that there is a likelihood of the patient responding to outpatient treatment, the court shall obtain from a designated outpatient treatment provider a proposed plan of outpatient treatment for the patient which the court shall review. The plan of outpatient treatment shall be approved by the court.

c. If the court determines that the least restrictive environment for the patient to receive clinically appropriate treatment would be in an inpatient setting, the court shall issue an order for admission to a psychiatric facility.

d. Between the time periods for periodic court review hearings pursuant to section 16 of P.L.1987, c.116 (C.30:4-27.16), the chief executive officer of a psychiatric facility may recommend changing the placement of the patient from an inpatient to outpatient setting, in order to ensure that the patient receives clinically appropriate treatment in the least restrictive environment. The chief executive officer of the facility shall notify the court of the recommendation for the change in placement.

e. At the time the court sets the date for a hearing on the change in placement, notice of the hearing shall be served upon the patient, the patient's guardian, if any, the patient's next-of-kin, the patient's attorney and the county adjuster of the county in which the patient has legal settlement.

f. The provisions of section 14 of P.L.1987, c.116 (C.30:4-27.14) concerning patient rights at a hearing shall apply to the hearing pursuant to this subsection.

18. Section 16 P.L.1987, c.116 (C.30:4-27.16) is amended to read as follows:

C.30:4-27.16 Court review hearings.

16. a. A patient committed pursuant to a court order who is not administratively discharged pursuant to section 17 of P.L.1987, c.116 (C.30:4-27.17) shall be afforded periodic court review hearings of the need for involuntary commitment to treatment and of the least restrictive environment for that commitment. The review hearing shall be conducted in the manner provided in section 15 of P.L.1987, c.116 (C.30:4-27.15). If the court determines at a review hearing that involuntary commitment to treatment shall be continued, it shall execute a new order.

In the case of a patient who has been admitted to a facility, the court shall conduct the first review hearing three months from the date of the first

hearing, the next review hearing nine months from the date of the first hearing and subsequent review hearings 12 months from the date of the first hearing and annually thereafter. The court may schedule additional review hearings but, except in extraordinary circumstances, not more often than once every 30 days.

In the case of a patient who has been assigned to an outpatient treatment provider, the court shall conduct the first review hearing six months from the date of the first hearing, the next review hearing nine months from the date of the first hearing and subsequent review hearings 12 months from the date of the first hearing and annually thereafter. The court may schedule additional review hearings but, except in extraordinary circumstances, not more often than once every 30 days.

b. At a court review hearing, when the advanced age of the patient or the cause or nature of the mental illness renders it appropriate and when it would be impractical to obtain the testimony of a psychiatrist as required in section 13 of P.L.1987, c.116 (C.30:4-27.13), the court may permit a physician on the patient's treatment team, who has personally conducted an examination of the patient as close to the hearing date as possible, but in no event more than five days prior to the hearing date, to testify at the hearing to the clinical basis for the need for involuntary commitment to treatment.

19. Section 17 of P.L.1987, c.116 (C.30:4-27.17) is amended to read as follows:

C.30:4-27.17 Discharge determination.

17. a. The treatment team at an outpatient treatment provider, short-term care or psychiatric facility or special psychiatric hospital shall, subject to the limitations set forth in subsections b. and c. of this section, administratively discharge a patient from involuntary commitment status if the treatment team determines that the patient no longer needs involuntary commitment to treatment. If a discharge plan has not been developed pursuant to section 18 of P.L.1987, c.116 (C.30:4-27.18), it shall be developed forthwith.

b. If the patient is confined pursuant to an order entered under section 15 of P.L.1987, c.116 (C.30:4-27.15) in a case in which the Attorney General or a county prosecutor participated, the treatment team shall, no less than 10 days prior to the proposed date of administrative discharge, provide written notice to the committing court and to the person or persons who presented the case for involuntary commitment to treatment. If, within five days of receipt of such notice, a person who presented the case for commitment files a request for a hearing on the issue of continued need for

commitment and serves notice of that request, in accordance with the provisions of section 13 of P.L.1987, c.116 (C.30:4-27.13), the treatment team shall delay the administrative discharge and the court shall schedule a hearing on the issue. The hearing shall be conducted in the manner provided in section 15 of P.L.1987, c.116 (C.30:4-27.15).

c. If the patient is confined pursuant to an order entered under N.J.S.2C:4-8 concerning acquittal of a criminal charge by reason of insanity or under N.J.S.2C:4-6 concerning lack of mental competence to stand trial, the treatment team shall, no less than 10 days prior to the proposed date of administrative discharge, provide written notice to the committing court and to the prosecutor. If, within five days of receipt of such notice, the prosecutor files a request for a hearing on the issue of continued need for commitment and serves notice of that request, in accordance with the provisions of section 13 of P.L.1987, c.116 (C.30:4-27.13), the treatment team shall delay the administrative discharge and the court shall schedule a hearing on the issue. The hearing shall be conducted in the manner provided in section 15 of P.L.1987, c.116 (C.30:4-27.15).

20. Section 18 of P.L.1987, c.116 (C.30:4-27.18) is amended to read as follows:

C.30:4-27.18 Discharge plan.

18. A person discharged either by the court or administratively from an outpatient treatment provider, short-term care or psychiatric facility or special psychiatric hospital shall have a discharge plan prepared by the treatment team at the facility or provider, as appropriate, pursuant to this section. The treatment team shall give the patient an opportunity to participate in the formulation of the discharge plan.

In the case of patients committed to treatment at short-term care or psychiatric facilities, a community agency designated by the commissioner shall participate in the formulation of the plan. The facility shall advise the mental health agency of the date of the patient's discharge. The mental health agency shall provide follow-up care to the patient pursuant to regulations adopted by the commissioner.

In the case of patients assigned to outpatient treatment providers, the outpatient treatment provider shall participate in the formulation of the plan.

This section does not preclude discharging a patient to an appropriate professional.

Psychiatric facilities shall give notice of the discharge to the county adjuster of the county in which the patient has legal settlement.

21. Section 1 of P.L.1991, c.270 (C.2A:62A-16) is amended to read as follows:

C.2A:62A-16 Medical or counseling practitioner's immunity from civil liability.

1. a. Any person who is licensed in the State of New Jersey to practice psychology, psychiatry, medicine, nursing, clinical social work or marriage counseling, whether or not compensation is received or expected, is immune from any civil liability for a patient's violent act against another person or against himself unless the practitioner has incurred a duty to warn and protect the potential victim as set forth in subsection b. of this section and fails to discharge that duty as set forth in subsection c. of this section.

b. A duty to warn and protect is incurred when the following conditions exist:

(1) The patient has communicated to that practitioner a threat of imminent, serious physical violence against a readily identifiable individual or against himself and the circumstances are such that a reasonable professional in the practitioner's area of expertise would believe the patient intended to carry out the threat; or

(2) The circumstances are such that a reasonable professional in the practitioner's area of expertise would believe the patient intended to carry out an act of imminent, serious physical violence against a readily identifiable individual or against himself.

c. A licensed practitioner of psychology, psychiatry, medicine, nursing, clinical social work or marriage counseling shall discharge the duty to warn and protect as set forth in subsection b. of this section by doing any one or more of the following:

(1) Arranging for the patient to be admitted voluntarily to a psychiatric unit of a general hospital, a short-term care facility, a special psychiatric hospital or a psychiatric facility, under the provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.);

(2) Initiating procedures for involuntary commitment to treatment of the patient to an outpatient treatment provider, a short-term care facility, a special psychiatric hospital or a psychiatric facility, under the provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.);

(3) Advising a local law enforcement authority of the patient's threat and the identity of the intended victim;

(4) Warning the intended victim of the threat, or, in the case of an intended victim who is under the age of 18, warning the parent or guardian of the intended victim; or

(5) If the patient is under the age of 18 and threatens to commit suicide or bodily injury upon himself, warning the parent or guardian of the patient.

d. A practitioner who is licensed in the State of New Jersey to practice psychology, psychiatry, medicine, nursing, clinical social work or marriage counseling who, in complying with subsection c. of this section, discloses a privileged communication, is immune from civil liability in regard to that disclosure.

C.30:4-27.18a Reference to mean "in need of involuntary commitment to treatment."

22. Whenever, in any rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to "in need of involuntary commitment" that term shall mean "in need of involuntary commitment to treatment" as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2).

23. a. The Commissioner of Human Services shall monitor and evaluate the implementation of involuntary commitment to outpatient treatment established pursuant to P.L.2009, c.112 and report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature four years after the effective date of P.L.2009, c.112 and again six years after the effective date, on the implementation of involuntary commitment to outpatient treatment. Specifically, the commissioner shall evaluate:

(1) how screening services, courts and mental health professionals apply the standard for determining whether a person is dangerous within the reasonably foreseeable future to self, others or property;

(2) the effect of involuntary commitment to outpatient treatment on persons with severe mental illness;

(3) the rate and geographic distribution of court orders for involuntary commitment to outpatient treatment;

(4) the responses of patients who have been committed to involuntary commitment to outpatient treatment to such treatment;

(5) the extent to which the use of involuntary commitment to outpatient treatment affects the rates of institutionalization and incarceration;

(6) whether sufficient treatment services are available to persons who have been involuntarily committed to outpatient treatment;

(7) whether persons who have been involuntarily committed to outpatient treatment are receiving the mental health treatment services necessary for recovery; and

(8) the effect of involuntary commitment to outpatient treatment on the availability of services to voluntary consumers with severe mental illness.

To carry out the purposes of this subsection, the commissioner may contract with an individual or entity with expertise in the field of evaluating mental health programs.

b. The commissioner shall include in his reports such recommendations for statutory changes as he deems necessary, including whether or not the provision for involuntary commitment to outpatient treatment as established pursuant to P.L.2009, c.112 shall be continued or revised.

24. a. The Commissioner of Human Services shall phase in implementation of involuntary commitment to outpatient treatment established pursuant to P.L.2009, c.112 over a three-year period. The commissioner shall select seven counties in the State to implement the act in the first year after the effective date of this act, seven additional counties to implement the act in the second year after the effective date of this act, and the remaining seven counties to fully implement the act Statewide in the third year after the effective date of this act.

b. For the three-year phase-in period, the commissioner shall monitor the implementation of involuntary commitment to outpatient treatment and report annually to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. The commissioner shall include in his reports such recommendations for administrative and statutory changes as he deems necessary. The annual reports shall address the following:

(1) the number of new patients who were involuntarily committed to outpatient treatment as compared to the number of patients committed to outpatient treatment who had previously been committed to inpatient treatment; and

(2) whether sufficient treatment services are available in the respective counties to serve persons who have been involuntarily committed to outpatient treatment and whether persons who have been involuntarily committed to outpatient treatment are receiving the mental health treatment services necessary for recovery.

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

b. The Supreme Court of New Jersey may adopt court rules to effectuate the purposes of this act.

26. This act shall take effect one year after the date of enactment and the provisions of this act shall be subject to the phased-in implementation

as provided in section 24 of this act, but the Commissioner of Human Services may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of the act.

Approved August 11, 2009.

CHAPTER 113

AN ACT concerning installment payments for maternity services by certain health benefits plans and supplementing various parts of the statutory law.

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

C.17:48-6hh Hospital service corporation to provide installment payments to obstetrical provider for maternity services.

1. a. Every individual or group hospital service corporation contract that provides benefits for maternity services, and that is delivered, issued, executed or renewed in this State or approved for issuance or renewal in this State, by the Commissioner of Banking and Insurance on or after the effective date of this act, shall provide for reimbursement in installments to an obstetrical provider licensed in New Jersey for maternity services rendered during the term of a covered person's pregnancy.

b. For the purposes of this section, "obstetrical provider licensed in New Jersey" means:

(1) an obstetrician/gynecologist licensed by the State Board of Medical Examiners; or

(2) a midwife licensed by the State Board of Medical Examiners as a certified midwife or a certified nurse midwife.

c. This section shall apply to all hospital service corporation contracts in which the hospital service corporation has reserved the right to change the premium.

C.17:48A-7ee Individual, group medical service corporation to provide installment payments to obstetrical provider for maternity services.

2. a. Every individual or group medical service corporation contract that provides benefits for maternity services, and that is delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the

effective date of this act, shall provide for reimbursement in installments to an obstetrical provider licensed in New Jersey for maternity services rendered during the term of a covered person's pregnancy.

b. For the purposes of this section, "obstetrical provider licensed in New Jersey" means:

(1) an obstetrician/gynecologist licensed by the State Board of Medical Examiners; or

(2) a midwife licensed by the State Board of Medical Examiners as a certified midwife or a certified nurse midwife.

c. This section shall apply to all medical service corporation contracts in which the medical service corporation has reserved the right to change the premium.

C.17:48E-35.32 Individual, group health service corporation to provide installment payments to obstetrical provider for maternity services.

3. a. Every individual or group health service corporation contract that provides benefits for maternity services, and that is delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act, shall provide for reimbursement in installments to an obstetrical provider licensed in New Jersey for maternity services rendered during the term of a covered person's pregnancy.

b. For the purposes of this section, "obstetrical provider licensed in New Jersey" means:

(1) an obstetrician/gynecologist licensed by the State Board of Medical Examiners; or

(2) a midwife licensed by the State Board of Medical Examiners as a certified midwife or a certified nurse midwife.

c. This section shall apply to all health service corporation contracts in which the health service corporation has reserved the right to change the premium.

C.17B:26-2.1bb Individual health insurance policy to provide installment payments to obstetrical provider for maternity services.

4. a. Every individual health insurance policy that provides benefits for maternity services, and that is delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act, shall provide for reimbursement in installments to an obstetrical provider licensed in New Jersey for maternity services rendered during the term of a covered person's pregnancy.

b. For the purposes of this section, "obstetrical provider licensed in New Jersey" means:

(1) an obstetrician/gynecologist licensed by the State Board of Medical Examiners; or

(2) a midwife licensed by the State Board of Medical Examiners as a certified midwife or a certified nurse midwife.

c. This section shall apply to all individual health insurance policies in which the insurer has reserved the right to change the premium.

C.17B:27-46.1hh Group health insurance policy to provide installment payments to obstetrical provider for maternity services.

5. a. Every group health insurance policy that provides benefits for maternity services, and that is delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act, shall provide for reimbursement in installments to an obstetrical provider licensed in New Jersey for maternity services rendered during the term of a covered person's pregnancy.

b. For the purposes of this section, "obstetrical provider licensed in New Jersey" means:

(1) an obstetrician/gynecologist licensed by the State Board of Medical Examiners; or

(2) a midwife licensed by the State Board of Medical Examiners as a certified midwife or a certified nurse midwife.

c. This section shall apply to all group health insurance policies in which the insurer has reserved the right to change the premium.

C.17B:27A-7.15 Individual health benefits plan to provide installment payments to obstetrical provider for maternity services.

6. a. Every individual health benefits plan that provides benefits for maternity services, and that is delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act, shall provide for reimbursement in installments to an obstetrical provider licensed in New Jersey for maternity services rendered during the term of a covered person's pregnancy.

b. For the purposes of this section, "obstetrical provider licensed in New Jersey" means:

(1) an obstetrician/gynecologist licensed by the State Board of Medical Examiners; or

(2) a midwife licensed by the State Board of Medical Examiners as a certified midwife or a certified nurse midwife.

c. This section shall apply to all individual health benefits plans in which the carrier has reserved the right to change the premium.

C.17B:27A-19.19 Small employer health benefits plan to provide installment payments to obstetrical provider for maternity services.

7. a. Every small employer health benefits plan that provides benefits for maternity services, and that is delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act, shall provide for reimbursement in installments to an obstetrical provider licensed in New Jersey for maternity services rendered during the term of a covered person's pregnancy.

b. For the purposes of this section, "obstetrical provider licensed in New Jersey" means:

(1) an obstetrician/gynecologist licensed by the State Board of Medical Examiners; or

(2) a midwife licensed by the State Board of Medical Examiners as a certified midwife or a certified nurse midwife.

c. This section shall apply to all small employer health benefits plans in which the carrier has reserved the right to change the premium.

C.26:2J-4.33 Health maintenance organization to provide installment payments to obstetrical provider for maternity services.

8. a. Every certificate of authority to establish and operate a health maintenance organization issued or continued in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.), or approved for issuance or renewal in this State, by the Commissioner of Banking and Insurance, on or after the effective date of this act, for a health maintenance organization which provides benefits for maternity services, shall provide for reimbursement in installments to an obstetrical provider licensed in New Jersey for maternity services rendered during the term of a covered person's pregnancy.

b. For the purposes of this section, "obstetrical provider licensed in New Jersey" means:

(1) an obstetrician/gynecologist licensed by the State Board of Medical Examiners; or

(2) a midwife licensed by the State Board of Medical Examiners as a certified midwife or a certified nurse midwife.

c. This section shall apply to all enrollee agreements in which the health maintenance organization has reserved the right to change the schedule of charges.

C.52:14-17.29o SHBC to provide for installment payments to obstetrical provider for maternity services.

9. a. Within 30 days of the effective date of this act, the State Health Benefits Commission shall provide, in every health benefits plan that provides for maternity services, for reimbursement in installments to an obstetrical provider licensed in New Jersey for maternity services rendered during the term of a covered person's pregnancy.

b. For the purposes of this section, "obstetrical provider licensed in New Jersey" means:

(1) an obstetrician/gynecologist licensed by the State Board of Medical Examiners; or

(2) a midwife licensed by the State Board of Medical Examiners as a certified midwife or a certified nurse midwife.

C.52:14-17.46.6a School Employees' Health Benefits Commission to provide for installment payments to obstetrical provider for maternity services.

10. Within 30 days of the effective date of this act, the School Employees' Health Benefits Commission shall provide, in every health benefits plan that provides for maternity services, for reimbursement in installments to an obstetrical provider licensed in New Jersey for maternity services rendered during the term of a covered person's pregnancy.

b. For the purposes of this section, "obstetrical provider licensed in New Jersey" means:

(1) an obstetrician/gynecologist licensed by the State Board of Medical Examiners; or

(2) a midwife licensed by the State Board of Medical Examiners as a certified midwife or a certified nurse midwife.

11. The Commissioner of Banking and Insurance shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the provisions of sections 1 through 8 of this act.

12. This act shall take effect on the first day of the thirteenth month next following enactment.

Approved August 12, 2009.

CHAPTER 114

AN ACT concerning nurse midwives and amending P.L.1948, c.110 and P.L.1997, c.38.

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

1. Section 15 of P.L.1948, c.110 (C.43:21-39) is amended to read as follows:

C.43:21-39 Limitation of benefits.

15. Limitation of benefits. Notwithstanding any other provision of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.), no benefits shall be payable under the State plan to any individual:

(a) for the first seven consecutive days of each period of disability; except that:

(1) if benefits shall be payable for three consecutive weeks with respect to any period of disability, then benefits shall also be payable with respect to the first seven days thereof;

(2) in the case of intermittent leave in a single period of family temporary disability leave taken to provide care for a family member of the individual with a serious health condition, benefits shall be payable with respect to the first day of leave taken after the first one-week period following the commencement of the period of family temporary disability leave and each subsequent day of leave during that period of family temporary disability leave; and if benefits become payable on any day after the first three weeks in which leave is taken, then benefits shall also be payable with respect to any leave taken during the first one-week period in which leave is taken; and

(3) in the case of an individual taking family temporary disability leave immediately after the individual has a period of disability for the individual's own disability, there shall be no waiting period between the period of the individual's own disability and the period of family temporary disability;

(b) (1) for more than 26 weeks with respect to any one period of disability of the individual;

(2) for more than six weeks with respect to any one period of family temporary disability leave, or more than 42 days with respect to any one period of family temporary disability leave taken on an intermittent basis to provide care for a family member of the individual with a serious health condition; and

(3) for more than six weeks of family temporary disability leave during any 12-month period, or more than 42 days of family temporary disability leave taken during any 12-month period, on an intermittent basis to provide care for a family member of the individual with a serious health condition, including family temporary disability leave taken pursuant to R.S.43:21-4(f)(2) while unemployed;

(c) for any period of disability which did not commence while the claimant was a covered individual;

(d) for any period of disability of a claimant during which the claimant is not under the care of a legally licensed physician, dentist, optometrist, podiatrist, practicing psychologist, advanced practice nurse, certified nurse midwife, or chiropractor, who, when requested by the division, shall certify within the scope of the practitioner's practice, the disability of the claimant, the probable duration thereof, and, where applicable, the medical facts within the practitioner's knowledge or for any period of family temporary disability leave for a serious health condition of a family member of the claimant, during which the family member is not receiving inpatient care in a hospital, hospice, or residential medical care facility or is not subject to continuing medical treatment or continuing supervision by a health care provider, who, when requested by the division, shall certify within the scope of the provider's practice, the serious health condition of the family member, the probable duration thereof, and, where applicable, the medical facts within the provider's knowledge;

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

(f) for any period of disability due to willfully and intentionally self-inflicted injury, or to injury sustained in the perpetration by the claimant of a crime of the first, second, third, or fourth degree, or for any period during which a covered individual would be disqualified for unemployment compensation benefits for gross misconduct under subsection (b) of R.S.43:21-5;

(g) for any period during which the claimant performs any work for remuneration or profit;

(h) in a weekly amount which together with any remuneration the claimant continues to receive from the employer would exceed regular weekly wages immediately prior to disability;

(i) for any period during which a covered individual would be disqualified for unemployment compensation benefits under subsection (d) of R.S.43:21-5, unless the disability commenced prior to such disqualification; and there shall be no other cause of disqualification or ineligibility to receive disability benefits hereunder except as may be specifically provided in this act.

2. Section 25 of P.L.1948, c.110 (C.43:21-49) is amended to read as follows:

C.43:21-49 Postings, notice and claim for disability benefits.

25. (a) (1) Every employer shall post, in prominent locations, notices to employees in the form provided by the division of whether the employer is permitted or required to participate in a temporary disability benefits program pursuant to the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), and whether the employer does or does not participate. For employers who participate in a temporary disability benefits program, the notice shall also describe the temporary disability benefits available to the employees and prominently disclose that pregnancy is regarded by law as a disability and that pregnant employees are regarded as disabled and entitled to temporary disability benefits to the same extent as other disabled employees. Upon the request of an employer, the division shall, without charge, provide the employer with a copy of each applicable notice, suitable for reproduction by the employer. Each employer participating in the State plan or a private plan shall give a printed copy of benefit instructions to any disabled employee as soon as the employer becomes aware of the disability.

(2) In addition, in the event of the disability of any individual covered under the State plan, the employer shall, on the ninth day of disability, issue to the individual and to the division printed notices on division forms containing the name, address and Social Security number of the individual, such wage information as the division may require to determine the individual's eligibility for benefits, and the name, address, and division identity number of the employer. Not later than 30 days after the commencement of the period of disability for which such notice is furnished, the individual shall furnish to the division a notice and claim for disability benefits under the State plan or for disability during unemployment. Upon the submission of such notices by the employer and the individual, the division may issue benefit payments for periods not exceeding three weeks pending the receipt of medical proof. When requested by the division, such notice and proof shall include certification of total disability by the attending physician, or a record of hospital confinement. Failure to furnish notice and proof within the time or in the manner above provided shall not invalidate or reduce any claim if it shall be shown to the satisfaction of the division not to have been reasonably possible to furnish such notice and proof and that such notice and proof was furnished as soon as reasonably possible.

(b) A person claiming benefits under the State plan or for disability during unemployment shall, when requested by the division, submit at in-

tervals, but not more often than once a week, to an examination by a legally licensed physician, dentist, podiatrist, chiropractor, certified nurse midwife, advanced practice nurse or public health nurse designated by the division. In all cases of physical examination of a claimant, the examination shall be made by a designee of the division, who shall be the same sex as the claimant if so requested by the claimant. All such examinations by physicians, dentists, podiatrists, chiropractors, certified nurse midwives or nurses designated by the division shall be without cost to the claimant and shall be held at a reasonable time and place. Refusal to submit to such a requested examination shall disqualify the claimant from all benefits for the period of disability in question, except as to benefits already paid.

(c) All medical records of the division, except to the extent necessary for the proper administration of this act, shall be confidential and shall not be published or be open to public inspection (other than to public employees in the performance of their public duties) in any manner revealing the identity of the claimant, or the nature or cause of disability nor admissible in evidence in any action or special proceeding other than one arising under this act.

3. Section 8 of P.L.1997, c.38 (C.44:10-62) is amended to read as follows:

C.44:10-62 Adult recipient to seek employment.

8. a. As defined by the commissioner, each adult recipient shall continuously and actively seek employment in an effort to remove the assistance unit of which the recipient is a member from the program. A recipient may be assigned to a work activity as determined by the commissioner. The recipient shall sign an individual responsibility plan, as provided in subsection f. of this section, in order to be able to participate in the program, which shall indicate the terms of the work activity requirements that the recipient must fulfill in order to continue to receive benefits.

b. In accordance with Pub.L.104-193 (42 U.S.C. s. 601 et seq.), a recipient in an assistance unit with dependent children shall commence participation in a work activity, self-directed job search or other activities as determined by the commissioner at some time prior to having received 24 months of benefits; except that if the recipient is a full-time post-secondary student in a course of study related to employment as defined by regulation of the commissioner, the recipient shall be required to engage in another work activity for no more than 15 hours a week, subject to the recipient

making satisfactory progress toward the completion of the post-secondary course of study as determined by the commissioner.

c. A recipient shall comply with work activity participation requirements as a condition of remaining eligible for benefits. In accordance with the requirements of Pub.L.104-193 (42 U.S.C. s. 601 et seq.), a minimum participation rate of 25% shall be realized in federal fiscal year 1997. The participation rate shall increase by 5% in each federal fiscal year to a level of 50% in federal fiscal year 2002 and thereafter. For two-parent assistance units with dependent children receiving benefits, the participation rate shall be 75% for federal fiscal years 1997 and 1998 and 90% in federal fiscal year 1999 and thereafter. The participation rate shall be calculated in accordance with federal requirements. A recipient may be required to participate in one or more work activities for a maximum aggregate hourly total of 40 hours per week.

d. A recipient shall not be required to engage in a work activity if child care, including the unavailability of after-school child care for children over six years of age, is unavailable for the recipient's dependent child, as determined by regulation of the commissioner.

e. A recipient may temporarily be deferred from work activity requirements as provided for by the commissioner if the recipient is:

(1) a woman in the third trimester of pregnancy;

(2) a person certified by an examining legally licensed physician or legally licensed certified nurse midwife, acting within the scope of the practitioner's profession, to be unable, by reason of a physical or mental defect, disease or impairment, to engage in any gainful occupation for any period less than 12 months; or

(3) the parent or relative of a child under the age of 12 weeks who is providing care for that child, except that, the deferral may be extended for an appropriate period of time if determined to be medically necessary for the parent or child.

f. Upon a determination of eligibility for benefits, each adult recipient not otherwise deferred or exempted under this act shall be given an assessment of that person's potential and readiness for work, including, but not limited to, skills, education, past work experience and any barriers to securing employment, including a screening and assessment for substance abuse, as appropriate. For all recipients not deferred or exempt, an annual individual responsibility plan shall be developed jointly by the county agency or municipal welfare agency, as appropriate, and the recipient specifying the steps that will be taken by each to assist the recipient to secure employment. The individual responsibility plan shall include specific goals for each adult

member or minor parent in the assistance unit, and may include specific goals for a dependent child member of the assistance unit. The goals, as determined by regulation of the commissioner, shall include, but not be limited to, requirements for parental participation in a dependent child's primary school program, immunizations for a dependent child, and regular school attendance by a dependent child. Recipients who are job ready shall be placed immediately in a self-directed job search. Within the amount of funds allocated by the commissioner for this purpose, other recipients shall be placed in an appropriate work activity as indicated by their individual assessments.

g. The county agency or municipal welfare agency, as appropriate, shall ensure the provision of necessary case management for recipients, as appropriate to their degree of job readiness, pursuant to regulations adopted by the commissioner. The most intensive case management shall be directed to those recipients facing the most serious barriers to employment.

h. (1) A recipient shall not be placed or utilized in a position at a particular workplace:

(a) that was previously filled by a regular employee if that position, or a substantially similar position at that workplace, has been made vacant through a demotion, substantial reduction of hours or a layoff of a regular employee in the previous 12 months, or has been eliminated by the employer at any time during the previous 12 months;

(b) in a manner that infringes upon a wage rate or an employment benefit, or violates the contractual overtime provisions of a regular employee at that workplace;

(c) in a manner that violates an existing collective bargaining agreement or a statutory provision that applies to that workplace;

(d) in a manner that supplants or duplicates a position in an existing, approved apprenticeship program;

(e) by or through an employment agency or temporary help service firm as a community work experience or alternative work experience worker;

(f) if there is a contractual or statutory recall right to that position at that workplace; or

(g) if there is an ongoing strike or lockout at that workplace.

(2) A person who believes that he has been adversely affected by a violation of this subsection, or the organization that is duly authorized to represent the collective bargaining unit to which that person belongs, shall be afforded an opportunity to meet with a designee of the Commissioner of Labor and Workforce Development or the Governor's Office of Employee Relations, as appropriate. The designee shall attempt to resolve the complaint of the alleged violation within 30 days of the date of the request for

the meeting. The Commissioner of Labor and Workforce Development, in consultation with the Governor's Office of Employee Relations, shall adopt regulations to effectuate the provisions of this subsection. In the event that the complaint is not resolved within the 30-day period, the complainant may appeal to the New Jersey State Board of Mediation in the Department of Labor and Workforce Development for expedited binding arbitration in accordance with the rules of the board. If the arbitrator determines that a violation has occurred, he shall provide an appropriate remedy. The cost of the arbitration shall be borne equally by both parties to the dispute.

(3) Nothing in this subsection shall be construed to prevent a collective bargaining agreement from containing additional protections for a regular employee.

i. The commissioner, acting in conjunction with the Commissioners of Banking and Insurance, Community Affairs, Education, Health and Senior Services, Labor and Workforce Development and Transportation, shall implement all elements of the program and establish initiatives to assist in moving recipients towards self-sufficiency.

j. The commissioner shall take such actions as are necessary to ensure that the program meets the requirements to qualify for the maximum amount of federal funds due the State under Pub.L.104-193 (42 U.S.C. s.601 et seq.).

k. The commissioner is authorized to seek such waivers from the federal government as are necessary to accomplish the goals of the program.

4. This act shall take effect immediately.

Approved August 12, 2009.

CHAPTER 115

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

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

C.17:48-6ii Hospital service corporation to provide benefits for treatment of autism or other developmental disability.

1. Notwithstanding any other provision of law to the contrary, every hospital service corporation contract that provides hospital and medical ex-

pense benefits and is delivered, issued, executed, or renewed in this State pursuant to P.L.1938, c.366 (C.17:48-1 et seq.), or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, shall provide coverage pursuant to the provisions of this section.

a. The hospital service corporation shall provide coverage for expenses incurred in screening and diagnosing autism or another developmental disability.

b. When the covered person's primary diagnosis is autism or another developmental disability, the hospital service corporation shall provide coverage for expenses incurred for medically necessary occupational therapy, physical therapy, and speech therapy, as prescribed through a treatment plan. Coverage of these therapies shall not be denied on the basis that the treatment is not restorative.

c. When the covered person is under 21 years of age and the covered person's primary diagnosis is autism, the hospital service corporation shall provide coverage for expenses incurred for medically necessary behavioral interventions based on the principles of applied behavioral analysis and related structured behavioral programs, as prescribed through a treatment plan, subject to the provisions of this subsection.

(1) Except as provided in paragraph (3) of this subsection, the benefits provided pursuant to this subsection shall be provided to the same extent as for any other medical condition under the contract, but shall not be subject to limits on the number of visits that a covered person may make to a provider of behavioral interventions.

(2) The benefits provided pursuant to this subsection shall not be denied on the basis that the treatment is not restorative.

(3) (a) The maximum benefit amount for a covered person in any calendar year through 2011 shall be $36,000.

(b) Commencing on January 1, 2012, the maximum benefit amount shall be subject to an adjustment, to be promulgated by the Commissioner of Banking and Insurance and published in the New Jersey Register no later than February 1 of each calendar year, which shall be equal to the change in the consumer price index for all urban consumers for the nation, as prepared by the United States Department of Labor, for the calendar year preceding the calendar year in which the adjustment to the maximum benefit amount is promulgated.

(c) The adjusted maximum benefit amount shall apply to a contract that is delivered, issued, executed, or renewed, or approved for issuance or renewal, in the 12-month period following the date on which the adjust-

ment is promulgated.

(d) Notwithstanding the provisions of this paragraph to the contrary, a hospital service corporation shall not be precluded from providing a benefit amount for a covered person in any calendar year that exceeds the benefit amounts set forth in subparagraphs (a) and (b) of this paragraph.

d. The treatment plan required pursuant to subsections b. and c. of this section shall include all elements necessary for the hospital service corporation to appropriately provide benefits, including, but not limited to: a diagnosis; proposed treatment by type, frequency, and duration; the anticipated outcomes stated as goals; the frequency by which the treatment plan will be updated; and the treating physician's signature. The hospital service corporation may only request an updated treatment plan once every six months from the treating physician to review medical necessity, unless the hospital service corporation and the treating physician agree that a more frequent review is necessary due to emerging clinical circumstances.

e. The provisions of subsections b. and c. of this section shall not be construed as limiting benefits otherwise available to a covered person.

f. The provisions of subsections b. and c. of this section shall not be construed to require that benefits be provided to reimburse the cost of services provided under an individualized family service plan or an individualized education program, or affect any requirement to provide those services; except that the benefits provided pursuant to those subsections shall include coverage for expenses incurred by participants in an individualized family service plan through a family cost share.

g. The coverage required under this section may be subject to utilization review, including periodic review, by the hospital service corporation of the continued medical necessity of the specified therapies and interventions.

h. The provisions of this section shall apply to all contracts in which the hospital service corporation has reserved the right to change the premium.

C.17:48A-7ff Medical service corporation to provide benefits for treatment of autism or other developmental disability.

2. Notwithstanding any other provision of law to the contrary, every medical service corporation contract that provides hospital and medical expense benefits and is delivered, issued, executed, or renewed in this State pursuant to P.L.1940, c.74 (C.17:48A-1 et seq.), or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, shall provide coverage pursuant to the provisions of this section.

a. The medical service corporation shall provide coverage for expenses incurred in screening and diagnosing autism or another developmental disability.

b. When the covered person's primary diagnosis is autism or another developmental disability, the medical service corporation shall provide coverage for expenses incurred for medically necessary occupational therapy, physical therapy, and speech therapy, as prescribed through a treatment plan. Coverage of these therapies shall not be denied on the basis that the treatment is not restorative.

c. When the covered person is under 21 years of age and the covered person's primary diagnosis is autism, the medical service corporation shall provide coverage for expenses incurred for medically necessary behavioral interventions based on the principles of applied behavioral analysis and related structured behavioral programs, as prescribed through a treatment plan, subject to the provisions of this subsection.

(1) Except as provided in paragraph (3) of this subsection, the benefits provided pursuant to this subsection shall be provided to the same extent as for any other medical condition under the contract, but shall not be subject to limits on the number of visits that a covered person may make to a provider of behavioral interventions.

(2) The benefits provided pursuant to this subsection shall not be denied on the basis that the treatment is not restorative.

(3) (a) The maximum benefit amount for a covered person in any calendar year through 2011 shall be $36,000.

(b) Commencing on January 1, 2012, the maximum benefit amount shall be subject to an adjustment, to be promulgated by the Commissioner of Banking and Insurance and published in the New Jersey Register no later than February 1 of each calendar year, which shall be equal to the change in the consumer price index for all urban consumers for the nation, as prepared by the United States Department of Labor, for the calendar year preceding the calendar year in which the adjustment to the maximum benefit amount is promulgated.

(c) The adjusted maximum benefit amount shall apply to a contract that is delivered, issued, executed, or renewed, or approved for issuance or renewal, in the 12-month period following the date on which the adjustment is promulgated.

(d) Notwithstanding the provisions of this paragraph to the contrary, a medical service corporation shall not be precluded from providing a benefit amount for a covered person in any calendar year that exceeds the benefit amounts set forth in subparagraphs (a) and (b) of this paragraph.

d. The treatment plan required pursuant to subsections b. and c. of this section shall include all elements necessary for the medical service corporation to appropriately provide benefits, including, but not limited to: a diagnosis; proposed treatment by type, frequency, and duration; the anticipated outcomes stated as goals; the frequency by which the treatment plan will be updated; and the treating physician's signature. The medical service corporation may only request an updated treatment plan once every six months from the treating physician to review medical necessity, unless the medical service corporation and the treating physician agree that a more frequent review is necessary due to emerging clinical circumstances.

e. The provisions of subsections b. and c. of this section shall not be construed as limiting benefits otherwise available to a covered person.

f. The provisions of subsections b. and c. of this section shall not be construed to require that benefits be provided to reimburse the cost of services provided under an individualized family service plan or an individualized education program, or affect any requirement to provide those services; except that the benefits provided pursuant to those subsections shall include coverage for expenses incurred by participants in an individualized family service plan through a family cost share.

g. The coverage required under this section may be subject to utilization review, including periodic review, by the medical service corporation of the continued medical necessity of the specified therapies and interventions.

h. The provisions of this section shall apply to all contracts in which the medical service corporation has reserved the right to change the premium.

C.17:48E-35.33 Health service corporation to provide benefits for treatment of autism or other developmental disability.

3. Notwithstanding any other provision of law to the contrary, every health service corporation contract that provides hospital and medical expense benefits and is delivered, issued, executed, or renewed in this State pursuant to P.L.1985, c.236 (C.17:48E-1 et seq.), or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, shall provide coverage pursuant to the provisions of this section.

a. The health service corporation shall provide coverage for expenses incurred in screening and diagnosing autism or another developmental disability.

b. When the covered person's primary diagnosis is autism or another developmental disability, the health service corporation shall provide coverage for expenses incurred for medically necessary occupational therapy,

physical therapy, and speech therapy, as prescribed through a treatment plan. Coverage of these therapies shall not be denied on the basis that the treatment is not restorative.

c. When the covered person is under 21 years of age and the covered person's primary diagnosis is autism, the health service corporation shall provide coverage for expenses incurred for medically necessary behavioral interventions based on the principles of applied behavioral analysis and related structured behavioral programs, as prescribed through a treatment plan, subject to the provisions of this subsection.

(1) Except as provided in paragraph (3) of this subsection, the benefits provided pursuant to this subsection shall be provided to the same extent as for any other medical condition under the contract, but shall not be subject to limits on the number of visits that a covered person may make to a provider of behavioral interventions.

(2) The benefits provided pursuant to this subsection shall not be denied on the basis that the treatment is not restorative.

(3) (a) The maximum benefit amount for a covered person in any calendar year through 2011 shall be $36,000.

(b) Commencing on January 1, 2012, the maximum benefit amount shall be subject to an adjustment, to be promulgated by the Commissioner of Banking and Insurance and published in the New Jersey Register no later than February 1 of each calendar year, which shall be equal to the change in the consumer price index for all urban consumers for the nation, as prepared by the United States Department of Labor, for the calendar year preceding the calendar year in which the adjustment to the maximum benefit amount is promulgated.

(c) The adjusted maximum benefit amount shall apply to a contract that is delivered, issued, executed, or renewed, or approved for issuance or renewal, in the 12-month period following the date on which the adjustment is promulgated.

(d) Notwithstanding the provisions of this paragraph to the contrary, a health service corporation shall not be precluded from providing a benefit amount for a covered person in any calendar year that exceeds the benefit amounts set forth in subparagraphs (a) and (b) of this paragraph.

d. The treatment plan required pursuant to subsections b. and c. of this section shall include all elements necessary for the health service corporation to appropriately provide benefits, including, but not limited to: a diagnosis; proposed treatment by type, frequency, and duration; the anticipated outcomes stated as goals; the frequency by which the treatment plan will be updated; and the treating physician's signature. The health service corpora-

tion may only request an updated treatment plan once every six months from the treating physician to review medical necessity, unless the health service corporation and the treating physician agree that a more frequent review is necessary due to emerging clinical circumstances.

e. The provisions of subsections b. and c. of this section shall not be construed as limiting benefits otherwise available to a covered person.

f. The provisions of subsections b. and c. of this section shall not be construed to require that benefits be provided to reimburse the cost of services provided under an individualized family service plan or an individualized education program, or affect any requirement to provide those services; except that the benefits provided pursuant to those subsections shall include coverage for expenses incurred by participants in an individualized family service plan through a family cost share.

g. The coverage required under this section may be subject to utilization review, including periodic review, by the health service corporation of the continued medical necessity of the specified therapies and interventions.

h. The provisions of this section shall apply to all contracts in which the health service corporation has reserved the right to change the premium.

C.17B:26-2.1cc Individual health insurance policy to provide benefits for treatment of autism or other developmental disability.

4. Notwithstanding any other provision of law to the contrary, every individual health insurance policy that provides hospital and medical expense benefits and is delivered, issued, executed, or renewed in this State pursuant to chapter 26 of Title 17B of the New Jersey Statutes, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, shall provide coverage pursuant to the provisions of this section.

a. The insurer shall provide coverage for expenses incurred in screening and diagnosing autism or another developmental disability.

b. When the insured's primary diagnosis is autism or another developmental disability, the insurer shall provide coverage for expenses incurred for medically necessary occupational therapy, physical therapy, and speech therapy, as prescribed through a treatment plan. Coverage of these therapies shall not be denied on the basis that the treatment is not restorative.

c. When the insured is under 21 years of age and the insured's primary diagnosis is autism, the insurer shall provide coverage for expenses incurred for medically necessary behavioral interventions based on the principles of applied behavioral analysis and related structured behavioral programs, as prescribed through a treatment plan, subject to the provisions of this subsection.

(1) Except as provided in paragraph (3) of this subsection, the benefits provided pursuant to this subsection shall be provided to the same extent as for any other medical condition under the policy, but shall not be subject to limits on the number of visits that an insured may make to a provider of behavioral interventions.

(2) The benefits provided pursuant to this subsection shall not be denied on the basis that the treatment is not restorative.

(3) (a) The maximum benefit amount for an insured in any calendar year through 2011 shall be $36,000.

(b) Commencing on January 1, 2012, the maximum benefit amount shall be subject to an adjustment, to be promulgated by the Commissioner of Banking and Insurance and published in the New Jersey Register no later than February 1 of each calendar year, which shall be equal to the change in the consumer price index for all urban consumers for the nation, as prepared by the United States Department of Labor, for the calendar year preceding the calendar year in which the adjustment to the maximum benefit amount is promulgated.

(c) The adjusted maximum benefit amount shall apply to a policy that is delivered, issued, executed, or renewed, or approved for issuance or renewal, in the 12-month period following the date on which the adjustment is promulgated.

(d) Notwithstanding the provisions of this paragraph to the contrary, an insurer shall not be precluded from providing a benefit amount for an insured in any calendar year that exceeds the benefit amounts set forth in subparagraphs (a) and (b) of this paragraph.

d. The treatment plan required pursuant to subsections b. and c. of this section shall include all elements necessary for the insurer to appropriately provide benefits, including, but not limited to: a diagnosis; proposed treatment by type, frequency, and duration; the anticipated outcomes stated as goals; the frequency by which the treatment plan will be updated; and the treating physician's signature. The insurer may only request an updated treatment plan once every six months from the treating physician to review medical necessity, unless the insurer and the treating physician agree that a more frequent review is necessary due to emerging clinical circumstances.

e. The provisions of subsections b. and c. of this section shall not be construed as limiting benefits otherwise available to an insured.

f. The provisions of subsections b. and c. of this section shall not be construed to require that benefits be provided to reimburse the cost of services provided under an individualized family service plan or an individualized education program, or affect any requirement to provide those ser-

vices; except that the benefits provided pursuant to those subsections shall include coverage for expenses incurred by participants in an individualized family service plan through a family cost share.

g. The coverage required under this section may be subject to utilization review, including periodic review, by the insurer of the continued medical necessity of the specified therapies and interventions.

h. The provisions of this section shall apply to all policies in which the insurer has reserved the right to change the premium.

C.17B:27-46.1ii Group health insurance policy to provide benefits for treatment of autism or other developmental disability.

5. Notwithstanding any other provision of law to the contrary, every group health insurance policy that provides hospital and medical expense benefits and is delivered, issued, executed, or renewed in this State pursuant to chapter 27 of Title 17B of the New Jersey Statutes, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, shall provide coverage pursuant to the provisions of this section.

a. The insurer shall provide coverage for expenses incurred in screening and diagnosing autism or another developmental disability.

b. When the insured's primary diagnosis is autism or another developmental disability, the insurer shall provide coverage for expenses incurred for medically necessary occupational therapy, physical therapy, and speech therapy, as prescribed through a treatment plan. Coverage of these therapies shall not be denied on the basis that the treatment is not restorative.

c. When the insured is under 21 years of age and the insured's primary diagnosis is autism, the insurer shall provide coverage for expenses incurred for medically necessary behavioral interventions based on the principles of applied behavioral analysis and related structured behavioral programs, as prescribed through a treatment plan, subject to the provisions of this subsection.

(1) Except as provided in paragraph (3) of this subsection, the benefits provided pursuant to this subsection shall be provided to the same extent as for any other medical condition under the policy, but shall not be subject to limits on the number of visits that an insured may make to a provider of behavioral interventions.

(2) The benefits provided pursuant to this subsection shall not be denied on the basis that the treatment is not restorative.

(3) (a) The maximum benefit amount for an insured in any calendar year through 2011 shall be $36,000.

(b) Commencing on January 1, 2012, the maximum benefit amount shall be subject to an adjustment, to be promulgated by the Commissioner of Banking and Insurance and published in the New Jersey Register no later than February 1 of each calendar year, which shall be equal to the change in the consumer price index for all urban consumers for the nation, as prepared by the United States Department of Labor, for the calendar year preceding the calendar year in which the adjustment to the maximum benefit amount is promulgated.

(c) The adjusted maximum benefit amount shall apply to a policy that is delivered, issued, executed, or renewed, or approved for issuance or renewal, in the 12-month period following the date on which the adjustment is promulgated.

(d) Notwithstanding the provisions of this paragraph to the contrary, an insurer shall not be precluded from providing a benefit amount for an insured in any calendar year that exceeds the benefit amounts set forth in subparagraphs (a) and (b) of this paragraph.

d. The treatment plan required pursuant to subsections b. and c. of this section shall include all elements necessary for the insurer to appropriately provide benefits, including, but not limited to: a diagnosis; proposed treatment by type, frequency, and duration; the anticipated outcomes stated as goals; the frequency by which the treatment plan will be updated; and the treating physician's signature. The insurer may only request an updated treatment plan once every six months from the treating physician to review medical necessity, unless the insurer and the treating physician agree that a more frequent review is necessary due to emerging clinical circumstances.

e. The provisions of subsections b. and c. of this section shall not be construed as limiting benefits otherwise available to an insured.

f. The provisions of subsections b. and c. of this section shall not be construed to require that benefits be provided to reimburse the cost of services provided under an individualized family service plan or an individualized education program, or affect any requirement to provide those services; except that the benefits provided pursuant to those subsections shall include coverage for expenses incurred by participants in an individualized family service plan through a family cost share.

g. The coverage required under this section may be subject to utilization review, including periodic review, by the insurer of the continued medical necessity of the specified therapies and interventions.

h. The provisions of this section shall apply to all policies in which the insurer has reserved the right to change the premium.

C.17B:27A-7.16 Individual health benefits plan to provide benefits for treatment of autism or other developmental disability.

6. Notwithstanding any other provision of law to the contrary, an individual health benefits plan that provides hospital and medical expense benefits and is delivered, issued, executed, renewed, or approved for issuance or renewal in this State pursuant to P.L.1992, c.161 (C.17B:27A-2 et seq.), or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, shall provide coverage pursuant to the provisions of this section.

a. The carrier shall provide coverage for expenses incurred in screening and diagnosing autism or another developmental disability.

b. When the covered person's primary diagnosis is autism or another developmental disability, the carrier shall provide coverage for expenses incurred for medically necessary occupational therapy, physical therapy, and speech therapy, as prescribed through a treatment plan. Coverage of these therapies shall not be denied on the basis that the treatment is not restorative.

c. When the covered person is under 21 years of age and the covered person's primary diagnosis is autism, the carrier shall provide coverage for expenses incurred for medically necessary behavioral interventions based on the principles of applied behavioral analysis and related structured behavioral programs, as prescribed through a treatment plan, subject to the provisions of this subsection.

(1) Except as provided in paragraph (3) of this subsection, the benefits provided pursuant to this subsection shall be provided to the same extent as for any other medical condition under the health benefits plan, but shall not be subject to limits on the number of visits that a covered person may make to a provider of behavioral interventions.

(2) The benefits provided pursuant to this subsection shall not be denied on the basis that the treatment is not restorative.

(3) (a) The maximum benefit amount for a covered person in any calendar year through 2011 shall be $36,000.

(b) Commencing on January 1, 2012, the maximum benefit amount shall be subject to an adjustment, to be promulgated by the Commissioner of Banking and Insurance and published in the New Jersey Register no later than February 1 of each calendar year, which shall be equal to the change in the consumer price index for all urban consumers for the nation, as prepared by the United States Department of Labor, for the calendar year preceding the calendar year in which the adjustment to the maximum benefit amount is promulgated.

(c) The adjusted maximum benefit amount shall apply to a health benefits plan that is delivered, issued, executed, or renewed, or approved for issuance or renewal, in the 12-month period following the date on which the adjustment is promulgated.

(d) Notwithstanding the provisions of this paragraph to the contrary, a carrier shall not be precluded from providing a benefit amount for a covered person in any calendar year that exceeds the benefit amounts set forth in subparagraphs (a) and (b) of this paragraph.

d. The treatment plan required pursuant to subsections b. and c. of this section shall include all elements necessary for the carrier to appropriately provide benefits, including, but not limited to: a diagnosis; proposed treatment by type, frequency, and duration; the anticipated outcomes stated as goals; the frequency by which the treatment plan will be updated; and the treating physician's signature. The carrier may only request an updated treatment plan once every six months from the treating physician to review medical necessity, unless the carrier and the treating physician agree that a more frequent review is necessary due to emerging clinical circumstances.

e. The provisions of subsections b. and c. of this section shall not be construed as limiting benefits otherwise available to a covered person.

f. The provisions of subsections b. and c. of this section shall not be construed to require that benefits be provided to reimburse the cost of services provided under an individualized family service plan or an individualized education program, or affect any requirement to provide those services; except that the benefits provided pursuant to those subsections shall include coverage for expenses incurred by participants in an individualized family service plan through a family cost share.

g. The coverage required under this section may be subject to utilization review, including periodic review, by the carrier of the continued medical necessity of the specified therapies and interventions.

h. The provisions of this section shall apply to those health benefits plans in which the carrier has reserved the right to change the premium.

C.17B:27A-19.20 Small employer health benefits plan to provide benefits for treatment of autism or other developmental disability.

7. Notwithstanding any other provision of law to the contrary, a small employer health benefits plan that provides hospital and medical expense benefits and is delivered, issued, executed, renewed, or approved for issuance or renewal in this State pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.), or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act,

shall provide coverage pursuant to the provisions of this section.

a. The carrier shall provide coverage for expenses incurred in screening and diagnosing autism or another developmental disability.

b. When the covered person's primary diagnosis is autism or another developmental disability, the carrier shall provide coverage for expenses incurred for medically necessary occupational therapy, physical therapy, and speech therapy, as prescribed through a treatment plan. Coverage of these therapies shall not be denied on the basis that the treatment is not restorative.

c. When the covered person is under 21 years of age and the covered person's primary diagnosis is autism, the carrier shall provide coverage for expenses incurred for medically necessary behavioral interventions based on the principles of applied behavioral analysis and related structured behavioral programs, as prescribed through a treatment plan, subject to the provisions of this subsection.

(1) Except as provided in paragraph (3) of this subsection, the benefits provided pursuant to this subsection shall be provided to the same extent as for any other medical condition under the health benefits plan, but shall not be subject to limits on the number of visits that a covered person may make to a provider of behavioral interventions.

(2) The benefits provided pursuant to this subsection shall not be denied on the basis that the treatment is not restorative.

(3) (a) The maximum benefit amount for a covered person in any calendar year through 2011 shall be $36,000.

(b) Commencing on January 1, 2012, the maximum benefit amount shall be subject to an adjustment, to be promulgated by the Commissioner of Banking and Insurance and published in the New Jersey Register no later than February 1 of each calendar year, which shall be equal to the change in the consumer price index for all urban consumers for the nation, as prepared by the United States Department of Labor, for the calendar year preceding the calendar year in which the adjustment to the maximum benefit amount is promulgated.

(c) The adjusted maximum benefit amount shall apply to a health benefits plan that is delivered, issued, executed, or renewed, or approved for issuance or renewal, in the 12-month period following the date on which the adjustment is promulgated.

(d) Notwithstanding the provisions of this paragraph to the contrary, a carrier shall not be precluded from providing a benefit amount for a covered person in any calendar year that exceeds the benefit amounts set forth in subparagraphs (a) and (b) of this paragraph.

d. The treatment plan required pursuant to subsections b. and c. of this section shall include all elements necessary for the carrier to appropriately provide benefits, including, but not limited to: a diagnosis; proposed treatment by type, frequency, and duration; the anticipated outcomes stated as goals; the frequency by which the treatment plan will be updated; and the treating physician's signature. The carrier may only request an updated treatment plan once every six months from the treating physician to review medical necessity, unless the carrier and the treating physician agree that a more frequent review is necessary due to emerging clinical circumstances.

e. The provisions of subsections b. and c. of this section shall not be construed as limiting benefits otherwise available to a covered person.

f. The provisions of subsections b. and c. of this section shall not be construed to require that benefits be provided to reimburse the cost of services provided under an individualized family service plan or an individualized education program, or affect any requirement to provide those services; except that the benefits provided pursuant to those subsections shall include coverage for expenses incurred by participants in an individualized family service plan through a family cost share.

g. The coverage required under this section may be subject to utilization review, including periodic review, by the carrier of the continued medical necessity of the specified therapies and interventions.

h. The provisions of this section shall apply to those health benefits plans in which the carrier has reserved the right to change the premium.

C.26:2J-4.34 Health maintenance organization to provide benefits for treatment of autism or other developmental disability.

8. Notwithstanding any other provision of law to the contrary, a health maintenance organization enrollee agreement that provides health care services and is delivered, issued, executed, or renewed in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.), or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, shall provide coverage pursuant to the provisions of this section.

a. The health maintenance organization shall provide coverage for health care services for screening and diagnosing autism or another developmental disability.

b. When the enrollee's primary diagnosis is autism or another developmental disability, the health maintenance organization shall provide coverage for medically necessary occupational therapy, physical therapy, and speech therapy services, as prescribed through a treatment plan. Coverage

of these therapies shall not be denied on the basis that the treatment is not restorative.

c. When the enrollee is under 21 years of age and the enrollee's primary diagnosis is autism, the health maintenance organization shall provide coverage for medically necessary behavioral interventions based on the principles of applied behavioral analysis and related structured behavioral programs, as prescribed through a treatment plan, subject to the provisions of this subsection.

(1) Except as provided in paragraph (3) of this subsection, the coverage provided pursuant to this subsection shall be provided to the same extent as for any other medical condition under the contract, but shall not be subject to limits on the number of visits that an enrollee may make to a provider of behavioral interventions.

(2) The coverage provided pursuant to this subsection shall not be denied on the basis that the treatment is not restorative.

(3) (a) The maximum coverage amount for an enrollee in any calendar year through 2011 shall be $36,000.

(b) Commencing on January 1, 2012, the maximum coverage amount shall be subject to an adjustment, to be promulgated by the Commissioner of Banking and Insurance and published in the New Jersey Register no later than February 1 of each calendar year, which shall be equal to the change in the consumer price index for all urban consumers for the nation, as prepared by the United States Department of Labor, for the calendar year preceding the calendar year in which the adjustment to the maximum benefit amount is promulgated.

(c) The adjusted maximum coverage amount shall apply to a contract that is delivered, issued, executed, or renewed, or approved for issuance or renewal, in the 12-month period following the date on which the adjustment is promulgated.

(d) Notwithstanding the provisions of this paragraph to the contrary, a health maintenance organization shall not be precluded from providing a coverage amount for an enrollee in any calendar year that exceeds the coverage amounts set forth in subparagraphs (a) and (b) of this paragraph.

d. The treatment plan required pursuant to subsections b. and c. of this section shall include all elements necessary for the health maintenance organization to appropriately provide coverage for health care services, including, but not limited to: a diagnosis; proposed treatment by type, frequency, and duration; the anticipated outcomes stated as goals; the frequency by which the treatment plan will be updated; and the treating physician's signature. The health maintenance organization may only request an

updated treatment plan once every six months from the treating physician to review medical necessity, unless the health maintenance organization and the treating physician agree that a more frequent review is necessary due to emerging clinical circumstances.

e. The provisions of subsections b. and c. of this section shall not be construed as limiting coverage for health care services otherwise available to an enrollee.

f. The provisions of subsections b. and c. of this section shall not be construed to require that benefits be provided to reimburse the cost of services provided under an individualized family service plan or an individualized education program, or affect any requirement to provide those services; except that the benefits provided pursuant to those subsections shall include coverage for expenses incurred by participants in an individualized family service plan through a family cost share.

g. The coverage required under this section may be subject to utilization review, including periodic review, by the health maintenance organization of the continued medical necessity of the specified therapies and interventions.

h. The provisions of this section shall apply to those enrollee agreements in which the health maintenance organization has reserved the right to change the premium.

C.52:14-17.29p SHBP contracts to provide benefits for treatment of autism or other developmental disability.

9. Notwithstanding any other provision of law to the contrary, the State Health Benefits Commission shall ensure that every contract purchased by the commission on or after the effective date of this act that provides hospital or medical expense benefits shall provide coverage pursuant to the provisions of this section.

a. The contract shall provide coverage for expenses incurred in screening and diagnosing autism or another developmental disability.

b. When the covered person's primary diagnosis is autism or another developmental disability, the contract shall provide coverage for expenses incurred for medically necessary occupational therapy, physical therapy, and speech therapy, as prescribed through a treatment plan. Coverage of these therapies shall not be denied on the basis that the treatment is not restorative.

c. When the covered person is under 21 years of age and the covered person's primary diagnosis is autism, the contract shall provide coverage for expenses incurred for medically necessary behavioral interventions based on the principles of applied behavioral analysis and related structured be-

havioral programs, as prescribed through a treatment plan, subject to the provisions of this subsection.

(1) Except as provided in paragraph (3) of this subsection, the benefits provided pursuant to this subsection shall be provided to the same extent as for any other medical condition under the contract, but shall not be subject to limits on the number of visits that a covered person may make to a provider of behavioral interventions.

(2) The benefits provided pursuant to this subsection shall not be denied on the basis that the treatment is not restorative.

(3) (a) The maximum benefit amount for a covered person in any calendar year through 2011 shall be $36,000.

(b) Commencing on January 1, 2012, the maximum benefit amount shall be subject to an adjustment, to be promulgated by the Commissioner of Banking and Insurance and published in the New Jersey Register no later than February 1 of each calendar year, which shall be equal to the change in the consumer price index for all urban consumers for the nation, as prepared by the United States Department of Labor, for the calendar year preceding the calendar year in which the adjustment to the maximum benefit amount is promulgated.

(c) The adjusted maximum benefit amount shall apply to a contract that is delivered, issued, executed, or renewed, or approved for issuance or renewal, in the 12-month period following the date on which the adjustment is promulgated.

(d) Notwithstanding the provisions of this paragraph to the contrary, the commission shall not be precluded from providing a benefit amount for a covered person in any calendar year that exceeds the benefit amounts set forth in subparagraphs (a) and (b) of this paragraph.

d. The treatment plan required pursuant to subsections b. and c. of this section shall include all elements necessary for the carrier to appropriately provide benefits, including, but not limited to: a diagnosis; proposed treatment by type, frequency, and duration; the anticipated outcomes stated as goals; the frequency by which the treatment plan will be updated; and the treating physician's signature. The carrier may only request an updated treatment plan once every six months from the treating physician to review medical necessity, unless the carrier and the treating physician agree that a more frequent review is necessary due to emerging clinical circumstances.

e. The provisions of subsections b. and c. of this section shall not be construed as limiting benefits otherwise available to a covered person.

f. The provisions of subsections b. and c. of this section shall not be construed to require that benefits be provided to reimburse the cost of ser-

vices provided under an individualized family service plan or an individualized education program, or affect any requirement to provide those services; except that the benefits provided pursuant to those subsections shall include coverage for expenses incurred by participants in an individualized family service plan through a family cost share.

g. The coverage required under this section may be subject to utilization review, including periodic review, by the carrier of the continued medical necessity of the specified therapies and interventions.

C.52:14-17.46.6b School Employees' Health Benefits program to provide benefits for treatment of autism or other developmental disability.

10. Notwithstanding any other provision of law to the contrary, the School Employees' Health Benefits Commission shall ensure that every contract purchased by the commission on or after the effective date of this act that provides hospital or medical expense benefits shall provide coverage pursuant to the provisions of this section.

a. The contract shall provide coverage for expenses incurred in screening and diagnosing autism or another developmental disability.

b. When the covered person's primary diagnosis is autism or another developmental disability, the contract shall provide coverage for expenses incurred for medically necessary occupational therapy, physical therapy, and speech therapy, as prescribed through a treatment plan. Coverage of these therapies shall not be denied on the basis that the treatment is not restorative.

c. When the covered person is under 21 years of age and the covered person's primary diagnosis is autism, the contract shall provide coverage for expenses incurred for medically necessary behavioral interventions based on the principles of applied behavioral analysis and related structured behavioral programs, as prescribed through a treatment plan, subject to the provisions of this subsection.

(1) Except as provided in paragraph (3) of this subsection, the benefits provided pursuant to this subsection shall be provided to the same extent as for any other medical condition under the contract, but shall not be subject to limits on the number of visits that a covered person may make to a provider of behavioral interventions.

(2) The benefits provided pursuant to this subsection shall not be denied on the basis that the treatment is not restorative.

(3) (a) The maximum benefit amount for a covered person in any calendar year through 2011 shall be $36,000.

(b) Commencing on January 1, 2012, the maximum benefit amount shall be subject to an adjustment, to be promulgated by the Commissioner

of Banking and Insurance and published in the New Jersey Register no later than February 1 of each calendar year, which shall be equal to the change in the consumer price index for all urban consumers for the nation, as prepared by the United States Department of Labor, for the calendar year preceding the calendar year in which the adjustment to the maximum benefit amount is promulgated.

(c) The adjusted maximum benefit amount shall apply to a contract that is delivered, issued, executed, or renewed, or approved for issuance or renewal, in the 12-month period following the date on which the adjustment is promulgated.

(d) Notwithstanding the provisions of this paragraph to the contrary, the commission shall not be precluded from providing a benefit amount for a covered person in any calendar year that exceeds the benefit amounts set forth in subparagraphs (a) and (b) of this paragraph.

d. The treatment plan required pursuant to subsections b. and c. of this section shall include all elements necessary for the carrier to appropriately provide benefits, including, but not limited to: a diagnosis; proposed treatment by type, frequency, and duration; the anticipated outcomes stated as goals; the frequency by which the treatment plan will be updated; and the treating physician's signature. The carrier may only request an updated treatment plan once every six months from the treating physician to review medical necessity, unless the carrier and the treating physician agree that a more frequent review is necessary due to emerging clinical circumstances.

e. The provisions of subsections b. and c. of this section shall not be construed as limiting benefits otherwise available to a covered person.

f. The provisions of subsections b. and c. of this section shall not be construed to require that benefits be provided to reimburse the cost of services provided under an individualized family service plan or an individualized education program, or affect any requirement to provide those services; except that the benefits provided pursuant to those subsections shall include coverage for expenses incurred by participants in an individualized family service plan through a family cost share.

g. The coverage required under this section may be subject to utilization review, including periodic review, by the carrier of the continued medical necessity of the specified therapies and interventions.

11. This act shall take effect on the 180th day after enactment.

Approved August 13, 2009.

CHAPTER 116

AN ACT establishing a Veterans' Oral History Foundation.

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

1. There is created a foundation in the Department of Military and Veterans' Affairs to be known as the "Veterans' Oral History Foundation," hereinafter referred to as "the foundation."

2. The Veterans' Oral History Foundation shall consist of nine members as a board of directors as follows: the Adjutant General of the Department of Military and Veterans' Affairs, or his designee, shall serve ex officio; six members from recognized veterans groups in this State, to be appointed by the Adjutant General; and two representatives from the National Guard Militia Museum of New Jersey, to be appointed by the Adjutant General.

Any vacancy in the membership of the foundation shall be filled in the same manner as the original appointments are made.

The members of the foundation shall serve without compensation, but may be reimbursed for necessary and reasonable expenses incurred in the performance of their duties within the limits of funds appropriated or otherwise made available to it for its purpose.

3. The foundation shall organize as soon as may be practicable after the appointment of a majority of its members and the members shall select from among themselves a chairperson and a vice chairperson. The members shall select a secretary, who need not be a member of the foundation.

The foundation shall meet and hold hearings at such places as it shall designate. The foundation shall meet at the call of the chairperson. A meeting of the foundation may also be called upon the request of five of the foundation members and five members of the foundation shall constitute a quorum at any meeting thereof.

An initial report to the Governor, the President of the Senate and the Speaker of the General Assembly shall be made within six months of the organization of the foundation.

4. The foundation shall be entitled to call to its assistance and avail itself of the services of such employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as

may be available to it for its purposes. The foundation shall be entitled to call upon any department, agency or office of the State of New Jersey for such documents, materials and information as it may deem necessary.

5. The foundation shall be devoted to the sponsoring of activities and the raising of funds for the support and promotion of a veterans' oral history program. The foundation shall accept donations or grants of money, property or personal services from any source. The foundation may incorporate, organize and operate in such manner as to be eligible under applicable federal law for tax-exempt status and for the receipt of tax-deductible contributions.

All funds received by the foundation, other than those necessary to pay the expenses of the foundation, shall be used exclusively for the support and promotion of a veterans' oral history program.

6. The foundation shall prepare and submit a final report detailing its findings, activities and conclusions to the Governor, the President of the Senate and the Speaker of the General Assembly no later than three years after the foundation organizes. Upon the expiration of this act, P.L.2009, c.116, any unexpended funds accepted by the foundation shall be transferred to the Department of Military and Veterans' Affairs for use for appropriate veterans' programs.

7. This act shall take effect immediately and shall expire on the 30th day following the submission of the foundation's final report as prescribed in section 6 of this act.

Approved August 16, 2009.

CHAPTER 117

AN ACT authorizing the creation of a debt of the State of New Jersey by the issuance of bonds of the State in the aggregate principal amount of $400,000,000 for the purpose of providing moneys for acquisition and development of lands for public recreation and conservation purposes, for farmland development easement and fee simple acquisitions, for Blue Acres projects, and for historic preservation projects; providing the ways and means to pay and discharge the principal of and interest on the bonds; providing for the submission of this act to the people at a general election; and making an appropriation therefor.

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

1. This act shall be known and may be cited as the "Green Acres, Water Supply and Floodplain Protection, and Farmland and Historic Preservation Bond Act of 2009."

2. The Legislature finds and declares that enhancing the quality of life of the citizens of New Jersey is a paramount policy of the State; that the acquisition and preservation of open space, farmland, and historic properties in New Jersey protects and enhances the character and beauty of the State and provides its citizens with greater opportunities for recreation, relaxation, and education; that the lands and resources now dedicated to these purposes will not be adequate to meet the needs of an expanding population in years to come; that the open space and farmland that is available and appropriate for these purposes will gradually disappear as the costs of preserving them correspondingly increase; and that it is necessary and desirable to provide funding for the development of parks and other open space for recreation and conservation purposes.

The Legislature further finds and declares that agriculture plays an integral role in the prosperity and well-being of the State as well as providing a fresh and abundant supply of food for its citizens; that much of the farmland in the State faces an imminent threat of permanent conversion to nonfarm uses; and that the retention and development of an economically viable agricultural industry is of high public priority.

The Legislature further finds and declares that the Delaware River, the Passaic River, and the Raritan River, and their respective tributaries, and other areas throughout the State have been subject to serious flooding over the years, causing on some occasions loss of life and significant property damage; that to best ensure the public health, safety, and welfare while also accomplishing the desired objectives of (1) restoring, enhancing, and preserving water quality as well as ecosystems throughout the State for the public benefit, and (2) utilizing public funds in the most economical manner, it behooves the State to continue to fund the program to acquire throughout the State from willing sellers those properties that are prone to flooding and to dedicate those lands that are purchased for recreation and conservation; and that the issuance of bonds is necessary and desirable to provide funds for such purposes.

The Legislature further finds and declares that there is an urgent need to preserve the State's historic heritage to enable present and future generations

to experience, understand, and enjoy the landmarks of New Jersey's role in the birth and development of this nation; that the restoration and preservation of properties of historic character and importance in the State is central to meeting this need; and that a significant number of these historic properties are located in urban centers, where their restoration and preservation will advance urban revitalization efforts of the State and local governments.

The Legislature further finds and declares that there is growing public recognition that the quality of life, economic prosperity, and environmental quality in New Jersey are served by the protection and timely preservation of open space and farmland and better management of the lands, resources, historic properties, and recreational facilities that are already under public ownership or protection; that the protection and preservation of New Jersey's water resources, including the quality and quantity of the State's limited water supply, is essential to the quality of life and the economic health of the citizens of the State; that the acquisition of flood-prone areas is in the best interests of the State to prevent the loss of life and property; that the preservation of the existing diversity of animal and plant species is essential to sustaining both the environment and the economy of the Garden State, and the conservation of adequate habitat for endangered, threatened, and other rare species is necessary to preserve this biodiversity; that there is a need to continue the funding provided by the "Green Acres, Farmland, Blue Acres, and Historic Preservation Bond Act of 2007" (P.L.2007, c.119), the 1998 constitutional amendment, the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995" (P.L.1995, c.204), and the nine previous similar bond acts enacted in 1961, 1971, 1974, 1978, 1981, 1983, 1987, 1989, and 1992, and various implementing laws.

The Legislature therefore determines that it is in the public interest to issue bonds to ensure the continuation of funding for the State's programs for the acquisition and development of lands for recreation and conservation purposes, for the preservation of farmland for agricultural or horticultural use and production, for the purchase, for recreation and conservation purposes, of flood-prone lands, and for historic preservation.

3. As used in this act:

"Acquisition" or "acquire" means the obtaining of a fee simple or lesser interest in land, including but not limited to a development easement, a conservation restriction or easement, or any other restriction or easement permanently restricting development, by purchase, installment purchase agreement, gift, donation, eminent domain by the State or a local government unit, or devise; except that any acquisition of lands by the State for

recreation and conservation purposes by eminent domain shall be only as authorized pursuant to section 28 of P.L.1999, c.152 (C.13:8C-28).

"Blue Acres cost" means the expenses incurred in connection with: all things deemed necessary or useful and convenient for the acquisition by the State, for recreation and conservation purposes, of lands that have been damaged by, or may be prone to incurring damage caused by, storms or storm-related flooding, or that may buffer or protect other lands from such damage; the execution of any agreements or franchises deemed by the Department of Environmental Protection to be necessary or useful and convenient in connection with any Blue Acres project authorized by this act; the procurement or provision of appraisal, archaeological, architectural, conservation, design, engineering, financial, geological, historic research, hydrological, inspection, legal, planning, relocation, surveying, or other professional advice, estimates, reports, services, or studies; the services of a bond registrar or an authenticating agent; the purchase of title insurance; the undertaking of feasibility studies; the demolition of structures, the removal of debris, and the restoration of lands to a natural state or to a state useful for recreation and conservation purposes; the issuance of bonds, or any interest or discount thereon; organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act; the establishment of a reserve fund or funds for working capital, operating, maintenance, or replacement expenses and for the payment or security of principal or interest on bonds, as the Director of the Division of Budget and Accounting in the Department of the Treasury may determine; and reimbursement to any fund of the State of moneys that may have been transferred or advanced therefrom to any fund established by this act, or any moneys that may have been expended therefrom for, or in connection with, this act.

"Blue Acres project" means any project of the State to acquire, for recreation and conservation purposes, lands that have been damaged by, or may be prone to incurring damage caused by, storms or storm-related flooding, or that may buffer or protect other lands from such damage, and which is funded with moneys made available pursuant to section 7 of this act.

"Bonds" mean the bonds authorized to be issued, or issued, under this act.

"Commission" means the New Jersey Commission on Capital Budgeting and Planning.

"Commissioner" means the Commissioner of Environmental Protection.

"Cost" means the expenses incurred in connection with: all things deemed necessary or useful and convenient for the acquisition or development of lands for recreation and conservation purposes, the acquisition of

development easements or fee simple titles to farmland, or the preservation of historic properties, as the case may be; the execution of any agreements or franchises deemed by the Department of Environmental Protection, State Agriculture Development Committee, or New Jersey Historic Trust, as the case may be, to be necessary or useful and convenient in connection with any project authorized by this act; the procurement or provision of appraisal, archaeological, architectural, conservation, design, engineering, financial, geological, historic research, hydrological, inspection, legal, planning, relocation, surveying, or other professional advice, estimates, reports, services, or studies; the purchase of title insurance; the undertaking of feasibility studies; the issuance of bonds, or any interest or discount thereon; organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act; the establishment of a reserve fund or funds for working capital, operating, maintenance, or replacement expenses and for the payment or security of principal or interest on bonds, as the Director of the Division of Budget and Accounting in the Department of the Treasury may determine; and reimbursement to any fund of the State of moneys that may have been transferred or advanced therefrom to any fund established by this act, or any moneys that may have been expended therefrom for, or in connection with, this act.

"Development" or "develop" means, except as used in the definitions of "acquisition" and "development easement" in this section, any improvement made to a land or water area designed to expand and enhance its utilization for recreation and conservation purposes, and shall include the construction, renovation, or repair of any such improvement, but shall not mean shore protection or beach nourishment or replenishment activities.

"Development easement" means an interest in land, less than fee simple title thereto, which interest represents the right to develop that land for all nonagricultural purposes and which interest may be transferred under laws authorizing the transfer of development potential.

"Farmland" means land identified as having prime or unique soils as classified by the Natural Resources Conservation Service in the United States Department of Agriculture, having soils of Statewide importance according to criteria adopted by the State Soil Conservation Committee, established pursuant to R.S.4:24-3, or having soils of local importance as identified by local soil conservation districts, and which land qualifies for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), and any other land on the farm

that is necessary to accommodate farm practices as determined by the State Agriculture Development Committee.

"Farmland preservation," "farmland preservation purposes" or "preservation of farmland" means the permanent preservation of farmland to support agricultural or horticultural production as the first priority use of that land.

"Garden State Preservation Trust" means the Garden State Preservation Trust established pursuant to section 4 of P.L.1999, c.152 (C.13:8C-4).

"Government securities" means any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of any federal agency, to the extent those obligations are unconditionally guaranteed by the United States of America, and any certificates or any other evidences of an ownership interest in those obligations of, or unconditionally guaranteed by, the United States of America or in specified portions which may consist of the principal of, or the interest on, those obligations.

"Historic preservation," "historic preservation purposes," or "preservation of historic properties" means any work relating to the conservation, improvement, interpretation, preservation, protection, rehabilitation, renovation, repair, restoration, or stabilization of any historic property, and shall include any work related to providing access thereto for disabled or handicapped persons.

"Historic property" means any area, building, facility, object, property, site, or structure approved for inclusion, or which meets the criteria for inclusion, in the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.).

"Land" or "lands" means real property, including improvements thereof or thereon, rights-of-way, water, lakes, riparian and other rights, easements, privileges and all other rights or interests of any kind or description in, relating to, or connected with real property.

"Local government unit" means a county, municipality, or other political subdivision of the State, or any agency, authority, or other entity thereof; except, with respect to the acquisition and development of lands for recreation and conservation purposes, "local government unit" means a county, municipality, or other political subdivision of the State, or any agency, authority, or other entity thereof the primary purpose of which is to administer, protect, acquire, develop, or maintain lands for recreation and conservation purposes.

"New Jersey Historic Trust" means the entity established pursuant to section 4 of P.L.1967, c.124 (C.13:1B-15.111).

"Qualifying tax exempt nonprofit organization" means a nonprofit organization that is exempt from federal taxation pursuant to section 501 (c)(3) of the federal Internal Revenue Code, 26 U.S.C.s.501 (c)(3), and which meets the same qualifications as those required for a grant pursuant to section 27, 39, or 41 of P.L.1999, c.152 (C.13:8C-27, C.13:8C-39, or C.13:8C-41), as the case may be.

"Recreation and conservation purposes" means the use of lands for beaches, biological or ecological study, boating, camping, fishing, forests, greenways, hunting, natural areas, parks, playgrounds, protecting historic properties, water reserves, watershed protection, wildlife preserves, active sports, or a similar use for either public outdoor recreation or conservation of natural resources, or both.

"Secretary" means the Secretary of Agriculture.

4. a. (1) At least twice during each State fiscal year, the Department of Environmental Protection, the State Agriculture Development Committee, and the New Jersey Historic Trust shall each submit to the Garden State Preservation Trust a list of projects that are recommended to receive funding from the proceeds of the bonds authorized to be issued pursuant to this act, based upon the respective priority systems, ranking criteria, and funding policies established pursuant to sections 23, 24, 26, 27, and 37 through 41 of P.L.1999, c.152 (C.13:8C-23, C.13:8C-24, C.13:8C-26, C.13:8C-27, and C.13:8C-37 through 41), section 7 of P.L.2005, c.178 (C.13:8C-38.1), and sections 1 and 2 of P.L.2001, c.405 (C.13:8C-40.1 and C.13:8C-40.2), and any rules or regulations adopted pursuant to those laws. The Department of Environmental Protection shall also submit to the Garden State Preservation Trust at least twice during each State fiscal year a list of projects that are recommended to receive funding from the proceeds of the bonds authorized to be issued pursuant to section 7 of this act.

(2) The Garden State Preservation Trust shall review each such list and may make such deletions, but not additions, of projects therefrom as it deems appropriate and in accordance with the procedures established for such deletions pursuant to section 23 of P.L.1999, c.152 (C.13:8C-23), whereupon the Garden State Preservation Trust shall approve the list and submit to the Governor and to the President of the Senate and the Speaker of the General Assembly for introduction in the Legislature, proposed legislation appropriating moneys from the proceeds of the bonds authorized to be issued pursuant to this act, for appropriation for the purposes set forth in this act.

b. The Commissioner of Environmental Protection, the Secretary of Agriculture, and the New Jersey Historic Trust shall review and consider the findings and recommendations of the commission in the administration of the provisions of this act.

5. a. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $218,000,000 for the purposes of: providing moneys to meet the cost of public acquisition and development of lands by the State for recreation and conservation purposes; providing State grants and loans to assist local government units to meet the cost of acquiring and developing lands for recreation and conservation purposes; and providing State matching grants to assist qualifying tax exempt nonprofit organizations to meet the cost of acquiring lands for recreation and conservation purposes, to be allocated as follows:

(1) $90,000,000 for the acquisition and development of lands by the State for recreation and conservation purposes;

(2) $110,000,000 for State grants and loans to assist local government units to acquire and develop lands for recreation and conservation purposes; and

(3) $18,000,000 for State grants, on an up to 50% matching basis, to qualifying tax exempt nonprofit organizations to acquire and develop lands for recreation and conservation purposes.

b. To the end that municipalities may not suffer a loss of taxes by reason of the acquisition and ownership by the State of lands in fee simple for recreation and conservation purposes, or the acquisition and ownership by qualifying tax exempt nonprofit organizations of lands in fee simple for recreation and conservation purposes that become certified exempt from property taxes pursuant to P.L.1974, c.167 (C.54:4-3.63 et seq.) or similar laws, under the provisions of this section, the State shall make payments annually in the same manner as payments are made pursuant to section 29 of P.L.1999, c.152 (C.13:8C-29).

c. Of the amount authorized pursuant to this section, not more than 5% shall be utilized for organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act.

6. a. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $146,000,000 for the purpose of the preservation of farmland. The proceeds from the sale of the bonds shall be for appropriation to the State Agriculture Development Committee established

pursuant to section 4 of P.L.1983, c.31 (C.4:1C-4), and shall be used for the purposes set forth in paragraphs (1) through (4) of subsection a. of section 37 of P.L.1999, c.152 (C.13:8C-37).

b. Of the amount authorized pursuant to this section, not more than 5% shall be utilized for organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act.

7. a. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $24,000,000 for the purposes of providing moneys to meet the Blue Acres cost of acquisition by the State, for recreation and conservation purposes, of lands that have been damaged by, or may be prone to incurring damage caused by, storms or storm-related flooding, or that may buffer or protect other lands from such damage.

b. To the end that municipalities may not suffer a loss of taxes by reason of the acquisition and ownership by the State of lands in fee simple for recreation and conservation purposes under the provisions of this section, the State shall make payments annually in the same manner as payments are made pursuant to section 29 of P.L.1999, c.152 (C.13:8C-29).

c. The State shall not utilize the power of eminent domain in any manner to acquire lands utilizing funds made available pursuant to the Blue Acres bond program; such lands shall be acquired only from willing sellers.

d. The Department of Environmental Protection shall establish an advisory committee composed of experts and appropriate interested parties concerned with flood management through land acquisition and preservation efforts to advise the department with respect to the acquisition of lands by the State utilizing funds made available pursuant to the Blue Acres bond program. The advisory committee shall recommend Blue Acres project priority lists to the Department of Environmental Protection to be submitted by the department to the Garden State Preservation Trust for funding approval as required pursuant to section 4 of this act.

e. The Office of Green Acres in the Department of Environmental Protection shall administer the Blue Acres bond program.

f. Of the amount authorized pursuant to this section, not more than 5% shall be utilized for organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act.

8. a. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $12,000,000 for the purpose of providing

State matching grants to assist State agencies or entities, local government units, and qualifying tax exempt nonprofit organizations to meet the cost of preservation of historic properties.

b. Of the amount authorized pursuant to this section, not more than 5% shall be utilized for organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act.

9. The bonds authorized under this act shall be serial bonds, term bonds, or a combination thereof, and shall be known as "2009 New Jersey Green Acres, Water Supply and Floodplain Protection, and Farmland and Historic Preservation Bonds." They shall be issued from time to time as the issuing officials herein named shall determine and may be issued in coupon form, fully-registered form or book-entry form. The bonds may be subject to redemption prior to maturity and shall mature and be paid not later than 35 years from the respective dates of their issuance.

10. The Governor, the State Treasurer and the Director of the Division of Budget and Accounting in the Department of the Treasury, or any two of these officials, herein referred to as "the issuing officials," are authorized to carry out the provisions of this act relating to the issuance of bonds, and shall determine all matters in connection therewith, subject to the provisions of this act. If an issuing official is absent from the State or incapable of acting for any reason, the powers and duties of that issuing official shall be exercised and performed by the person authorized by law to act in an official capacity in the place of that issuing official.

11. Bonds issued in accordance with the provisions of this act shall be a direct obligation of the State of New Jersey, and the faith and credit of the State are pledged for the payment of the interest and redemption premium thereon, if any, when due, and for the payment of the principal thereof at maturity or earlier redemption date. The principal of and interest on the bonds shall be exempt from taxation by the State or by any county, municipality or other taxing district of the State.

12. The bonds shall be signed in the name of the State by means of the manual or facsimile signature of the Governor under the Great Seal of the State, which seal may be by facsimile or by way of any other form of reproduction on the bonds, and attested by the manual or facsimile signature of the Secretary of State, or an Assistant Secretary of State, and shall be

countersigned by the facsimile signature of the Director of the Division of Budget and Accounting in the Department of the Treasury and may be manually authenticated by an authenticating agent or bond registrar, as the issuing official shall determine. Interest coupons, if any, attached to the bonds shall be signed by the facsimile signature of the Director of the Division of Budget and Accounting in the Department of the Treasury. The bonds may be issued notwithstanding that an official signing them or whose manual or facsimile signature appears on the bonds or coupons has ceased to hold office at the time of issuance, or at the time of the delivery of the bonds to the purchaser thereof.

13. a. The bonds shall recite that they are issued for the purposes set forth in section 5, 6, 7, or 8 of this act, that they are issued pursuant to this act, that this act was submitted to the people of the State at the general election next occurring at least 70 days after enactment as specified in section 29 of this act, and that this act was approved by a majority of the legally qualified voters of the State voting thereon at the election. This recital shall be conclusive evidence of the authority of the State to issue the bonds and their validity. Any bonds containing this recital shall, in any suit, action or proceeding involving their validity, be conclusively deemed to be fully authorized by this act and to have been issued, sold, executed and delivered in conformity herewith and with all other provisions of laws applicable hereto, and shall be incontestable for any cause.

b. The bonds shall be issued in those denominations and in the form or forms, whether coupon, fully-registered or book-entry, and with or without provisions for interchangeability thereof, as may be determined by the issuing officials.

14. When the bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the issuing officials. Each series of bonds shall bear such rate or rates of interest as may be determined by the issuing officials, which interest shall be payable semiannually; except that the first and last interest periods may be longer or shorter, in order that intervening semiannual payments may be at convenient dates.

15. The bonds shall be issued and sold at the price or prices and under the terms, conditions and regulations as the issuing officials may prescribe, after notice of the sale, published at least once in at least three newspapers published in this State, and at least once in a publication carrying municipal

bond notices and devoted primarily to financial news, published in this State or in the city of New York, the first notice to appear at least five days prior to the day of bidding. The notice of sale may contain a provision to the effect that any bid in pursuance thereof may be rejected. In the event of rejection or failure to receive any acceptable bid, the issuing officials, at any time within 60 days from the date of the advertised sale, may sell the bonds at a private sale at such price or prices under the terms and conditions as the issuing officials may prescribe. The issuing officials may sell all or part of the bonds of any series as issued to any State fund or to the federal government or any agency thereof, at a private sale, without advertisement.

16. Until permanent bonds are prepared, the issuing officials may issue temporary bonds in the form and with those privileges as to their registration and exchange for permanent bonds as may be determined by the issuing officials.

17. a. The State Treasurer shall establish a fund, to be known as the "2009 Green Acres Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of the bonds issued by the State under this act for acquisitions and developments for recreation and conservation purposes as set forth in section 5 of this act. The moneys in the fund are specifically dedicated and shall be applied to the cost of the purposes set forth in section 5 of this act. Moneys derived from the payment of interest and principal on the loans to local government units authorized in section 5 of this act shall also be held in the fund. Such grants, contributions, donations, and reimbursements from federal aid programs as may be lawfully used for the purposes set forth in section 5 of this act may also be held in the "2009 Green Acres Fund." Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature shall not have then adopted an act making a specific appropriation of any of the moneys.

b. Any act appropriating moneys from the "2009 Green Acres Fund" shall identify the particular project or projects to be funded by the moneys, and any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor, except as permitted

otherwise in accordance with the exceptions specified in subsection a. of section 23 of P.L.1999, c.152 (C.13:8C-23).

c. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the fund to be used for the purposes of the fund.

18. a. The State Treasurer shall establish a fund to be known as the "2009 Farmland Preservation Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of bonds issued by the State under this act for the acquisition of development easements or fee simple titles on farmland, all as set forth in section 6 of this act. The moneys in the fund are specifically dedicated and shall be applied to the cost of the purposes set forth in section 6 of this act. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature shall not have then adopted an act making a specific appropriation of any of the moneys.

b. Any act appropriating moneys from the "2009 Farmland Preservation Fund" shall identify the particular project or projects to be funded with the moneys, and any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor, except as permitted otherwise in accordance with the exceptions specified in subsection b. of section 23 of P.L.1999, c.152 (C.13:8C-23).

c. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the fund to be used for the purposes of the fund.

19. a. The State Treasurer shall establish a fund, to be known as the "2009 Blue Acres Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of the bonds issued by the State under this act for acquisitions for recreation and conservation purposes as set forth in section 7 of this act. The moneys in the fund are specifically dedicated and shall be applied to the Blue Acres cost of the purposes set forth in section 7 of this act. Such grants, contributions, donations, and reimbursements from federal aid programs as may be lawfully used for the purposes set forth in section 7 of this act may also be held in the "2009 Blue Acres Fund." Moneys in the fund shall not be expended

except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature shall not have then adopted an act making a specific appropriation of any of the moneys.

b. Any act appropriating moneys from the "2009 Blue Acres Fund" shall identify the particular project or projects to be funded by the moneys, and any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor.

c. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the fund to be used for the purposes of the fund.

20. a. The State Treasurer shall establish a fund to be known as the "2009 Historic Preservation Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of bonds issued by the State under this act for the funding of historic preservation projects as set forth in section 8 of this act. The moneys in the fund are specifically dedicated and shall be applied to the cost of preservation of historic properties as set forth in section 8 of this act. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature shall not have then adopted an act making a specific appropriation of any of the moneys.

b. Any act appropriating moneys from the "2009 Historic Preservation Fund" shall identify the particular project or projects to be funded by the moneys, and any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor.

c. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the fund to be used for the purposes of the fund.

21. a. At any time prior to the issuance and sale of bonds under this act, the State Treasurer is authorized to transfer from any available moneys in any fund of the treasury of the State to the credit of the "2009 Green Acres Fund," the "2009 Farmland Preservation Fund," the "2009 Blue Acres Fund," or the "2009 Historic Preservation Fund," those sums as the State Treasurer may deem necessary. The sums so transferred shall be returned

to the same fund of the treasury of the State by the State Treasurer from the proceeds of the sale of the first issue of bonds.

b. Pending their application to the purposes provided in the applicable provisions of this act, the moneys in the "2009 Green Acres Fund," the "2009 Farmland Preservation Fund," the "2009 Blue Acres Fund," and the "2009 Historic Preservation Fund," may be invested and reinvested as are other trust funds in the custody of the State Treasurer, in the manner provided by law. Net earnings received from the investment or deposit of moneys in these funds shall be redeposited therein and become part of the respective funds.

22. If any coupon bond, coupon or registered bond is lost, mutilated or destroyed, a new bond or coupon shall be executed and delivered of like tenor, in substitution for the lost, mutilated or destroyed bond or coupon, upon the owner furnishing to the issuing officials evidence satisfactory to them of the loss, mutilation or destruction of the bond or coupon, the ownership thereof, and security, indemnity and reimbursement for expenses connected therewith, as the issuing officials may require.

23. The accrued interest, if any, received upon the sale of the bonds shall be applied to the discharge of a like amount of interest upon the bonds when due. Any expense incurred by the issuing officials for advertising, engraving, printing, clerical, authenticating, registering, legal or other services necessary to carry out the duties imposed upon them by the provisions of this act shall be paid from the proceeds of the sale of the bonds by the State Treasurer, upon the warrant of the Director of the Division of Budget and Accounting in the Department of the Treasury, in the same manner as other obligations of the State are paid.

24. Bonds of each series issued hereunder shall mature, including any sinking fund redemptions, not later than the 35th year from the date of issue of that series, and in amounts as shall be determined by the issuing officials. The issuing officials may reserve to the State by appropriate provision in the bonds of any series the power to redeem any of the bonds prior to maturity at the price or prices and upon the terms and conditions as may be provided in the bonds.

25. Any bond or bonds issued hereunder which are subject to refinancing pursuant to the "Refunding Bond Act of 1985," P.L.1985, c.74 as amended by P.L.1992, c.182 (C.49:2B-1 et seq.), shall no longer be deemed

to be outstanding, shall no longer constitute a direct obligation of the State of New Jersey, and the faith and credit of the State shall no longer be pledged to the payment of the principal of, redemption premium, if any, and interest on the bonds, and the bonds shall be secured solely by and payable solely from moneys and government securities deposited in trust with one or more trustees or escrow agents, which trustees and escrow agents shall be trust companies or national or state banks having powers of a trust company, located either within or without the State, as provided herein, whenever there shall be deposited in trust with the trustees or escrow agents, as provided herein, either moneys or government securities, including government securities issued or held in book-entry form on the books of the Department of the Treasury of the United States, the principal of and interest on which when due will provide money which, together with the moneys, if any, deposited with the trustees or escrow agents at the same time, shall be sufficient to pay when due the principal of, redemption premium, if any, and interest due and to become due on the bonds on or prior to the redemption date or maturity date thereof, as the case may be; provided the government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. The State of New Jersey hereby covenants with the holders of any bonds for which government securities or moneys shall have been deposited in trust with the trustees or escrow agents as provided in this section that, except as otherwise provided in this section, neither the government securities nor moneys so deposited with the trustees or escrow agents shall be withdrawn or used by the State for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest to become due on the bonds; provided that any cash received from the principal or interest payments on the government securities deposited with the trustees or escrow agents, to the extent the cash will not be required at any time for that purpose, shall be paid over to the State, as received by the trustees or escrow agents, free and clear of any trust, lien, pledge or assignment securing the bonds; and to the extent the cash will be required for that purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due the principal of, redemption premium, if any, and interest to become due on the bonds on and prior to the redemption date or maturity date thereof, as the case may be, and interest earned from the reinvestments shall be paid over to the State, as received by the trustees or escrow agents, free and clear of any trust, lien or pledge securing the bonds. Notwithstanding anything to the contrary contained herein: a. the trustees or escrow agents

shall, if so directed by the issuing officials, apply moneys on deposit with the trustees or escrow agents pursuant to the provisions of this section, and redeem or sell government securities so deposited with the trustees or escrow agents, and apply the proceeds thereof to (1) the purchase of the bonds which were refinanced by the deposit with the trustees or escrow agents of the moneys and government securities and immediately thereafter cancel all bonds so purchased, or (2) the purchase of different government securities; provided however, that the moneys and government securities on deposit with the trustees or escrow agents after the purchase and cancellation of the bonds or the purchase of different government securities shall be sufficient to pay when due the principal of, redemption premium, if any, and interest on all other bonds in respect of which the moneys and government securities were deposited with the trustees or escrow agents on or prior to the redemption date or maturity date thereof, as the case may be; and b. in the event that on any date, as a result of any purchases and cancellations of bonds or any purchases of different government securities, as provided in this sentence, the total amount of moneys and government securities remaining on deposit with the trustees or escrow agents is in excess of the total amount which would have been required to be deposited with the trustees or escrow agents on that date in respect of the remaining bonds for which the deposit was made in order to pay when due the principal of, redemption premium, if any, and interest on the remaining bonds, the trustees or escrow agents shall, if so directed by the issuing officials, pay the amount of the excess to the State, free and clear of any trust, lien, pledge or assignment securing the refunding bonds.

26. Refunding bonds issued pursuant to P.L.1985, c.74 as amended by P.L.1992, c.182 (C.49:2B-1 et seq.) may be consolidated with bonds issued pursuant to section 5, 6, 7, or 8 of this act or with bonds issued pursuant to any other act for purposes of sale.

27. To provide funds to meet the interest and principal payment requirements for the bonds and refunding bonds issued under this act and outstanding, there is appropriated in the order following:

a. Revenue derived from the collection of taxes under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), or so much thereof as may be required; and

b. If, at any time, funds necessary to meet the interest, redemption premium, if any, and principal payments on outstanding bonds issued under this act are insufficient or not available, there shall be assessed, levied and

collected annually in each of the municipalities of the counties of this State, a tax on the real and personal property upon which municipal taxes are or shall be assessed, levied and collected, sufficient to meet the interest on all outstanding bonds issued hereunder and on the bonds proposed to be issued under this act in the calendar year in which the tax is to be raised and for the payment of bonds falling due in the year following the year for which the tax is levied. The tax shall be assessed, levied and collected in the same manner and at the same time as are other taxes upon real and personal property. The governing body of each municipality shall cause to be paid to the county treasurer of the county in which the municipality is located, on or before December 15 in each year, the amount of tax herein directed to be assessed and levied, and the county treasurer shall pay the amount of the tax to the State Treasurer on or before December 20 in each year.

If on or before December 31 in any year, the issuing officials, by resolution, determine that there are moneys in the General Fund beyond the needs of the State, sufficient to pay the principal of bonds falling due and all interest and redemption premium, if any, payable in the ensuing calendar year, the issuing officials shall file the resolution in the office of the State Treasurer, whereupon the State Treasurer shall transfer the moneys to a separate fund to be designated by the State Treasurer, and shall pay the principal, redemption premium, if any, and interest out of that fund as the same shall become due and payable, and the other sources of payment of the principal, redemption premium, if any, and interest provided for in this section shall not then be available, and the receipts for the year from the tax specified in subsection a. of this section shall be considered and treated as part of the General Fund, available for general purposes.

28. Should the State Treasurer, by December 31 of any year, deem it necessary, because of the insufficiency of funds collected from the sources of revenues as provided in this act, to meet the interest and principal payments for the year after the ensuing year, then the State Treasurer shall certify to the Director of the Division of Budget and Accounting in the Department of the Treasury the amount necessary to be raised by taxation for those purposes, the same to be assessed, levied and collected for and in the ensuing calendar year. The director shall, on or before March 1 following, calculate the amount in dollars to be assessed, levied and collected in each county as herein set forth. This calculation shall be based upon the corrected assessed valuation of each county for the year preceding the year in which the tax is to be assessed, but the tax shall be assessed, levied and collected upon the assessed valuation of the year in which the tax is assessed

and levied. The director shall certify the amount to the county board of taxation and the treasurer of each county. The county board of taxation shall include the proper amount in the current tax levy of the several taxing districts of the county in proportion to the ratables as ascertained for the current year.

29. For the purpose of complying with the provisions of the State Constitution, this act shall be submitted to the people at the general election next occurring at least 70 days after enactment. To inform the people of the contents of this act, it shall be the duty of the Secretary of State, after this section takes effect, and at least 60 days prior to the election, to cause this act to be published at least once in one or more newspapers of each county, if any newspapers be published therein and to notify the clerk of each county of this State of the passage of this act; and the clerks respectively, in accordance with the instructions of the Secretary of State, shall have printed on each of the ballots the following:

If you approve of the act entitled below, make a cross (x), plus (+), or check (✔) mark in the square opposite the word "Yes."

If you disapprove of the act entitled below, make a cross (x), plus (+), or check (✔) mark in the square opposite the word "No."

If voting machines are used, a vote of "Yes" or "No" shall be equivalent to these markings respectively.

YES	GREEN ACRES, WATER SUPPLY AND FLOODPLAIN PROTECTION, AND FARMLAND AND HISTORIC PRESERVATION BOND ACT OF 2009 Shall the "Green Acres, Water Supply and Floodplain Protection, and Farmland and Historic Preservation Bond Act of 2009," which authorizes the State to issue bonds in the amount of $400 million to provide moneys for (1) the acquisition and development of lands for recreation and conservation purposes, including lands that protect water supplies, (2) the preservation of farmland for agricultural or horticultural use and production, (3) the acquisition, for recreation and conservation purposes, of properties that are prone to or have incurred flood or storm damage, and (4) funding historic preservation projects; and providing the ways and means to pay the interest on the debt and also to pay and discharge the principal thereof, with full public disclosure of all spending, be approved?

	INTERPRETIVE STATEMENT
NO	Approval of this act would authorize $400 million in funding for Green Acres, water supply and floodplain protection, and farmland and historic preservation projects through the sale of State general obligation bonds. The Green Acres program acquires land that protects water supplies and preserves open space, including parks, fish and wildlife habitat, and flood prone or affected areas. It also funds park improvements and facilities. Of the total sum authorized: (1) $218 million will be used for Green Acres; (2) $146 million will be used for farmland preservation purposes; (3) $24 million will be used for the "Blue Acres" program by which the State may purchase from willing sellers, for open space preservation purposes, properties that are prone to or have incurred flood or storm damage; and (4) $12 million will be used for historic preservation purposes. All spending of the authorized bond proceeds will be subject to full public disclosure.

The fact and date of the approval or passage of this act, as the case may be, may be inserted in the appropriate place after the title in the ballot. No other requirements of law of any kind or character as to notice or procedure, except as herein provided, need be adhered to.

The votes so cast for and against the approval of this act, by ballot or voting machine, shall be counted and the result thereof returned by the election officer, and a canvass of the election had in the same manner as is provided for by law in the case of the election of a Governor, and the approval or disapproval of this act so determined shall be declared in the same manner as the result of an election for a Governor, and if there is a majority of all the votes cast for and against it at the election in favor of the approval of this act, then all the provisions of this act not made effective theretofore shall take effect forthwith.

30. There is appropriated the sum of $5,000 to the Department of State for expenses in connection with the publication of notice pursuant to section 29 of this act.

31. The commissioner, the secretary, and the New Jersey Historic Trust, as the case may be, shall submit to the State Treasurer and the commission with each respective department's or agency's annual budget request a plan for the expenditure of funds from the "2009 Green Acres Fund," the "2009 Farmland Preservation Fund," the "2009 Blue Acres

Fund," and the "2009 Historic Preservation Fund," as the case may be, for the upcoming fiscal year. Each plan shall include the following information: a performance evaluation of the expenditures made from the appropriate fund to date; a description of programs planned during the upcoming fiscal year; a copy of the regulations in force governing the operation of programs that are financed, in part or in whole, by moneys from the particular fund; and an estimate of expenditures for the upcoming fiscal year.

32. Immediately following the submission to the Legislature of the Governor's annual budget message, the commissioner, the secretary, and the New Jersey Historic Trust shall submit to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and to the Joint Budget Oversight Committee, or its successor, copies of the appropriate plan called for under section 31 of this act, together with such changes therein as may have been required by the Governor's budget message.

33. Not less than 30 days prior to entering into any contract, lease, obligation, or agreement to effectuate the purposes of this act, the commissioner, the secretary, or the New Jersey Historic Trust, as appropriate, shall report to and consult with the Joint Budget Oversight Committee, or its successor.

34. Except as otherwise provided by this act, all appropriations from the bond funds established by this act shall be by specific allocation for each project, and any transfer of any funds so appropriated shall require the approval of the Joint Budget Oversight Committee or its successor. Except as otherwise provided by this act, any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor.

35. This section and sections 29 and 30 of this act shall take effect immediately and the remainder of this act shall take effect as and when provided in section 29.

Approved August 18, 2009.

CHAPTER 118

AN ACT concerning a pilot program to transfer the property assessment function from municipalities to the county, supplementing Title 54 of the Revised Statutes, and amending P.L.2007, c.54.

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

C.54:1-86 Short title.

1. Sections 1 through 15 of P.L.2009, c.118 (C.54:1-86 et seq.) shall be known and may be cited as the "Property Tax Assessment Reform Act."

C.54:1-87 Findings, declarations relative to property tax assessment reform.

2. The Legislature finds and declares:

a. Under the current real property assessment system, each municipality within a county assesses its property at a different percentage of market value, requiring that property be equalized to apportion county taxes among the constituent municipalities in order to meet the requirements of the Uniformity Clause, Article VIII, Section I, paragraph 1 of the New Jersey Constitution.

b. Under the current real property assessment system each municipality has its own assessor. The decision to revalue is often postponed beyond what is prudent, causing some property taxpayers in a municipality to subsidize other property taxpayers for many years.

c. A county tax assessment system will help address the shortcomings of the municipal assessment system by removing local responsibility for local revaluation costs.

C.54:1-88 Definitions relative to property tax assessment reform.

3. As used in this act:

"County governing body" means the county board of chosen freeholders of the pilot county.

"County assessor" means the person appointed by the county governing body pursuant to section 4 of P.L.2009, c.118 (C.54:1-89) to assess property within the county for the purposes of taxation and exemption from taxation.

"Department" means the Department of the Treasury.

"Director" means the Director of the Division of Property Assessment in the Department of the Treasury.

"Deputy county assessor" means the holder of a certified property assessor certificate who is employed by the office of the county assessor within the pilot county and assigned to perform duties and responsibilities for the assessment of property for purposes of taxation under the supervision of the county assessor.

"Division" means the Division of Taxation in the Department of the Treasury.

"Pilot county" means the County of Gloucester.

C.54:1-89 Appointment of county assessor.

4. a. On the first day of January of the first full calendar year next following the effective date of P.L.2009, c.118 (C.54:1-86 et al.), or as soon thereafter as may be practicable, the county governing body shall appoint a county assessor.

b. (1) The county assessor shall be an employee of the pilot county and shall serve on a full-time basis for an initial five-year term.

(2) No person shall be appointed as county assessor unless that person holds a certified property assessor's certificate and has at least five years of experience as a municipal tax assessor or deputy county assessor, or held the position of county tax administrator prior to the appointment of the first county assessor pursuant to this section.

(3) The county assessor shall acquire tenure in office upon reappointment to a second five-year term and thereafter shall hold office during good behavior and efficiency, and shall not be removed for political reasons or for any cause other than incapacity, misconduct, disobedience of rules or regulations established by the director or by the county governing body, failure to meet the standards of performance established by the director, or schedules or standards adopted pursuant to P.L.2009, c.118 (C.54:1-86 et al.).

c. The pilot county shall constitute a taxing district for the purpose of the assessment of property in the State.

C.54:1-90 Real property revaluation by municipality.

5. a. On or before December 31 of the third full calendar year next following the effective date of P.L.2009, c.118 (C.54:1-86 et al.) every municipality within the pilot county shall implement a real property revaluation.

b. (1) The county assessor appointed pursuant to subsection a. of section 4 of P.L.2009, c.118 (C.54:1-89) shall assist the municipalities in meeting the requirements of subsection a. of this section through the promulgation of a phase-in plan for the orderly completion and implementation of the municipal revaluations, or by any other means he deems appropriate.

(2) The county assessor may waive the revaluation requirement for a particular municipality under subsection a. of this section upon his finding that the municipality implemented a revaluation within 24 months of the effective date of P.L.2009, c.118 (C.54:1-86 et al.).

c. The cost of the revaluations required under subsection a. of this section shall be paid by the pilot county. The costs of a previous revaluation for a municipality that has been granted a waiver under paragraph (2) of subsection b. of this section shall be reimbursed by the pilot county. Following the completion of the three year period established pursuant to subsection a. of this sec-

tion, the State shall reimburse the pilot county for those amounts using funds made available to the pilot county from either the SHARE program pursuant to section 30 of P.L.2007, c.63 (C.40A:65-30) or from the Consolidation Fund established by P.L.2008, c.35, or both in equal installments, over three years.

d. The monies required to be paid for municipal revaluations by a pilot county pursuant to subsection c. of this section and the pilot county's administrative start-up costs shall not be included or considered a part of the county tax levy under section 4 of P.L.1976, c.68 (C.40A:4-45.4) or a part of the county's adjusted tax levy under sections 9 and 10 of P.L.2007, c.62 (C.40A:4-45.44 and 40A:4-45.45).

C.54:1-91 Appointment of deputy county assessors.

6. a. During the revaluation period set forth pursuant to section 5 of P.L.2009, c.118 (C.54:1-90), and subject to the requirements of section 13 of P.L.2009, c.118 (C.54:1-98), the governing body shall appoint deputy county assessors as needed.

b. The county assessor shall direct the work of all deputy county assessors.

c. (1) The county assessor shall be responsible to the county governing body for the efficient operation of his office and of the deputy county assessors within the pilot county.

(2) The county assessor shall determine employment jurisdictions for deputy county assessors under his supervision, however, the county governing body shall establish their hours of employment, the terms and conditions of their employment, and fix their compensation.

d. The county assessor shall establish a permanent central office within the pilot county, and may authorize additional permanent or temporary district offices within the pilot county, within the limits of funds made available for those purposes by the county governing body.

e. (1) The county assessor may request that the county governing body employ such additional professional and clerical assistants as are necessary for the performance of his duties.

(2) Any professional or clerical assistants supervised by the county assessor shall be employees of the pilot county.

f. After December 31 of the third full year next following enactment of P.L.2009, c.118 (C.54:1-86 et al.), the position of county tax administrator is abolished in the pilot county.

C.54:1-92 Duties of county assessor.

7. The county assessor shall:

a. supervise the deputy county assessors and, when appropriate, recommend the removal of a deputy county assessor for failure to adhere to standards of performance adopted by the director or schedules or standards adopted pursuant to P.L.2009, c.118 (C.54:1-86 et al.);

b. assure compliance with standards adopted by the director for staff of the deputy county assessors, office space, equipment, and other resources;

c. notify the county tax board of any revaluation, or complete or partial reassessment, which may be necessary and appropriate for a taxing district, and monitor the progress and review, revise or correct the results of any revaluation or reassessment which may be ordered by the county tax board;

d. monitor the progress, and review, revise, or correct the results of any other revaluation or reassessment conducted within his jurisdiction;

e. review, revise, and correct all property assessment lists prepared by the deputy county assessors within the pilot county;

f. provide such technical and professional assistance as may be requested by deputy county assessors, and as may be practicable within the support provided for the county assessor by the county governing body; and

g. perform any other tasks which the director deems necessary to ensure the valuation of property within the pilot county pursuant to law.

C.54:1-93 Determination of taxable status of property.

8. a. The county assessor, through a staff of deputy county assessors, shall locate, identify, and determine the taxable status of property within every municipality within the pilot county, determine the taxable value of the property, and prepare tax lists and tables of aggregates and equalization in the same form and manner as is provided under chapter 4 of Title 54 of the Revised Statutes, pursuant to a schedule established by the county assessor.

b. The county assessor shall be responsible for reviewing, revising, and correcting all work done by the staff of deputy county assessors within the pilot county.

C.54:1-94 Review, revision or correction.

9. a. Whenever any law, rule or regulation provides for the review, revision or correction of an assessor's list or duplicate, or a list of added or omitted properties, that review, revision or correction shall be performed by the county assessor in the pilot county, except any correction performed as the result of an assessment appeal, which correction shall be made by the county board of taxation after notice to the county assessor.

b. Any reference in any law, rule, or regulation to a revised and corrected assessor's list or duplicate in the pilot county, except in the case of a

revision or correction made pursuant to an assessment appeal, shall mean the list or duplicate reviewed, revised or corrected by the county assessor.

C.54:1-95 Annual tax list, property values available for public inspection.

10. Notwithstanding any law to the contrary, the county assessor shall make the annual tax list and property values for each municipality available for public inspection within that municipality. Following the completion of the three-year phase-in schedule pursuant to section 12 of P.L.2009, c.118 (C.54:1-97), sufficient staff shall be present in each district office authorized within the pilot county pursuant to subsection d. of section 6 of P.L.2009, c.118 (C.54:1-91) to assist the county assessor and to answer questions and address concerns that taxpayers have in reference to the assessment values and other property assessment and tax-related matters.

C.54:1-96 Hiring preference.

11. A hiring preference shall be given to tenured, certified tax assessors, deputy assessors, and to county tax administrators for the filling of staff positions in the office of the county assessor. Pension rights for those hired for staff positions shall be transferred.

C.54:1-97 Schedule for abolishment of office of municipal tax assessor.

12. The county assessor, in consultation with every municipal governing body and municipal tax assessor, shall promulgate a three-year schedule for the abolishment of the office of municipal tax assessor for every municipality within the pilot county. Thereafter, with respect to those municipalities, any reference in law to the duties and responsibilities of the office of municipal tax assessor pertaining to the assessment and reassessment of property shall be construed in the context of the statutory scheme of sections 1 through 15 of P.L.2009, c.118 (C.54:1-86 et seq.) to mean the deputy county assessor under the supervision of the county assessor. Any reference in law to the office of municipal tax assessor which conflicts in whole or in part with sections 1 through 15 of P.L.2009, c.118 (C.54:1-86 et seq.), particularly with regard to the appointment, employment, and removal of municipal tax assessors, shall be construed to have been repealed in whole or in conflicting part, with respect to municipalities located within the pilot county, by the provisions of sections 1 through 15 of P.L.2009, c.118 (C.54:1-86 et seq.).

C.54:1-98 Preference for appointment as deputy county assessor; tenure.

13. a. A serving municipal tax assessor or deputy municipal tax assessor who holds tenure in the position, or who has obtained a certified tax

assessor certificate immediately prior to the appointment of the first county assessor pursuant to section 4 of P.L.2009, c.118 (C.54:1-89), shall be entitled to preference with regard to the appointment of deputy county assessors pursuant to subsection a. of section 6 of P.L.2009, c.118 (C.54:1-91).

b. Each person appointed as a deputy county assessor shall acquire tenure in office after serving three continuous years in the office. Thereafter, a deputy county assessor shall hold office during good behavior and efficiency, and shall not be removed for political reasons or for any cause other than incapacity, misconduct, disobedience of rules or regulations established by the director or by the county governing body, failure to meet the standards of performance established by the director, or schedules or standards adopted pursuant to P.L.2009, c.118 (C.54:1-86 et al.).

C.54:1-99 Transfer of property assessment function.

14. a. In accordance with the phase-in schedule promulgated by the county assessor pursuant to section 12 of P.L.2009, c.118 (C.54:1-97), the county tax administrator for the pilot county, in consultation with the county governing body and the county assessor, shall effectuate the transfer of the property assessment function in all of the municipalities within the pilot county to the county assessor. All current or pending assessment and abatement programs and agreements under the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et seq.), and the "Five-Year Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), shall continue to be approved by the municipality.

b. If a county assessor seeks to settle a property tax appeal, filed pursuant to R.S.54:3-21, the county assessor shall inform the municipality in which the property that is the subject of the appeal is located prior to entering into any final settlement agreement, pursuant to procedures promulgated by the director.

C.54:1-100 Rules, regulations.

15. The Director of the Division of Taxation in the Department of the Treasury shall adopt rules and regulations concerning the valuation of property in the pilot county to effectuate the purposes of sections 1 through 14 of P.L.2009, c.118 (C.54:1-86 through C.54:1-99). The rules and regulations shall include provisions permitting segmental assessment.

16. Section 5 of P.L.2007, c.54 (C.52:27D-505) is amended to read as follows:

C.52:27D-505 Duties of commission.

5. a. (1) The commission shall study and report on the structure and functions of county and municipal government, including local taxing districts, their statutory bases, including the fiscal relationship between local governments, and the appropriate allocation of service delivery responsibilities from the standpoint of efficiency. The study of the transfer of the municipal tax assessment function to the county through the appointment of a county assessor and deputy county assessors in a pilot county pursuant to the "Property Assessment Reform Act," sections 1 through 15 of P.L.2009, c.118 (C.54:1-86 et seq.), shall be conducted in consultation with the Director of the Division of Taxation in the Department of the Treasury.

(2) The commission shall recommend legislative changes which would encourage the more efficient operation of local government. These changes may include the structural and administrative streamlining of county and municipal government functions, including but not limited to, the transfer of functions from one level of government to another, and the use or establishment of regional service delivery entities.

(3) The commission shall also consider optimal service levels, ratios of employees to population served, cost structures for service delivery, and other best practices.

Within two years following the effective date of P.L.2007, c.54 (C.52:27D-501 et al.), the commission shall report its findings to the Governor, the President of the Senate, and the Speaker of the General Assembly; provided, however, that findings concerning the transfer of the municipal tax assessment function to the county through the appointment of a county assessor and deputy county assessors shall be reported on or before February 1 of the sixth year next following the effective date of P.L.2009, c.118 (C.54:1-86 et al.).

b. Based on its findings pursuant to paragraph (3) of subsection a. of this section, the commission shall develop criteria to serve as the basis for recommending the consolidation of specific municipalities, the merger of specific existing autonomous agencies into the parent municipal or county government, or the sharing of services between municipalities or between municipalities and other public entities. Recommendations for sharing services may result from a study focusing exclusively on the sharing of services or may result from a study examining potential consolidation. Municipalities to be considered for consolidation shall be within the same county and shall also be situated within the same legislative district.

The criteria to govern a study to examine consolidation or the sharing of services shall include, but need not be limited to:

(1) a consideration of geographic factors, such as a shared boundary, or in the case of the recommended consolidation of more than two local units, that the consolidated local unit will have a contiguous boundary;

(2) an analysis of the economic costs and benefits of consolidation or the sharing of services, as the case may be, including potential tax savings and reductions in government costs through economies of scale;

(3) measures to ensure that costs and benefits of consolidation or service sharing are distributed equitably across the entire community; and

(4) measures to safeguard the interests of communities in the municipalities for which consolidation is recommended.

The commission shall give priority to local units that volunteer to be studied.

c. When a municipal consolidation is recommended by the commission, the commission shall substitute for a joint municipal consolidation study commission that would be formed pursuant to section 7 of the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.41) or any other statute governing municipal consolidation, and no voter approval shall be required to create the study commission.

d. When a consolidation or shared service is recommended by the commission, the commission shall recommend State funding for any extraordinary expenses necessitated by the consolidation plan or shared service agreement. The commission shall recommend that this funding be provided either by funds made available to the commission for that purpose or by the Legislature or State Treasurer as part of the annual State budget process.

17. This act shall take effect immediately.

Approved August 18, 2009.

CHAPTER 119

AN ACT concerning technical assistants to construction code officials and amending P.L.1975, c. 217.

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

1. Section 8 of P.L. 1975, c. 217 (C.52:27D-126) is amended to read as follows:

C.52:27D-126 Appointment of construction official, subcode officials.

8. a. The appointing authority of any municipality shall appoint a construction official, any necessary subcode officials and technical assistants to assist such officials to administer and enforce the code. The appointing authority may, by resolution or order as appropriate, set the total number of weekly hours of operation of the construction official's office and the total number of weekly work hours of the construction official, commensurate with the compensation paid to the construction official. The appointing authority shall not set the specific work hours of the construction official. The appointing authority shall also appoint a construction board of appeals to hear and decide appeals from decisions made by said construction official and subcode officials, in the administration and enforcement of the code. Nothing herein, however, shall prevent a municipality from accepting inspections as to compliance with the code or any subcode thereof made by an inspection authority approved by the State of New Jersey pursuant to law.

b. To establish tenure rights or any other right or protection provided by the "State Uniform Construction Code Act" or Title 11A, Civil Service, of the New Jersey Statutes, or any pension law or retirement system, the job title "construction official" shall be equivalent to that job title which, prior to the adoption of the State Uniform Construction Code as provided in section 5 of the "State Uniform Construction Code Act," entailed the chief administrative responsibility to enforce all construction codes which had been adopted by the municipal governing body, the enforcement of which was not the responsibility of an authorized private inspection agency; and the job title "subcode official" shall be equivalent to that job title which, prior to the adoption of the State Uniform Construction Code, entailed subordinate administrative responsibility to enforce one or more of the following construction codes: building, plumbing, electrical or fire code.

Any person, in a municipality operating under Title 11A, Civil Service, of the New Jersey Statutes, who, prior to the adoption of the State Uniform Construction Code, held the equivalent of the job title "construction" official or "subcode" official, but who no longer holds his position as a result of a determination that his old job title was not equivalent to that of "construction" official or "subcode" official, shall be offered reappointment as a construction official or subcode official, as the case may be, and shall be granted permanent classified status in such position. Tenure shall continue for (1) any construction official or subcode official who is serving under

tenure as otherwise provided by law on the effective date of this act or within one year thereafter, or (2) any person certified pursuant to subsection c. of this section and who subsequently gains such tenure.

A construction official or subcode official appointed in a municipality operating under the provisions of Title 11A, Civil Service, of the New Jersey Statutes, who, at the time of adoption of the State Uniform Construction Code, January 1, 1977, or prior to January 1, 1981, had permanent classified status or was employed as a construction official or subcode official or in another position in the unclassified service, shall be included in the classified service without civil service examination in his respective title of construction official or subcode official. Any individual employed by a municipality, who, in his employment with the municipality between January 1, 1977 and prior to January 1, 1981, was charged with the chief administrative responsibility to enforce all existing municipal construction codes, shall be deemed as appointed to the position of construction official for the purposes of this act. Any individual employed by a municipality, who, in his employment with the municipality between January 1, 1977 and prior to January 1, 1981, was charged with chief responsibility to enforce the municipal building, plumbing, fire, or electrical code, shall be deemed as appointed to the position of subcode official for the purposes of this act. No person, on or after January 1, 1981, shall be appointed as construction or subcode official in a municipality operating under Title 11A, Civil Service, of the New Jersey Statutes without having passed an examination administered by the Civil Service Commission certifying the merit and fitness of the person to hold such position; provided that, whenever a noncivil service municipality adopts the provisions of that Title, construction code officials and subcode officials of such municipality appointed prior to the filing of the petition for the adoption of civil service, shall attain permanent status in the classified service without examination. Any construction or subcode official appointed after January 1, 1981 on a provisional basis in a municipality which has adopted the provisions of Title 11A, Civil Service, of the New Jersey Statutes, may not be removed from office except for just cause after a fair and impartial hearing has been held at the local level, with no further appeal to the Civil Service Commission; provided, however, that such a construction or subcode official may be removed to permit the appointment of a person certified for appointment by the Civil Service Commission. A construction official or subcode official in a noncivil service municipality shall be appointed for a term of four years and shall, upon appointment to a second consecutive term or on or after the commencement of a fifth consecutive year of service, including years of service in an

equivalent job title held prior to the adoption of the State Uniform Construction Code, be granted tenure and shall not be removed from office except for just cause after a fair and impartial hearing.

A construction or subcode official, to be eligible for appointment in civil service or noncivil service municipalities, shall be certified by the State of New Jersey in accordance with subsection c. of this section and shall have had at least three years' experience in construction, design or supervision as a licensed engineer or registered architect; or five years' experience in construction, design, or supervision as an architect or engineer with a bachelor's degree from an accredited institution of higher education; or 10 years' experience in construction, design or supervision as a journeyman in a trade or as a contractor. A subcode official shall, pursuant to any subcode which he administers, pass upon:

(1) matters relative to the mode, manner of construction or materials to be used in the erection or alteration of buildings or structures, except as to any such matter foreclosed by State approval pursuant to this act, and (2) actual execution of the approved plans and the installation of the materials approved by the State. The construction official in each municipality shall be the chief administrator of the "enforcing agency." He shall have the power to overrule a determination of a subcode official based on an interpretation of a substantive provision of the subcode which such subcode official administers, only if the construction official is qualified to act pursuant to this act as a subcode official for such subcode. He may serve as subcode official for any subcode which he is qualified under this act to administer. A subcode official or municipal engineer may serve as a construction official if otherwise qualified under the provisions of this act. The municipal enforcing agency shall require compliance with the provisions of the code, of all rules lawfully adopted and promulgated thereunder and of laws relating to the construction, alteration, repair, removal, demolition and integral equipment and location, occupancy and maintenance of buildings and structures, except as may be otherwise provided for.

Two or more municipalities may provide by ordinance, subject to regulations established by the commissioner, for the joint appointment of a construction official and subcode official for the purpose of enforcing the provisions of the code in the same manner.

c. No person shall act as a construction official or subcode official for any municipality unless the commissioner determines that said person is so qualified, except for the following:

(1) a municipal construction official or subcode official holding office under permanent civil service status, or tenure as otherwise provided by law

on the effective date of this act or within one year thereafter and (2) a municipal construction official or subcode official holding office without such permanent civil service status or tenure on the effective date of this act or within one year thereafter; provided said construction official or subcode official not having such permanent civil service status or tenure shall be certified in accordance with this act within four years of the effective date thereof; provided further that a person holding on the effective date of this act a valid plumbing inspector's license from the Department of Health and Senior Services pursuant to Title 26 of the Revised Statutes may serve as a plumbing subcode official and a person holding on the effective date of this act a valid electrical inspector's license from the Board of Public Utilities pursuant to Title 48 of the Revised Statutes may serve as an electrical subcode official. The commissioner, after consultation with the code advisory board, may authorize the preparation and conducting of oral, written and practical examinations to determine if a person is qualified by this act to be eligible to be a construction official or subcode official or, in the alternative, may accept successful completion of programs of training as proof of qualification within the meaning of this act. Upon a determination of qualification the commissioner shall issue or cause to be issued a certificate to the construction official or subcode official or trainee stating that he is so certified. The commissioner, after consultation with the code advisory board, may establish classes of certification that will recognize the varying complexities of code enforcement in the municipalities within the State. The commissioner shall, after consultation with the code advisory board, provide for educational programs designed to train and assist construction officials, subcode officials, and technical assistants to these officials in carrying out their responsibilities.

Whenever the commissioner is required by the terms of this subsection to consult with the code advisory board and the matter in question concerns plumbing subcode officials, the commissioner shall also consult with the Public Health Council and Commissioner of Health and Senior Services.

d. The commissioner, after consultation with the code advisory board, may periodically require that each construction official, subcode official, and technical assistant demonstrate a working knowledge of innovations in construction technology and materials, recent changes in and additions to the relevant portions of the State Uniform Construction Code, and current standards of professional ethics and legal responsibility; or, in the alternative, the commissioner, after consultation with the code advisory board, may accept successful completion of appropriate programs of training as proof of such working knowledge.

2. This act shall take effect immediately.

Approved August 18, 2009.

CHAPTER 120

AN ACT amending P.L.2001, c.415, the "Neighborhood Revitalization State Tax Credit Act."

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

1. Section 2 of P.L.2001, c.415 (C.52:27D-491) is amended to read as follows:

C.52:27D-491 Definitions relative to the "Neighborhood Revitalization State Tax Credit Act."

2. As used in this act:

"Assistance" means the contribution of moneys to aid in the provision of neighborhood preservation and revitalization services or community services.

"Business entity" means any business firm or individual which is authorized to conduct or operate a trade or business in the State and is subject to taxes on business related income.

"Certificate for neighborhood revitalization State tax credits" means the certificate in the form prescribed by the Treasurer and issued by the commissioner to a business entity that specifies the dollar amount of neighborhood preservation and revitalization State tax credits that business entity may take as an annual credit against certain State taxes pursuant to P.L.2001, c.415 (C.52:27D-490 et seq.).

"Commissioner" means the Commissioner of Community Affairs.

"Department" means the Department of Community Affairs.

"Eligible neighborhood" means: a. a contiguous area located in one or more municipalities that, at the time of the application to the department for approval of a neighborhood preservation and revitalization plan, are either eligible to receive aid under the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.) or coextensive with a school district which qualified prior to the effective date of P.L.2007, c.260 (C.18A:7F-43 et al.) for designation as an "Abbott district" pursuant to the "Comprehensive

Educational Improvement and Financing Act of 1996," P.L.1996, c.138 (C.18A:7F-1 et al.); or b. an area that (1) is adjacent to a neighborhood that fulfills the requirements of subsection a. of this definition, and has received approval of a neighborhood preservation and revitalization plan pursuant to section 5 of P.L.2001, c.415 (C.52:27D-494); (2) increases the area of the adjacent eligible neighborhood by no more than 25 percent; and (3) shares similar characteristics as determined by the commissioner or the commissioner's designee.

"Housing and economic development activities" means those activities carried out in furtherance of a neighborhood preservation and revitalization plan in an eligible neighborhood approved pursuant to P.L.2001, c.415 (C.52:27D-490 et seq.), to improve the housing and economic conditions of the neighborhood; and shall include, without limitation, measures to foster the rehabilitation and construction of housing affordable to low and moderate income households within the neighborhood, including planning, design, rehabilitation, construction, and management of low and moderate income housing, home buyer counseling, and related activities needed to effectuate the rehabilitation and construction of housing affordable to low and moderate income households; measures to increase business activity within the neighborhood, including the rehabilitation and construction of commercial facilities and the provision of assistance to small business entities; and measures to increase the income and labor force participation of neighborhood residents, including provision of education, training, child care and transportation assistance to enable low income neighborhood residents to obtain or retain employment.

"Low income household" means a household whose gross household income is less than 50 percent of the median gross household income for the region in which the neighborhood is located for households of similar size as determined by the department.

"Moderate income household" means a household whose gross household income is greater than or equal to 50 percent but less than 80 percent of the median gross household income of the region in which the neighborhood is located for households of similar size as determined by the department.

"Neighborhood preservation and revitalization activities" means housing and economic development activities and other neighborhood preservation and revitalization activities.

"Neighborhood Revitalization Plan" means a plan for the preservation or revitalization of an eligible neighborhood.

"Nonprofit organization" means a private nonprofit corporation that has been determined by the Internal Revenue Service of the United States De-

partment of the Treasury to be exempt from income taxation under 26 U.S.C.s.501(c)(3).

"Other Neighborhood Revitalization Activities" means those activities, other than housing and economic development activities, carried out in furtherance of a State-approved neighborhood preservation and revitalization plan in a qualified low and moderate income neighborhood, and may include, without limitation, improvements to infrastructure, street scape, public open space, and transportation systems; provision of social and community services, health care, crime prevention, recreation activities, community and environmental health services; and community outreach and organizing activities.

"Qualified nonprofit organization" means a nonprofit organization that has demonstrated a commitment to the neighborhood for which it is submitting a plan or project, as reflected in its past activities or proposed activities in a preservation and revitalization plan.

"Qualified project" means one or more housing and economic development activities and which may also include one or more other neighborhood revitalization activities to be carried out in accordance with a neighborhood revitalization plan as approved by the commissioner with funds provided by a business entity eligible to receive a certificate for neighborhood revitalization State tax credits.

"Similar characteristics" means comparable socioeconomic qualities as determined by the commissioner or his designee, using the smallest Census unit for which data are available.

2. This act shall take effect immediately.

Approved August 18, 2009.

CHAPTER 121

AN ACT concerning the codification of certain recommendations of the Governor's Advisory Committee on Police Standards and supplementing Title 52 of the Revised Statutes.

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

C.52:17B-222 Short title.

1. This act shall be known and may be cited as the "Law Enforcement Professional Standards Act of 2009."

C.52:17B-223 Findings, declarations relative to law enforcement professional standards.

2. The Legislature finds and declares:

a. The citizens of the State of New Jersey are entitled to be protected and served by law enforcement professionals who conduct themselves in accordance with the highest standards of integrity, proficiency, and accountability.

b. In December 1999, the State of New Jersey entered into a consent decree with the Civil Rights Division of the United States Department of Justice, No. 99-5970 (MLC).

c. The Governor's Advisory Committee on Police Standards, established pursuant to Executive Order No. 29, issued by Governor Corzine on August 23, 2006, conducted a thorough examination of the policies and practices of the State Police and its compliance with the terms of the consent decree and of the Attorney General's Office's oversight and direction. The Advisory Committee on Police Standards concluded that the State Police, the Office of State Police Affairs, and the Attorney General had worked cooperatively to rebuild public trust through significant revisions of State Police standing operating procedures, by changing the relationship between the Attorney General's Office and the State Police, and through the development of innovative management techniques. Based upon these findings, the Advisory Committee recommended that the State join in a motion with the United States Department of Justice to terminate the consent decree, subject to the condition that the significant reforms accomplished during the term of the consent decree would be institutionalized, and, as appropriate, codified by statute.

d. The objective monitoring and independent oversight functions performed by the independent monitoring team appointed by the United States District Court pursuant to the consent decree have helped to promote and support the vigorous, lawful, and non-discriminatory implementation of law enforcement practices and procedures. In recognition of the strong public interest in perpetuating the quality and standards established under the consent decree, it is necessary and appropriate to maintain an office to assume the functions that had been performed by the independent monitoring team under the consent decree and to perform other duties in support of county and municipal law enforcement agencies.

e. Many of the reforms accomplished under the consent decree have been codified in rules, regulations, standing operating procedures or operations instructions promulgated by the superintendent and approved by the independent monitoring team appointed by the United States District Court.

However, the need for flexibility to account for developments in constitutional law, the advent of new technologies, and the development of new best practices in policing, makes it impracticable and inappropriate to codify all consent decree-related rules, regulations, standing operating procedures and operations instructions in statutory law. Rather, the reforms achieved under the consent decree can best be institutionalized by mandating that any future changes to State Police rules, regulations, standing operating procedures and operations instructions relating to the consent decree are approved in writing by the Attorney General prior to issuance or adoption by the superintendent, and by ensuring the issuance or modification of any rule, regulation, standing operating procedure or operations instruction deemed necessary to maintain or enhance the practices of the Division of State Police on matters pertaining to any applicable non-discrimination policy established by the Attorney General; the law of arrest, search and seizure; and the documentation of motor vehicle stops and law enforcement activities occurring during the course of motor vehicle stops.

C.52:17B-224 Definitions relative to law enforcement professional standards.

3. As used in this act:

"Consent decree" means the consent decree the State of New Jersey entered into with the United States Department of Justice, Civil Rights Division, in December 1999.

"Director" means the Director of the Office of Law Enforcement Professional Standards.

"Mobile video recording system" means any device or system installed or used in a police vehicle that electronically records visual images depicting activities that take place during a motor vehicle stop or other law enforcement action.

"Office" means the Office of Law Enforcement Professional Standards established pursuant to section 4 of P.L.2009, c.121 (C.52:17B-225).

"Personnel performance information system" means a computerized system that collects, uses and analyzes information relating to motor vehicle stops and law enforcement actions taken during the course of those stops; allegations of misconduct and investigations of those allegations; and any other information that is used to assist supervisors to evaluate the performance of State Police members and their compliance with applicable laws, rules, regulations and standing operating procedures. This term shall include, but is not limited to, the State Police Management Awareness and Personnel Performance System in operation on the effective date of this act and any successor system.

C.52:17B-225 Office of Law Enforcement Professional Standards.

4. a. There is created in the Department of Law and Public Safety an Office of Law Enforcement Professional Standards which shall perform such administrative, investigative, policy and training oversight, and monitoring functions, as the Attorney General shall direct, to assure and maintain the integrity of law enforcement activities performed by Division of State Police personnel, and to assist and provide guidance to other law enforcement entities Statewide.

b. In carrying out its duties and responsibilities, the office, and its constituent organizational units, shall exercise the Attorney General's constitutional, statutory and common law authority to act in the public interest, and shall have the authority to attend generally to legal matters in which the State or any of its officers or instrumentalities have an interest, and to execute the Attorney General's powers under the "Department of Law and Public Safety Act of 1948," P.L.1948, c.439 (C.52:17B-1 et seq.).

c. Nothing in this section shall be construed to limit the authority of the superintendent under Title 53 of the Revised Statutes or the authority of the Attorney General.

C.52:17B-226 Appointment of director.

5. The Attorney General shall appoint an individual qualified by education, experience, or professional background in the fields of law, investigation, criminal practice, and administration to serve as Director of the Office of Law Enforcement Professional Standards. The director shall operate under the authority and direct supervision of the Attorney General, and shall serve at the pleasure of the Attorney General.

C.52:17B-227 Organization of office.

6. Subject to the provisions of P.L.2009, c.121 (C.52:17B-222 et seq.), the director may, with the approval of the Attorney General, organize the work of the office into such bureaus and other organizational units as may be necessary for its efficient and effective operation. The director may delegate to employees in the office, and its constituent organizational units, such powers as are authorized under this act that the director deems appropriate, to be exercised subject to the supervision and control of the director. The Attorney General may assign to the office such employees of the Department of Law and Public Safety as may be necessary to assist the director in the performance of his duties. The office shall be authorized to call upon the expertise and assistance of every division, agency, office, bureau and unit within the Department of Law and Public Safety in order to carry out its

mission. Each division, agency, office, bureau and unit within the Department of Law and Public Safety is hereby required, to the extent not inconsistent with any other law, to cooperate with the office and to provide such assistance the office may require to accomplish the purposes of P.L.2009, c.121 (C.52:17B-222 et seq.). It shall be the duty of all law enforcement agencies operating under the authority of the law of the State of New Jersey to cooperate with and aid the office in the performance of its duties.

C.52:17B-228 Duties, functions of office.

7. a. The office shall be authorized to perform the duties and functions previously performed under the consent decree by the independent monitors and the Office of State Police Affairs, which general and specific duties and functions are codified in this act, and such other duties and functions as may otherwise be established or assigned by the Attorney General.

b. The office shall be authorized to conduct operations audits and independent analyses of data, as necessary and appropriate, to identify any potential disparity in enforcement and systemic problems that may exist that affect the integrity of motor vehicle stops and post-stop enforcement actions, supervision of patrol activities, training provided to Division of State Police members assigned to patrol duties, investigations of alleged misconduct, and any other matters that may affect the integrity of the Division of State Police, and shall make recommendations for appropriate actions by the superintendent or the Attorney General to remedy any identified problems.

c. The office shall have timely access to all data stored in the personnel performance information system maintained by the Division of State Police and any other records or data that are deemed necessary by the director to conduct independent analyses and to perform the functions authorized by P.L.2009, c.121 (C.52:17B-222 et seq.). Nothing herein shall be deemed to require the disclosure of records or data in violation of any constitutional or statutory privacy protections or any collectively bargained rights.

d. The office shall have specific authority to perform the following functions:

(1) review the substance, procedures and implementation related to Division of State Police policies concerning motor vehicle stops and post-stop enforcement actions, supervision of patrol activities, training provided to State Police members assigned to patrol duties, and the conduct of investigations of alleged misconduct and other internal affairs matters by the Division of State Police;

(2) monitor, review and evaluate the quality and timeliness of the Division of State Police's conduct of investigations of alleged misconduct, dis-

ciplinary actions and interventions, supervisory actions, personnel performance information system data and reports, consent search forms and reports, non-consensual search and drug detection canine reports, motor vehicle stop reports and logs, mobile video recording system tapes, and supervisory reviews;

(3) approve the curricula, prescribe trainer qualifications, and review the training of State Police troopers and trooper candidates on cultural awareness, law enforcement ethics and leadership, constitutional law pertaining to arrest, search and seizure, equal protection, and other relevant law enforcement issues the director deems necessary or appropriate to effectuate the purposes of this act;

(4) monitor, evaluate, require, and provide assistance or direction in effectuating any modifications to the design, implementation or use of the personnel performance information system, any mobile video recording system, any computer-aided dispatch system, or other system that records data concerning traffic stops and post-stop enforcement actions, used or proposed for use by the Division of State Police; and

(5) review all Division of State Police internal affairs investigations and dispositions, including any decision by the Division of State Police not to refer a complaint, from a citizen or any other source, to the office, or its successor, to ascertain whether the Division of State Police has complied with applicable standing operating procedures, whether the outcomes of those investigations are supported by the evidence, whether any discipline imposed was appropriate and proportionate, and make recommendations to the superintendent and the Attorney General for appropriate remedial action.

C.52:17B-229 Preparation of reports by office.

8. On the first day of the sixth month after the issuance of the final report by the independent monitoring team appointed by the United States District Court pursuant to the consent decree, the office shall prepare a report that evaluates the Division of State Police's compliance with relevant performance standards and procedures and that is comparable substantively to the independent monitoring team's report. The initial report prepared by the office pursuant to this section shall evaluate the division's compliance during the period beginning on the day immediately following the last day of the period covered by the independent monitoring team's final report. The office shall thereafter prepare and issue such reports on a biannual basis. The reports required pursuant to this section shall be made available to the public.

The reports required by this section are not intended to evaluate compliance by the Division of State Police and the office with the provisions of

P.L.2009, c.121 (C.52:17B-222 et seq.). That evaluative function shall be performed by the State Comptroller in conducting the audits and performance reviews required under the provisions of section 15 of P.L.2009, c.121 (C.52:17B-236).

C.52:17B-230 Specific authority of office relative to certain best practices.

9. The office shall have specific authority to provide advice and technical assistance to county and municipal law enforcement agencies concerning best practices for: the use of mobile video recording systems; supervisor reviews of mobile video recordings; data collection and documentation of investigative detentions, including but not limited to traffic stops and post-stop enforcement actions; in-service training on any applicable non-discrimination policy established by the Attorney General; the law of arrest, search and seizure, and equal protection; and the development and use of personnel performance information systems.

C.52:17B-231 Promoting, ensuring compliance with general policy.

10. The office shall take appropriate steps to promote and ensure compliance with the general policy that all law enforcement officers not rely to any degree on the race or national or ethnic origin of motorists in selecting vehicles for traffic stops, or in deciding upon the scope and substance of post-stop actions, except in those instances where law enforcement officers are on the lookout for a specific suspect who has been identified in part by their race or their national or ethnic origin.

C.52:17B-232 Personnel performance information system.

11. The Division of State Police shall maintain a personnel performance information system that meets or exceeds the specifications of the system in place upon termination of the consent decree. Funding for the purposes of maintaining, upgrading or modifying such systems shall be requested in the annual appropriations of the Department of Law and Public Safety independent of and in addition to any other requested funding.

C.52:17B-233 Participants in, material offered in training course, program.

12. The Superintendent of State Police shall ensure that no member of the State Police attends or participates in any training course or program relating to any applicable non-discrimination policy established by the Attorney General, the law of arrest, search and seizure or equal protection, or the manner for conducting motor vehicle stops or post-stop enforcement actions, unless the superintendent, or his designee, determines that atten-

dance or participation in the training course or program is appropriate, considering the member's experience and present or pending duty assignment. This requirement shall apply to training provided by the Division of State Police, by any other law enforcement agency, by an association representing law enforcement offices or agencies, or by a private vendor. A member of the State Police attending a training course or program shall promptly report to the superintendent, through the chain of command, if the member knows or reasonably should know that the instruction provided during the course contradicts any Division of State Police rule, regulation, standing operating procedure, or operations instruction relating to any applicable non-discrimination policy established by the Attorney General; the law of arrest, search, seizure or equal protection; or the manner for lawfully conducting motor vehicle stops or post-stop enforcement actions. Nothing in this section shall be construed to limit the authority of the office under paragraph (2) of subsection d. of section 7 of P.L.2009, c.121 (C.52:17B-228). Nothing in this section shall be construed to abrogate any applicable constitutional or collectively bargained rights.

C.52:17B-234 Certification of compliance.

13. a. The superintendent shall, on a semi-annual basis, certify to the Attorney General that the Division of State Police has complied with the requirements of P.L.2009, c.121 (C.52:17B-222 et seq.). Each troop commander shall, on a semi-annual basis, certify to the superintendent that the troop has complied with the requirements of P.L.2009, c.121 (C.52:17B-222 et seq.).

b. The Attorney General and the superintendent shall be responsible for ensuring the issuance or modification of any rule, regulation, standing operation procedure or operations instructions, training program or bulletin, interoffice communication or any other document or communication deemed necessary to effectuate the purposes of P.L.2009, c.121 (C.52:17B-222 et seq.). Nothing in this section shall be construed to limit the existing powers or authority of the Attorney General, including the authority to issue directives to any or all law enforcement and prosecuting agencies in the State, or the authority of the superintendent under Title 53 of the Revised Statutes.

C.52:17B-235 Semi-annual public reports.

14. a. The office shall prepare semi-annual public reports that include aggregate statistics on State Police traffic enforcement activities and procedures, segregated by State Police station and providing aggregate data on the race and ethnicity of the civilians involved. These reports shall include aggregate statistics on the number of motor vehicle stops, reason for the

motor vehicle stop, enforcement actions, including, but not limited to, summonses, warnings, and arrests, requests for consent to search, consent searches conducted, non-consensual searches, and the use of force. The reports shall also include aggregate statistics of the number of criminal charges filed, contraband seizures and wanted persons taken into custody related to motor vehicle stops, and such additional data as may be jointly directed by the superintendent and Attorney General.

b. The office shall prepare semi-annual public reports providing aggregate data regarding misconduct investigations, and the number of external, internal, and total complaints received and the disposition of those complaints.

c. The Attorney General shall, on an annual basis, report to the Governor, the Legislature and the public on the implementation of P.L.2009, c.121 (C.52:17B-222 et seq.). The Attorney General shall annually provide the State Treasurer and the Office of Management and Budget with an estimate of the funds needed to be appropriated to implement the provisions of this act, including but not limited to, estimates of funds needed to maintain adequate information technology and data analysis staffing and to provide adequate training.

d. The reports required by this section are not intended to evaluate compliance by the Division of State Police and the office with the provisions of P.L.2009, c.121 (C.52:17B-222 et seq.). That evaluative function shall be performed by the State Comptroller in conducting the audits and performance reviews required under the provisions of section 15 of P.L.2009, c.121 (C.52:27B-236).

C.52:17B-236 Risk-based audits, performance reviews conducted by State Comptroller.

15. a. The State Comptroller, established pursuant to P.L.2007, c.52 (C.52:15C-1 et seq.), shall conduct risk-based audits and performance reviews of the Division of State Police and the office to examine stops, post-stop enforcement activities, internal affairs and discipline, decisions not to refer a trooper to internal affairs notwithstanding the existence of a complaint, and training. The State Comptroller may also make recommendations on the funding and staffing levels of the office and the State Police.

b. The State Comptroller shall report to the Governor, the Legislature and the public on the results of the audits and performance reviews. The State Comptroller shall conduct an audit and performance review on a semi-annual basis during the first 18 months following the enactment of

P.L.2009, c.121 (C.52:17B-222 et seq.), and thereafter shall conduct an audit and performance review on an annual basis.

c. Within the limits of funds appropriated for such purposes, the State Comptroller may obtain the services of consultants and other professionals necessary to conduct the risk-based audits and performance reviews required by this section.

d. The Division of State Police, the office, and the Department of Law and Public Safety shall cooperate with the State Comptroller and provide to the State Comptroller such information, resources, and other assistance deemed necessary by the State Comptroller to conduct the audits and performance reviews required by this section.

16. On the first day of the 37th month following the effective date of P.L.2009, c.121 (C.52:17B-222 et seq.), the Attorney General shall submit to the Governor, the Legislature pursuant to the provisions of section 2 of P.L.1991, c.164 (C.52:14-19.1), and the public a comprehensive report on the steps taken to comply with the provisions of this act, the institutionalization of the reforms achieved during the consent decree, and the efforts to maintain and enhance law enforcement professionalism and a commitment to non-discriminatory policing.

17. This act shall take effect on the first day of the second month following enactment.

Approved August 27, 2009.

CHAPTER 122

AN ACT concerning patient safety and supplementing Title 26 of the Revised Statutes.

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

C.26:2H-12.25b Certain data included in New Jersey Hospital Performance Report; rules, regulations.

1. a. The Department of Health and Senior Services shall include in the New Jersey Hospital Performance Report issued annually by the department hospital-specific data from hospital procedure and diagnosis codes concerning the following patient safety indicators:

(1) Foreign body left during procedure (PSI 05);

(2) Iatrogenic pneumothorax (PSI 06);

(3) Postoperative hip fracture (PSI 08);

(4) Postoperative hemorrhage or hematoma (PSI 09);

(5) Postoperative deep vein thrombosis (DVT) or pulmonary embolism (PE) (PSI 12);

(6) Postoperative sepsis (PSI 13);

(7) Postoperative wound dehiscence (PSI 14);

(8) Accidental puncture or laceration (PSI 15);

(9) Transfusion reaction (PSI 16);

(10) Birth trauma (PSI 17);

(11) Obstetric trauma-vaginal delivery with instrument (PSI 18);

(12) Obstetric trauma-vaginal delivery without instrument (PSI 19);

(13) Air embolism; and

(14) Surgery on the wrong side, wrong body part, or wrong person, or wrong surgery performed on a patient.

b. The Commissioner of Health and Senior Services, in consultation with the Quality Improvement Advisory Committee in the Department of Health and Senior Services, may include additional patient safety indicators in the annual report, by regulation. The commissioner shall consider indicators that: (1) are recommended by the federal Agency for Healthcare Research and Quality or the Centers for Medicare and Medicaid Services; (2) are suitable for comparative reporting and public accountability, and are risk adjusted; (3) have a strong evidence base with no substantial evidence against their use for comparative reporting; and (4) can be measured through data that are available through hospital procedure and diagnosis codes.

c. The commissioner shall request the Quality Improvement Advisory Committee to study and make recommendations to the commissioner on how to expand public reporting by the department of patient pressure ulcers, patient infections due to hospital care, and falls by patients in general hospitals.

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

C.26:2H-12.25c General hospital prohibited from seeking payment for certain conditions; notification to patients.

2. a. A general hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall not seek to obtain payment from a patient or any third party

payer for costs associated with any of the following conditions or events subject to the hospital acquired condition payment policy for the Medicare program established by the Centers for Medicare and Medicaid Services: transfusion reaction; air embolism; foreign body left during the procedure; surgery on the wrong side, wrong body part, or wrong person; or wrong surgery performed on a patient. Notwithstanding the payment prohibition in this subsection, the hospital shall file claim information that accurately reflects all services provided. The provisions of this subsection shall not be construed to prohibit a hospital from seeking to obtain payment from a patient or any third party payer for any services that the hospital provides for which it is otherwise permitted to seek to obtain payment.

b. A general hospital shall be required to notify its patients of the provisions of this section.

c. Nothing in this section shall be construed to deny any party access to any existing payment appeals process.

d. In any civil action alleging professional negligence against a general hospital, the provisions of this section shall not modify the requirement, where applicable, for expert testimony in accordance with the established case law of this State.

e. The Commissioners of Health and Senior Services and Banking and Insurance shall collaborate in developing standards for general hospitals and third party payers to implement the provisions of this section.

3. This act shall take effect on the 180th day after enactment, but the Commissioner of Health and Senior Services may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved August 31, 2009.

CHAPTER 123

AN ACT addressing homelessness by permitting the establishment of County Homelessness Trust Funds, amending N.J.S.22A:4-17, and supplementing P.L.1984, c.180 (C.52:27D-280 et seq.).

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

C.52:27D-287a Short title.

1. This act shall be known and may be cited as the "County Homelessness Trust Fund Act."

C.52:27D-287b Findings, declarations relative to county homelessness trust funds.

2. The Legislature finds and declares:

a. The creation of county homelessness trust funds in counties that have completed and endorsed a plan to end homelessness will provide some of the additional funds necessary to move homeless or formerly homeless individuals toward the goal of permanent affordable housing and self-sufficiency.

b. Despite laudable efforts by all levels of government, private individuals, nonprofit organizations, and charitable foundations to end homelessness, the number of homeless persons in New Jersey is unacceptably high. The State's homeless population, furthermore, includes a large number of families with children, youth, veterans, the elderly, and employed persons.

c. Fiscal and social costs of homelessness are high for both the public and private sectors and declares that ending homelessness should be a joint goal for State and local government.

d. A myriad of factors contribute to homelessness, including a shortage of affordable housing; a shortage of jobs that pay wages and benefits sufficient to support a family; high property taxes which undermine housing affordability; a lack of an accessible and affordable health care system available to all who suffer from physical and mental illnesses and chemical and alcohol dependency; domestic violence; and a lack of education and job skills necessary to acquire adequate wage jobs in the economy of the twenty-first century.

C.52:27D-287c Definitions relative to county homelessness trust funds.

3. As used in this act:

"Community based organization" means a nonprofit, private, or public organization funded with public or private funds, or both, that provides housing and services to families and individuals who are homeless.

"County homeless housing grant program" means the vehicle by which competitive grants are awarded by the governing body of the county, utilizing moneys from the County Homelessness Housing Trust Fund, for activities directly related to housing homeless individuals and families, preventing homelessness, and other efforts directly related to permanently housing homeless persons, as administered by the local government or its designated subcontractor.

"County Homelessness Trust Fund Task Force" means the voluntary local committee created to advise a local government on the creation of a local homeless housing plan and participate in a local homeless housing program. It shall include a representative of the county, representatives from each of the three municipalities in the county with the largest populations of homeless people, representatives from the organization responsible for developing, implementing, or both, the local plan to end homelessness, at least three homeless or formerly homeless persons, and three representatives of local private or nonprofit organizations with experience in assisting the homeless or providing low-income housing. Among the responsibilities of the County Homelessness Trust Fund Task Force is to assess priorities for funding, review of applications, and preparation of an annual report and an annual measurement of the progress of the trust fund.

"Department" means the Department of Community Affairs, unless otherwise designated.

"Director" means the Director of the Division of Housing and Community Resources in the Department of Community Affairs.

"Homeless person" means an individual living outside, or in a building not meant for human habitation or which the person has no legal right to occupy, in an emergency shelter, or in a temporary housing program which may include a transitional and supportive housing program if habitation time limits exist, or temporarily in the home of another household, or in a motel.

"Housing authority" means any of the public corporations created pursuant to section 17 of P.L.1992, c.79 (C.40A:12A-17).

"Housing continuum" means the progression of individuals along a housing-focused scale with homelessness at one end and home ownership at the other.

"Homeless housing plan" means the plan approved by a local government to address housing for homeless persons that includes measurable and achievable objectives to end homelessness in the county.

"Local government" means a county government.

"Outcome measurement" means the process of comparing specific measures of success against ultimate and interim goals.

C.52:27D-287d Adoption of homeless housing plan by local government.

4. A local government may adopt a homeless housing plan to address the housing needs of homeless persons within its jurisdiction, which shall be in accordance with the provisions of P.L.2009, c.123 (C.52:27D-287a et al.). The plan shall include provisions for establishing a trust fund for the purposes of receiving funds pursuant to P.L.2009, c.123 (C.52:27D-287a et al.),

and shall evidence a strategic local scheme to identify and address the needs of the homeless within the jurisdiction, including strategies to reduce the need for emergency room care, hospital care, law enforcement, foster care, and other social services associated with the homeless and homelessness.

C.52:27D-287e "County Homelessness Trust Fund."

5. a. Amounts raised by the surcharge imposed pursuant to N.J.S.22A:4-17 as amended by section 8 of P.L.2009, c.123 shall be deposited into a "County Homelessness Trust Fund" to be created by the county and shall be used exclusively for the purposes authorized by P.L.2009, c.123 (C.52:27D-287a et al.). Any interest or other income earned on monies deposited into the county trust fund shall be credited to the fund to be used for the same purposes as the principal. A county may deposit other funds into the County Homelessness Trust Fund, as it may, from time to time, deem appropriate.

b. No monies in the trust fund shall be utilized to pay or discharge the principal or interest on any indebtedness incurred for any purpose by the county or any other governmental entity.

c. Amounts raised by the surcharge must be expended for the purposes detailed in section 6 of P.L.2009, c.123 (C.52:27D-287f) within four years of being collected.

d. Any monies in the trust fund that are not expended after four years will be transferred to the Department of Community of Affairs which will contract with a community based organization in the same county where the Homelessness Trust Fund exists for the purposes of P.L.2009, c.123 (C.52:27D-287a et al.).

C.52:27D-287f Utilization of County Homelessness Trust Fund.

6. a. Each county shall utilize its County Homelessness Trust Fund with the advice of the County Homelessness Trust Fund Task Force for the operation of a homeless housing grant program. This program is established in order to provide:

(1) for the acquisition, construction, or rehabilitation of housing projects or units within housing projects that supply permanent affordable housing for homeless persons or families, including those at risk of homelessness;

(2) rental assistance vouchers, including tenant and project based subsidies, for affordable housing projects or units within housing projects that provide permanent affordable housing for homeless persons or families, including those at risk of homelessness;

(3) supportive services as may be required by homeless individuals or families in order to obtain or maintain, or both, permanent affordable housing; and

(4) prevention services for at risk homeless individuals or families so that they can obtain and maintain permanent affordable housing.

b. Grants awarded by the governing body of the county shall be used to support projects that:

(1) measurably reduce homelessness;

(2) demonstrate government cost savings over time;

(3) employ evidence-based models;

(4) can be replicated in other counties;

(5) include an outcome measurement component;

(6) are consistent with the local homeless housing plan; or

(7) fund the acquisition, construction, or rehabilitation projects that will serve homeless individuals or families for a period of at least 30 years or the equal to the longest term of affordability required by other funding sources.

c. Each county that has established a County Homelessness Trust Fund shall transmit information concerning the uses of the funds to the New Jersey Housing and Mortgage Finance Agency in accordance with requirements established by that agency.

C.52:27D-287g Intercounty collaboration.

7. A county may collaborate with any other county that has established a County Homelessness Trust Fund to provide joint funding for projects permitted under P.L.2009, c.123 (C.52:27D-287a et al.).

8. N.J.S.22A:4-17 is amended to read as follows:

Disposition of fees of county officers.

22A:4-17. a. All fees, costs, allowances, percentages and other perquisites of whatever kind which surrogates, county clerks in their several capacities, registers of deeds and mortgages, and sheriffs or persons employed in their offices are entitled to charge and receive for any official acts or services they may render shall be for the sole use of the county and shall be accounted for regularly to the county treasurer; however, such monies shall be utilized to increase the salaries of surrogates, county clerks, registers of deeds and mortgages and sheriffs, except as provided in section 6 of P.L.2001, c.370 (C.22A:4-8.1), section 7 of P.L.1985, c.422 (C.22A:4-17.1) and section 4 of P.L.1988, c.109 (C.22A:4-17.2).

Such accounting shall be made on or before the fifteenth day of each month on form blanks supplied by the county treasurer. The statement of

account shall clearly set forth all sums charged or taxed or which shall have accrued or become payable during the preceding month. Such statements shall be made under oath and filed in the office of the county treasurer as public records.

Such statements when received by the county treasurer shall be forthwith audited by the county auditor or other proper officer.

On or before the twentieth day of each month surrogates, county clerks, registers of deeds and mortgages, and sheriffs shall pay over the amount of such fees and moneys to the county treasurer and such officers shall be personally liable to the county for such fees and moneys.

The penalty for each day's neglect to file the required statement of account or to pay over such moneys shall be one hundred dollars ($100.00) to be recovered in the name of the board of chosen freeholders of the county in a civil action in the Superior Court, and said officers may also be proceeded against by proceeding in lieu of prerogative writ.

b. (1) In addition to the fees authorized in N.J.S.22A:4-4.1, and except as provided in paragraph (2) of this subsection, upon resolution or ordinance of the county governing body, as appropriate, a surcharge of three dollars shall be charged for each document recorded, which will be in addition to any other charge allowed by law. The county treasurer shall deposit the surcharges so collected into a fund that shall be used by the county to accomplish the purposes of P.L.2009, c.123 (C.52:27D-287a et al.). This fund shall be known as the "County Homelessness Housing Trust Fund." Five percent of the fund may be used annually by the county for administrative costs related to administration of the fund and the grant program established pursuant to P.L.2009, c.123 (C.52:27D-287a et al.), and the remainder only for homelessness housing programs as described in P.L.2009, c.123 (C.52:27D-287a et al.).

(2) The surcharge imposed in this section does not apply to assignments or substitutions of previously recorded deeds of trust.

9. This act shall take effect immediately.

Approved September 8, 2009.

CHAPTER 124

AN ACT concerning voluntary contributions through gross income tax returns and supplementing Title 54A of the New Jersey Statutes.

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

C.54A:9-25.25 "Community Food Pantry Fund."

1. a. There is established in the Department of the Treasury a special fund to be known as the "Community Food Pantry Fund."

b. Each taxpayer shall have the opportunity to indicate on the taxpayer's New Jersey gross income tax return that a portion of the taxpayer's tax refund or an enclosed contribution shall be deposited in the special fund in accordance with the provisions of P.L.1999, c.21 (C.54A:9-25.14).

c. Any costs incurred by the Division of Taxation for collection or administration attributable to this section may be deducted from receipts collected pursuant to this section, as determined by the Director of the Division of Budget and Accounting. The State Treasurer shall deposit net contributions collected pursuant to this section into the "Community Food Pantry Fund."

d. The Legislature shall annually appropriate all funds deposited in the "Community Food Pantry Fund" to the Department of Agriculture for distribution to community food pantries through the State Food Purchase Program. All such funds received by community food pantries shall be utilized exclusively for the purchase of food. The Department of Agriculture shall cooperate with the Department of Human Services and the Department of Health and Senior Services to distribute the funds.

C.54A:9-25.26 "Cat and Dog Spay/Neuter Fund."

2. a. There is hereby established in the Department of the Treasury a special fund to be known as the "Cat and Dog Spay/Neuter Fund."

b. Each taxpayer shall have the opportunity to indicate on the taxpayer's New Jersey gross income tax return that a portion of the taxpayer's tax refund or an enclosed contribution be deposited in such fund.

c. Any costs incurred by the Division of Taxation for collection or administration attributable to this section may be deducted from receipts collected pursuant to this section, as determined by the Director of the Division of Budget and Accounting. The State Treasurer shall deposit net contributions collected pursuant to this section into the "Cat and Dog Spay/Neuter Fund."

d. The Legislature shall annually appropriate all moneys deposited in the "Cat and Dog Spay/Neuter Fund" established pursuant to subsection a. of this section to the "Animal Population Control Fund," established pursuant to section 6 of P.L.1983, c.172 (C.4:19A-5).

3. This act shall take effect immediately and apply to taxable years beginning on or after January 1 following enactment.

Approved September 8, 2009.

CHAPTER 125

AN ACT establishing the Troops to College Program and supplementing chapter 3B of Title 18A of the New Jersey Statutes.

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

C.18A:3B-41 Short title.

1. This act shall be known and may be cited as the "Troops to College Act."

C.18A:3B-42 Establish of Troops to College Program.

2. a. The New Jersey Commission on Higher Education, in consultation with the Department of Military and Veterans' Affairs, shall establish the Troops to College Program. The purpose of the program shall be to assist New Jersey's public institutions of higher education in coordinating the provision of a comprehensive array of services to assist veterans in making the transition into the college classroom. The services may include, but need not be limited to, assistance in applying for State and federal student financial aid, counseling resources, a campus veterans' assistance officer to provide a single point of contact for information on the institution's benefits and programs for veterans, and an online resource to consolidate pertinent information specifically for veterans attending that institution.

b. The commission in implementing the Troops to College Program shall include on its Internet site information to assist veterans in accessing the higher education opportunities that exist in the State. The information shall include, but need not be limited to:

(1) contact information for the campus veterans' assistance officer at each of the public institutions of higher education; and

(2) information on the array of programs and services available to veterans at each of the public institutions of higher education.

3. This act shall take effect immediately.

Approved September 13, 2009.

CHAPTER 126

AN ACT designating the bridge carrying State Highway Route No. 109 over the Cape May Canal between the City of Cape May and Lower Township as the "Cape May County Veterans Memorial Bridge."

WHEREAS, The citizens of this State are indebted to the sacrifice and heroism of the brave men and women who have served their country and State in the armed forces, many of whom came from Cape May County and over 12,000 of whom currently reside in Cape May County; and

WHEREAS, Dedicating this bridge in memory and honor of the men and women of Cape May County who have served in this country's armed forces will serve as a constant reminder for present and future generations of the sacrifices made by veterans on behalf of their country and State; and

WHEREAS, Veterans from Cape May County have served in many different capacities and are represented by local chapters and posts of the American Legion, Veterans of Foreign Wars, Vietnam Veterans of America and the Marine Corps League; and

WHEREAS, It is altogether fitting and proper that the State of New Jersey memorialize and honor the past and present residents of Cape May County who served in the United States Armed Forces by designating the bridge carrying State Highway Route No. 109 over the Cape May Canal as the "Cape May County Veterans Memorial Bridge;" now, therefore,

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

1. The Commissioner of Transportation shall designate the bridge carrying State Highway Route No. 109 over the Cape May Canal as the "Cape May County Veterans Memorial Bridge."

2. The Commissioner of Transportation is authorized to erect appropriate route and directional signs bearing this name.

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

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

4. This act shall take effect immediately.

Approved September 13, 2009.

CHAPTER 127

AN ACT designating the bridge carrying State Highway Route No. 9 over Throckmorton Street in Freehold Township as the "Corporal Philip A. Reynolds Memorial Bridge."

WHEREAS, Corporal Philip A. Reynolds, a native and lifelong resident of Freehold Borough, joined the United States Marine Corps and served in the Korean War; and

WHEREAS, On November 29, 1950, Corporal Reynolds was killed while attempting to clear his gun and put it back in operation after it had jammed during relentless action; and

WHEREAS, Corporal Reynolds displayed conspicuous valor and intrepidity, and served to inspire his comrades to heroic efforts, contributing immeasurably to the successful repulse of the enemy; and

WHEREAS, With his company under attack and vastly outnumbered, Corporal Reynolds repeatedly exposed himself to a barrage of enemy fire to deliver a large volume of fire on the attackers; and

WHEREAS, Corporal Reynolds gallantly gave his life for his country and was awarded the Silver Star and the Purple Heart, posthumously, for his heroic actions on the field of battle; and

WHEREAS, The citizens of this State are indebted to the brave men and women who have served in the Armed Forces of the United States; and

WHEREAS, It is altogether fitting and proper that the State of New Jersey recognize and honor the heroic actions of United States Marine Corporal Philip A. Reynolds by designating the bridge carrying State Highway Route No. 9 over Throckmorton Street in Freehold Township as the "Corporal Philip A. Reynolds Memorial Bridge"; now, therefore,

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

1. The Commissioner of Transportation shall designate the bridge carrying State Highway Route No. 9 over Throckmorton Street in Freehold Township as the "Corporal Philip A. Reynolds Memorial Bridge" and erect appropriate signs bearing this designation and dedication.

2. No State or other public funds shall be used for producing or purchasing, or for erecting signs pursuant to section 1 of this act. The Commissioner of the Department of Transportation is authorized to receive gifts or grants or other financial aid in any form from any private source for the purpose of funding the costs associated with producing or purchasing, and for erecting signs pursuant to section 1 of this act.

3. This act shall take effect immediately.

Approved September 13, 2009.

CHAPTER 128

AN ACT concerning certain nonconforming new motor vehicles and amending P.L.1988, c.123.

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

1. Section 3 of P.L.1988, c.123 (C.56:12-31) is amended to read as follows:

C.56:12-31 Report of nonconformity; repairs.

3. If a consumer reports a nonconformity in a motor vehicle to the manufacturer or its dealer during the first 24,000 miles of operation or during the period of two years following the date of original delivery to the consumer, whichever is earlier, the manufacturer shall make, or arrange

with its dealer to make, within a reasonable time, all repairs necessary to correct the nonconformity. Such repairs if made after the first 12,000 miles of operation or after the period of one year following the date of original delivery to the consumer, whichever is earlier, shall be paid for by the consumer, unless otherwise covered by a manufacturer's warranty, and shall be recoverable as a cost under section 14 of this act.

2. Section 5 of P.L.1988, c.123 (C.56:12-33) is amended to read as follows:

C.56:12-33 Presumption of inability to correct nonconformity; written notification.

5. a. It is presumed that a manufacturer or its dealer is unable to repair or correct a nonconformity within a reasonable time if, within the first 24,000 miles of operation or during the period of two years following the date of original delivery of the motor vehicle to the consumer, whichever is the earlier date:

(1) Substantially the same nonconformity has been subject to repair three or more times by the manufacturer or its dealer, other than a nonconformity subject to examination or repair pursuant to paragraph (3) of this subsection because it is likely to cause death or serious bodily injury if the vehicle is driven, and the nonconformity continues to exist;

(2) The motor vehicle is out of service by reason of repair for one or more nonconformities for a cumulative total of 20 or more calendar days, or in the case of a motorhome, 45 or more calendar days, since the original delivery of the motor vehicle and a nonconformity continues to exist; or

(3) A nonconformity which is likely to cause death or serious bodily injury if the vehicle is driven has been subject to examination or repair at least once by the manufacturer or its dealer, and the nonconformity continues to exist.

b. The presumption contained in subsection a. of this section shall apply against a manufacturer only if the manufacturer has received written notification, by or on behalf of the consumer, by certified mail return receipt requested, of a potential claim pursuant to the provisions of this act and has had one opportunity to repair or correct the defect or condition within 10 calendar days following receipt of the notification. Notification by the consumer shall take place any time after the motor vehicle has had substantially the same nonconformity subject to repair two or more times, or has been out of service by reason of repair for a cumulative total of 20 or more calendar days, or in the case of a motorhome, 45 or more calendar days, or with respect to a nonconformity which is likely to cause death or

serious bodily injury if the vehicle is driven, the nonconformity has been subject to examination or repair at least once by the manufacturer or its dealer, and the nonconformity continues to exist.

c. The two-year term and the 20-day period, or 45-day period for motorhomes, specified in this section shall be extended by any period of time during which repair services are not available to the consumer because of a war, invasion or strike, or a fire, flood, or other natural disaster.

d. (1) In the case of a motorhome where two or more manufacturers contributed to the construction of the motorhome, it shall not be considered as any examination or repair attempt if the repair facility at which the consumer presented the vehicle is not authorized by the manufacturer to provide service on that vehicle.

(2) It shall be considered as one examination or repair attempt for a motorhome if the same nonconformity is addressed more than once due to the consumer's decision to continue traveling and to seek the repair of that same nonconformity at another authorized repair facility, rather than wait for the repair to be completed at the initial authorized repair facility.

(3) Days out of service for reason of repair for a motorhome shall be a cumulative total of 45 or more calendar days.

3. Section 6 of P.L.1988, c.123 (C.56:12-34) is amended to read as follows:

C.56:12-34 Statements to consumers.

6. a. At the time of purchase in the State of New Jersey, the manufacturer through its dealer, or at the time of lease in the State of New Jersey, the lessor, shall provide directly to the consumer a written statement prescribed by the director, presented in a conspicuous and understandable manner on a separate piece of paper and printed in both the English and Spanish languages, which provides information concerning a consumer's rights and remedies under P.L.1988, c.123 (C.56:12-29 et seq.), and shall include, but not be limited to, a summary of the provisions of:

(1) section 3 of P.L.1988, c.123 (C.56:12-31), concerning the miles of operation of a motor vehicle and time period within which the consumer may report a nonconformity and seek remedies;

(2) sections 4 and 5 of P.L.1988, c.123 (C.56:12-32 and 56:12-33), concerning a manufacturer's obligations to a consumer based upon the manufacturer's or its dealer's inability to repair or correct a nonconformity; and

(3) any other provisions of P.L.1988, c.123 (C.56:12-29 et seq.) the director deems appropriate.

b. Each time a consumer's motor vehicle is returned from being examined or repaired during the period specified in section 3 of P.L.1988, c.123 (C.56:12-31), the manufacturer through its dealer shall provide to the consumer an itemized, legible statement of repair which indicates any diagnosis made and all work performed on the vehicle and provides information including, but not limited to, the following: a general description of the problem reported by the consumer or an identification of the problem reported by the consumer or an identification of the defect or condition; the amount charged for parts and the amount charged for labor, if paid for by the consumer; the date and the odometer reading when the vehicle was submitted for repair; and the date and odometer reading when the vehicle was made available to the consumer.

c. Failure to comply with the provisions of this section constitutes an unlawful practice pursuant to section 2 of P.L.1960, c.39 (C.56:8-2).

4. This act shall take effect immediately.

Approved October 1, 2009.

CHAPTER 129

AN ACT concerning eligibility for a homestead property tax reimbursement and amending P.L.1997, c.348.

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

1. Section 1 of P.L.1997, c.348 (C.54:4-8.67) is amended to read as follows:

C.54:4-8.67 Definitions relative to homestead property tax reimbursement.

1. As used in this act:

"Base year" means, in the case of a person who is an eligible claimant on or before December 31, 1997, the tax year 1997; and in the case of a person who first becomes an eligible claimant after December 31, 1997, the tax year in which the person first becomes an eligible claimant. In the case of an eligible claimant who subsequently moves from the homestead for which the initial eligibility was established, the base year shall be the first full tax year during which the person resides in the new homestead. Pro-

vided however, a base year for an eligible claimant after such a move shall not apply to tax years commencing prior to January 1, 2009.

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

"Director" means the Director of the Division of Taxation.

"Condominium" means the form of real property ownership provided for under the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.).

"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 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.

"Disabled person" means an individual receiving monetary payments pursuant to Title II of the federal Social Security Act (42 U.S.C. s.401 et seq.) on December 31, 1998, or on December 31 in all or any part of the year for which a homestead property tax reimbursement under this act is claimed.

"Dwelling house" means any residential property assessed as real property which consists of not more than four units, of which not more than one may be used for commercial purposes, but shall not include a unit in a condominium, cooperative, horizontal property regime or mutual housing corporation.

"Eligible claimant" means a person who:

is 65 or more years of age, or who is a disabled person;

is an owner of a homestead, or the lessee of a site in a mobile home park on which site the applicant owns a manufactured or mobile home;

has an annual income of less than $17,918 in tax year 1998, less than $18,151 in tax year 1999, or less than $37,174 in tax year 2000, if single, or, if married, whose annual income combined with that of the spouse is less than $21,970 in tax year 1998, less than $22,256 in tax year 1999, or less than $45,582 in tax year 2000, which income eligibility limits for single and married persons shall be subject to adjustments in tax years 2001 through 2006 pursuant to section 9 of P.L.1997, c.348 (C.54:4-8.68);

has an annual income of $60,000 or less in tax year 2007, $70,000 or less in tax year 2008, or $80,000 or less in tax year 2009, if single or married, which income eligibility limits shall be subject to adjustments in subsequent tax years pursuant to section 9 of P.L.1997, c.348 (C.54:4-8.68);

as a renter or homeowner, has made a long-term contribution to the fabric, social structure and finances of one or more communities in this State, as demonstrated through the payment of property taxes directly, or through rent, on any homestead or rental unit used as a principal residence in this State for at least 10 consecutive years at least three of which as owner of the homestead for which a homestead property tax reimbursement

is sought prior to the date that an initial application for a homestead property tax reimbursement is filed. A person who has been an eligible claimant for a previous tax year shall qualify as an eligible claimant beginning the second full tax year following a move to another homestead in New Jersey, despite not meeting the three-year minimum residency and ownership requirement required for initial claimants under this paragraph; provided that the person satisfies the income eligibility limits for the tax year. Provided however, eligibility beginning in a second full tax year after such a move shall not apply to tax years commencing prior to January 1, 2010.

"Homestead" means:

a dwelling house and the land on which that dwelling house is located which constitutes the place of the eligible claimant's domicile and is owned and used by the eligible claimant as the eligible claimant's principal residence;

a site in a mobile home park equipped for the installation of manufactured or mobile homes, where these sites are under common ownership and control for the purpose of leasing each site to the owner of a manufactured or mobile home for the installation thereof and such site is used by the eligible claimant as the eligible claimant's principal residence;

a dwelling house situated on land owned by a person other than the eligible claimant which constitutes the place of the eligible claimant's domicile and is owned and used by the eligible claimant as the eligible claimant's principal residence;

a condominium unit or a unit in a horizontal property regime or a continuing care retirement community which constitutes the place of the eligible claimant's domicile and is owned and used by the eligible claimant as the eligible claimant's principal residence.

In addition to the generally accepted meaning of "owned" or "ownership," a homestead shall be deemed to be owned by a person if that person is a tenant for life or a tenant under a lease for 99 years or more, is entitled to and actually takes possession of the homestead under an executory contract for the sale thereof or under an agreement with a lending institution which holds title as security for a loan, or is a resident of a continuing care retirement community pursuant to a contract for continuing care for the life of that person which requires the resident to bear, separately from any other charges, the proportionate share of property taxes attributable to the unit that the resident occupies;

a unit in a cooperative or mutual housing corporation which constitutes the place of domicile of a residential shareholder or lessee therein, or of a lessee or shareholder who is not a residential shareholder therein, which is used by the eligible claimant as the eligible claimant's principal residence.

"Homestead property tax reimbursement" means payment of the difference between the amount of property tax or site fee constituting property tax due and paid in any year on any homestead, exclusive of improvements not included in the assessment on the real property for the base year, and the amount of property tax or site fee constituting property tax due and paid in the base year, when the amount paid in the base year is the lower amount; but such calculations shall be reduced by any current year property tax reductions or reductions in site fees constituting property taxes resulting from judgments entered by county boards of taxation or the State Tax Court.

"Horizontal property regime" means the form of real property ownership provided for under the "Horizontal Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.).

"Manufactured home" or "mobile home" means a unit of housing which:

(1) Consists of one or more transportable sections which are substantially constructed off site and, if more than one section, are joined together on site;

(2) Is built on a permanent chassis;

(3) Is designed to be used, when connected to utilities, as a dwelling on a permanent or nonpermanent foundation; and

(4) Is manufactured in accordance with the standards promulgated for a manufactured home by the Secretary of the United States Department of Housing and Urban Development pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974," Pub.L.93-383 (42 U.S.C. s.5401 et seq.) and the standards promulgated for a manufactured or mobile home by the commissioner pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.).

"Mobile home park" means a parcel of land, or two or more parcels of land, containing no fewer than 10 sites equipped for the installation of manufactured or mobile homes, where these sites are under common ownership and control for the purpose of leasing each site to the owner of a manufactured or mobile home for the installation thereof, and where the owner or owners provide services, which are provided by the municipality in which the park is located for property owners outside the park, which services may include but shall not be limited to:

(1) The construction and maintenance of streets;

(2) Lighting of streets and other common areas;

(3) Garbage removal;

(4) Snow removal; and

(5) Provisions for the drainage of surface water from home sites and common areas.

"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 Langham Act (National Defense Housing), Pub.L.849, (42 U.S.C. s.1521 et seq.), as amended, which acquired a National Defense Housing Project pursuant to that act.

"Income" means income as determined pursuant to P.L.1975, c.194 (C:30:4D-20 et seq.).

"Principal residence" means a homestead actually and continually occupied by an eligible claimant as his or her permanent residence, as distinguished from a vacation home, property owned and rented or offered for rent by the claimant, and other secondary real property holdings.

"Property tax" means the general property tax due and paid as set forth in this section, on a homestead, but does not include special assessments and interest and penalties for delinquent taxes. For the sole purpose of qualifying for a benefit under P.L.1997, c.348 (C.54:4-8.67 et seq.), property taxes paid by June 1 of the year following the year for which the benefit is claimed will be deemed to be timely paid.

"Site fee constituting property tax" means 18 percent of the annual site fee paid or payable to the owner of a mobile home park.

"Tax year" means the calendar year in which a homestead is assessed and the property tax is levied thereon and it means the calendar year in which income is received or accrued.

2. This act shall take effect immediately.

Approved October 1, 2009.

CHAPTER 130

AN ACT permanently designating the month of February as "Ovarian Cancer Awareness Month" in New Jersey.

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

C.36:2-134 Findings, declarations relative to ovarian cancer.

1. The Legislature finds and declares that:

a. Among women in the United States, ovarian cancer is the fifth leading cause of cancer death and the eighth most common type of cancer; ovar-

ian cancer causes more deaths than any other gynecologic cancer in the United States, yet it accounts for about 3% of all cancers in the United States;

b. According to the U.S. Cancer Statistics: 2004 Incidence and Mortality report, 20,095 women in the United States learned they had ovarian cancer in 2004, and 14,716 died from the disease;

c. For 2004, the rate in the United States of new cases of ovarian cancer was 12.5 and the mortality rate for this type of cancer was 8.8 for every 100,000 women; in New Jersey, during the same year, the rate of new cases of ovarian cancer was 13.3 and the mortality rate was 8.6 for every 100,000 women;

d. The Centers for Disease Control and Prevention reports that it is estimated that more than $2.2 billion is spent annually on the treatment of ovarian cancer in the United States;

e. Although all women are at risk for ovarian cancer, older women are more likely to get the disease; about 90% of women who get the disease are 40 years of age or older, with most being 55 years of age or older; additionally, more than half the deaths from ovarian cancer occur in women between the ages of 55 and 74 and approximately one quarter of ovarian cancer deaths occur in women between 35 and 54 years of age;

f. When ovarian cancer is found and treated in its earliest stages, the five-year survival rate is 95%; however, most women who suffer from ovarian cancer are not diagnosed until the later stages of the cancer when the disease has spread, and the five-year survival rate for these women is 30%;

g. Early detection and treatment often mean the difference between life and death, so it is important to increase awareness of the factors that put certain women at a higher risk for the disease: increased age, having a personal history of breast cancer or a family history of breast, ovarian, uterine, colon or other gastrointestinal cancers, and bearing no children;

h. Cancer experts have advised that there is a set of health problems, including general abdominal discomfort or pain (gas, indigestion, pressure, bloating or cramps), nausea, diarrhea, constipation, frequent urination, loss of appetite, difficulty eating, feeling full after a meal, unexplained weight gain or weight loss, and abdominal bleeding from the vagina, that may be early symptoms of ovarian cancer;

i. Because these symptoms are vague and non-specific, women and their physicians often attribute them to more common conditions; by the time the cancer is diagnosed the tumor has often spread beyond the ovaries, making the disease one of the deadliest forms of cancer;

j. Although the development of a screening test to detect ovarian cancer remains a very active area of research, currently there are no definitive

prevention strategies to help combat the disease; consequently, having regular pelvic examinations and increasing public awareness of the risk factors and health problems that might indicate the onset of ovarian cancer may be the only ways to decrease a woman's overall risk of dying from this type of cancer; and

k. It is proper and fitting for the State of New Jersey to permanently designate the month of February as "Ovarian Cancer Awareness Month."

C.36:2-135 "Ovarian Cancer Awareness Month," February; designated.

2. The month of February is permanently designated as "Ovarian Cancer Awareness Month" in New Jersey to promote awareness among the general public and the health care community of the symptoms of ovarian cancer, the importance of early detection, and the risk factors associated with developing ovarian cancer.

C.36:2-136 Annual observance of "Ovarian Cancer Awareness Month."

3. The Governor shall annually issue a proclamation and call upon public officials, private organizations, the health care community, and all citizens of the State of New Jersey to observe "Ovarian Cancer Awareness Month" with appropriate events and activities.

4. This act shall take effect immediately.

Approved October 1, 2009.

CHAPTER 131

AN ACT concerning the care of students with diabetes and supplementing chapter 40 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:40-12.11 Findings, declarations relative to the care of students with diabetes.

1. The Legislature finds and declares that:

a. Diabetes is a serious chronic disease that impairs the body's ability to use food, and must be managed 24 hours a day in order to avoid the potentially life-threatening short-term consequences of blood sugar levels that are either too high or too low, and avoid or delay the serious long-term complications of high blood sugar levels that include blindness, amputation, heart disease, and kidney failure;

b. In order to manage their disease, students with diabetes must have access to the means to balance food, medications, and physical activity level while at school and at school-related activities;

c. The school nurse is the most appropriate person in the school setting to provide care for a student with diabetes, because the school nurse is in a position to coordinate care and educate school staff in the monitoring and treatment of symptoms, develop an individualized health care plan and an individualized emergency health care plan, and consult and coordinate with a student's parents or guardians and health care provider to establish a safe, therapeutic environment;

d. Because of the significant number of students with diabetes, the effect of diabetes upon a student's ability to learn, and the risk of serious long and short-term medical complications, the Legislature deems it in the public interest to enact legislation that addresses the care of students with diabetes within the public school system.

C.18A:40-12.12 Definitions relative to the care of students with diabetes.

2. As used in this act:

"Individualized emergency health care plan" means a document developed by the school nurse, in consultation with the parent or guardian of a student with diabetes and other appropriate medical professionals, which is consistent with the recommendations of the student's health care providers and which outlines a set of procedural guidelines that provide specific directions about what to do in a particular emergency situation and is signed by the parent or guardian and the school nurse.

"Individualized health care plan" means a document developed by the school nurse, in consultation with the parent or guardian of a student with diabetes and other appropriate medical professionals who may be providing diabetes care to the student, which is consistent with the recommendations of the student's health care providers and which sets out the health services needed by the student at school and is signed by the parent or guardian and the school nurse.

"School" means an elementary or secondary public school located within this State.

"School employee" means a person employed by a school district.

C.18A:40-12.13 Development of health care plans for students with diabetes.

3. a. The parent or guardian of a student with diabetes who seeks diabetes care while at school shall inform the school nurse who shall develop an individualized health care plan and an individualized emergency health care

plan for the student provided that:

(1) the parents or guardians of the student annually provide to the board of education written authorization for the provision of diabetes care as may be outlined in the individualized plans including authorization for the emergency administration of glucagon and, if requested by the student's parents or guardians pursuant to section 5 of this act, authorization for the student's self-management and care of his diabetes; and

(2) if a request is made by a student's parent or guardian pursuant to section 5 of this act, the student's physician or advanced practice nurse provides written certification to the board of education that the student is capable of, and has been instructed in, the management and care of his diabetes.

b. The individualized health care plan and individualized emergency health care plan developed in accordance with subsection a. of this section shall be updated by the school nurse prior to the beginning of each school year and as necessary in the event that there is a change in the health status of the student.

c. Each individualized health care plan shall include, and each individualized emergency health care plan may include, the following information:

(1) the symptoms of hypoglycemia for that particular student and the recommended treatment;

(2) the symptoms of hyperglycemia for that particular student and the recommended treatment;

(3) the frequency of blood glucose testing;

(4) written orders from the student's physician or advanced practice nurse outlining the dosage and indications for insulin administration and the administration of glucagon, if needed;

(5) times of meals and snacks and indications for additional snacks for exercise;

(6) full participation in exercise and sports, and any contraindications to exercise, or accommodations that must be made for that particular student;

(7) accommodations for school trips, after-school activities, class parties, and other school-related activities;

(8) education of all school personnel who may come in contact with the student about diabetes, how to recognize and treat hypoglycemia, how to recognize hyperglycemia, and when to call for assistance;

(9) medical and treatment issues that may affect the educational process of the student with diabetes; and

(10) how to maintain communications with the student, the student's parent or guardian and health care team, the school nurse, and the educational staff.

d. The school nurse assigned to a particular school shall coordinate the provision of diabetes care at that school and ensure that appropriate staff are trained in the care of students with diabetes, including staff working with school-sponsored programs outside of the regular school day, as provided in the individualized health care plan and the individualized emergency health care plan.

C.18A:40-12.14 Authorized employees for administration of glucagon.

4. a. The school nurse shall have the primary responsibility for the emergency administration of glucagon to a student with diabetes who is experiencing severe hypoglycemia. The school nurse shall designate, in consultation with the board of education, additional employees of the school district who volunteer to administer glucagon to a student with diabetes who is experiencing severe hypoglycemia. The designated employees shall only be authorized to administer glucagon, following training by the school nurse or other qualified health care professional, when a school nurse is not physically present at the scene.

b. The activities set forth in subsection a. of this section shall not constitute the practice of nursing and shall be exempted from all applicable statutory or regulatory provisions that restrict the activities that may be delegated to a person who is not a licensed health care professional.

c. In the event that a licensed athletic trainer volunteers to administer glucagon to a student with diabetes pursuant to subsection a. of this section, it shall not constitute a violation of the "Athletic Training Licensure Act," P.L.1984, c.203 (C.45:9-37.35 et seq.).

C.18A:40-12.15 Management, care of diabetes by student permitted; authorization.

5. Upon the written request of the parent or guardian and as provided in a student's individualized health care plan, a school district shall allow the student to attend to the management and care of the student's diabetes as needed in the classroom, in any area of the school or school grounds, or at any school-related activity if the student has been evaluated and determined to be capable of doing so as reflected in the student's individualized health care plan. The student's management and care of his diabetes shall include the following:

a. performing blood glucose level checks;

b. administering insulin through the insulin delivery system the student uses;

c. treating hypoglycemia and hyperglycemia;

d. possessing on the student's person at any time the supplies or equipment necessary to monitor and care for the student's diabetes;

e. compliance with required procedures for medical waste disposal in accordance with district policies and as set forth in the individualized health care plan; and

f. otherwise attending to the management and care of the student's diabetes.

C.18A:40-12.16 Notification to school bus driver.

6. A school district shall, for each pupil with diabetes whom a school bus driver transports, provide the driver with a notice of the pupil's condition, how to treat hypoglycemia, who to contact in an emergency, and parent contact information.

C.18A:40-12.17 Posting of reference sheet.

7. Designated areas of the school building shall have posted, in plain view, a reference sheet identifying signs and symptoms of hypoglycemia in students with diabetes.

C.18A:40-12.18 Release for sharing of certain medical information.

8. The school nurse shall obtain a release from the parent or guardian of a diabetic student to authorize the sharing of medical information between the student's physician or advanced practice nurse and other health care providers. The release shall also authorize the school nurse to share medical information with other staff members of the school district as necessary.

C.18A:40-12.19 Immunity from liability.

9. No school employee, including a school nurse, a school bus driver, a school bus aide, or any other officer or agent of a board of education, shall be held liable for any good faith act or omission consistent with the provisions of this act, nor shall an action before the New Jersey State Board of Nursing lie against a school nurse for any such action taken by a person trained in good faith by the school nurse pursuant to this act. Good faith shall not include willful misconduct, gross negligence, or recklessness.

C.18A:40-12.20 Possession of syringes authorized.

10. The possession and use of syringes consistent with the purposes of this act shall not be considered a violation of applicable statutory or regulatory provisions that may otherwise restrict or prohibit such possession and use.

C.18A:40-12.21 School choice not restricted.

11. A student's school choice shall not be restricted due to the fact that the student has diabetes.

12. This act shall take effect on the 120th day after the date of enactment.

Approved October 1, 2009.

CHAPTER 132

AN ACT authorizing establishment of the Dismal Swamp Preservation Commission, and supplementing Title 40 of the Revised Statutes.

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

C.40:55D-88.1 Short title.

1. This act shall be known and may be cited as the "Dismal Swamp Preservation Act."

C.40:55D-88.2 Findings, declarations relative to the Dismal Swamp Conservation Area.

2. The Legislature finds and declares that:

a. The Dismal Swamp Conservation Area in Middlesex County is approximately 660 acres of freshwater wetlands, forested uplands, and meadows in a densely populated, highly developed central part of the State, offering unique natural habitat including federal priority wetlands;

b. The Dismal Swamp Conservation Area is a birding oasis in a densely developed region of the State where over 175 different bird species have been spotted including the threatened and endangered grasshopper sparrow and yellow-crowned night-heron;

c. In addition to over 175 bird species, 25 mammals and over a dozen reptile and amphibian species have been sighted in the Dismal Swamp Conservation Area;

d. Archeological digs in the Dismal Swamp Conservation Area have uncovered at least five significant archeological sites, including one at least 10,000 years old;

e. This area, spanning Edison Township, Metuchen Borough, and South Plainfield Borough in Middlesex County, represents one of the last remaining wetland ecosystems in a highly urbanized environment in the State;

f. The area consists of privately and publicly owned parcels of land within three municipalities, each with its own planning and zoning author-

ity, and as a result, decisions concerning development within the area are made without a coherent plan; and

g. It is therefore appropriate and in the best interests of the State to encourage the local governing bodies of Edison Township, Metuchen Borough, and South Plainfield Borough, respectively, in Middlesex County to establish a Dismal Swamp Preservation Commission to provide comprehensive regulatory authority and regional planning for the area with a primary focus on protecting and preserving the ecological, historical, and recreational values of the area.

C.40:55D-88.3 Definitions relative to the Dismal Swamp Conservation Area.

3. As used in this act:

"Application for development" means the application form and all accompanying documents required by municipal ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or other permit as provided in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

"Commission" means the Dismal Swamp Preservation Commission established pursuant to section 4 of this act upon adoption of authorizing resolutions by the local governing bodies of Edison Township, Metuchen Borough, and South Plainfield Borough in Middlesex County, respectively.

"Dismal Swamp" means the area located within Edison Township, Metuchen Borough, and South Plainfield Borough in Middlesex County as delineated by a metes and bounds description approved by resolution adopted by the respective local governing bodies of those municipalities.

"Project" means any structure, land use change, or public improvement for which a permit from, or determination by, the municipality is required, which shall include, but not be limited to, building permits, zoning variances, and excavation permits.

C.40:55D-88.4 Dismal Swamp Preservation Commission.

4. a. Upon adoption of an authorizing resolution by the local governing body of Edison Township, Metuchen Borough, and South Plainfield Borough, respectively, in Middlesex County, there is established the Dismal Swamp Preservation Commission. The commission shall consist of nine members, appointed and qualified as follows, provided however, that no more than five members shall be of the same political party and no more than three members shall be appointed from any one municipality:

(1) Two residents of Edison Township, appointed by the governing body of the municipality;

(2) Two residents of Metuchen Borough, appointed by the governing body of the municipality;

(3) Two residents of South Plainfield Borough, appointed by the governing body of the municipality;

(4) Two elected officials from Middlesex County, appointed by agreement of the local governing bodies of Edison Township, Metuchen Borough, and South Plainfield Borough; and

(5) one representative of the Edison Wetlands Association, appointed by agreement of the local governing bodies of Edison Township, Metuchen Borough, and South Plainfield Borough.

b. Each member shall serve for a term of five years. Each member shall serve for the term of the appointment and until a successor shall have been appointed and qualified. Any vacancy shall be filled in the same manner as the original appointment for the unexpired term only.

c. Any member of the commission may be removed by adoption of a resolution by the local governing bodies of Edison Township, Metuchen Borough, and South Plainfield Borough for cause after a public hearing.

d. Each member of the commission shall take and subscribe to an oath to perform the duties of the office faithfully, impartially, and justly to the best of their ability.

e. The members of the commission shall serve without compensation, but the commission may reimburse its members for necessary expenses incurred in the discharge of their duties.

f. The commission shall select from its members a chairperson and vice-chairperson, and may employ an executive director, who may also serve as secretary, and a treasurer. The commission may also appoint, retain and employ, without regard to the provisions of Title 11A, Civil Service, of the New Jersey Statutes, such officers, agents, employees and experts as it may require, and it shall determine their qualifications, terms of office, duties, services and compensation. The local governing bodies may provide administrative support to the commission.

g. The powers of the commission shall be vested in the members thereof in office from time to time, and a majority of the total authorized membership of the commission shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the commission at any meeting thereof by the affirmative vote of a majority of the total authorized membership; provided, however, that the commission may designate one or more of its agents or employees to exercise such administrative functions, powers, and duties, as it may deem proper, under its supervision and control. No vacancy in the membership of the commission

shall impair the right of a quorum to exercise all the rights and perform all the duties of the commission.

h. No member, officer, employee, or agent of the commission shall be financially interested, either directly or indirectly, in any project, any part of a project area, or an application for development, other than a residence, or in any contract, sale, purchase, lease, or transfer of real or personal property located within the boundaries of the Dismal Swamp.

(1) Any contract or agreement knowingly made in contravention of this subsection is voidable.

(2) Any person who willfully violates the provisions of this subsection shall forfeit office or employment.

C.40:55D-88.5 Powers, duties of commission.

5. a. Upon establishment of the commission pursuant to section 4 of this act and appointment of its members, notwithstanding any provision of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), to the contrary, the commission shall review and approve, reject or modify all applications for development within the Dismal Swamp pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.). The commission shall exercise any or all of the powers and duties of a municipal planning board and any or all of the powers and duties of a county planning board for the Dismal Swamp.

No application for development shall be required to be reviewed and approved by both the commission and the planning board of a constituent municipality.

b. The commission shall review and approve, reject, or modify any State project planned within the Dismal Swamp, and submit its decision to the Governor and the commissioner of the department proposing the project.

c. The review of an application for development shall not be contingent upon the adoption of the master plan pursuant to section 6 of this act; however, upon adoption of the master plan, any application for development shall be reviewed to ensure that the actions proposed in the application also conform to the master plan.

Until the adoption of the master plan pursuant to section 6 of this act, the decisions of the commission shall be based upon the municipal master plans, ordinances, and resolutions of Edison Township, Metuchen Borough, and South Plainfield Borough, adopted pursuant to the provisions of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

d. The commission shall coordinate and support activities by citizens' groups to promote and preserve the Dismal Swamp, and shall actively seek

funds for the purchase and preservation of lands within Dismal Swamp for recreation and conservation purposes.

e. In accordance with the provisions of section 4 of P.L.1975, c.291 (C.40:55D-8), the commission may establish and charge reasonable fees for the review of applications for development submitted to the commission and for other services the commission may provide. Fees collected pursuant to this subsection shall be deposited into a separate account, and shall be dedicated for use by the commission solely for the purposes of administering and enforcing its responsibilities pursuant to this act.

C.40:55D-88.6 Master plan for physical, economic and social development of Dismal Swamp.

6. a. The commission shall prepare, or cause to be prepared, after holding one public hearing in each of the three municipalities within Dismal Swamp, a master plan for the physical, economic and social development of the Dismal Swamp with elements similar to those provided for municipal master plans in section 19 of P.L.1975, c.291 (C.40:55D-28), as the commission determines to be appropriate for the preservation of the ecological and historical nature of the Dismal Swamp.

The master plan shall include a report presenting the objectives, assumptions, standards and principles which are embodied in the various interlocking portions of the master plan. In preparing the master plan or any portion thereof or amendment thereto the commission shall give due consideration to: existing historical sites and potential restorations or compatible development; the range of uses and potential uses of the area in the developed communities through which it passes; designated areas to be kept as undeveloped, limited-access areas restricted to conservation or passive recreation; and any other issues the commission deems appropriate for the protection and enhancement of the area. In preparing the master plan or any portion thereof or amendment thereto, the commission shall consider existing patterns of development and any relevant master plan or other plan of development, and shall ensure widespread citizen involvement and participation in the planning process.

b. The commission shall act in support of local suggestions or desires to complement the master plan. Consultation, planning, and technical expertise shall be made available to local planning bodies that wish to implement land-use policies to enhance the area. The commission shall act on or refer complaints by citizens' groups or private residents who discover hazardous situations, pollution, or evidence of noncompliance with use regulations.

C.40:55D-88.7 No approval extended, tolled within Dismal Swamp.

7. Notwithstanding any provision of P.L.2008, c.78 (C.40:55D-136.1 et seq.) to the contrary, no approval, as defined therein, within the Dismal Swamp shall be extended or tolled pursuant to the provisions of P.L.2008, c.78 (C.40:55D-136.1 et seq.).

8. This act shall take effect immediately.

Approved October 1, 2009.

CHAPTER 133

AN ACT concerning persons under the legal age to possess and consume alcoholic beverages, amending P.L.1979, c.264, and supplementing P.L.2000, c.33.

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

1. Section 1 of P.L.1979, c.264 (C.2C:33-15) is amended to read as follows:

C.2C:33-15 Possession, consumption of alcoholic beverages by persons under legal age; penalty.

1. a. Any person under the legal age to purchase alcoholic beverages who knowingly possesses without legal authority or who knowingly consumes any alcoholic beverage in any school, public conveyance, public place, or place of public assembly, or motor vehicle, is guilty of a disorderly persons offense, and shall be fined not less than $500.00.

b. Whenever this offense is committed in a motor vehicle, the court shall, in addition to the sentence authorized for the offense, suspend or postpone for six months the driving privilege of the defendant. Upon the conviction of any person under this section, the court shall forward a report to the New Jersey Motor Vehicle Commission 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 commission along with the report. If for any reason the license cannot be collected, the court shall include in the report the complete name, address, date of birth, eye color, and sex of the person as well as the first and last date of the license suspension period imposed by the court.

The court shall inform the person orally and in writing that if the person is convicted of operating a motor vehicle during the period of license suspension or postponement, the person shall be subject to the penalties set forth in R.S.39:3-40. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of R.S.39:3-40.

If the person convicted under this section is not a New Jersey resident, the court shall suspend or postpone, as appropriate, the non-resident driving privilege of the person based on the age of the person and submit to the commission 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 commission shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

c. In addition to the general penalty prescribed for a disorderly persons offense, the court may require any person who violates this act to participate in an alcohol education or treatment program, authorized by the Department of Health and Senior Services, for a period not to exceed the maximum period of confinement prescribed by law for the offense for which the individual has been convicted.

d. Nothing in this act shall apply to possession of alcoholic beverages by any such person while actually engaged in the performance of employment pursuant to an employment permit issued by the Director of the Division of Alcoholic Beverage Control, or for a bona fide hotel or restaurant, in accordance with the provisions of R.S.33:1-26, or while actively engaged in the preparation of food while enrolled in a culinary arts or hotel management program at a county vocational school or post secondary educational institution.

e. The provisions of section 3 of P.L.1991, c.169 (C.33:1-81.1a) shall apply to a parent, guardian or other person with legal custody of a person under 18 years of age who is found to be in violation of this section.

f. An underage person and one or two other persons shall be immune from prosecution under this section if:

(1) one of the underage persons called 9-1-1 and reported that another underage person was in need of medical assistance due to alcohol consumption;

(2) the underage person who called 9-1-1 and, if applicable, one or two other persons acting in concert with the underage person who called 9-1-1 provided each of their names to the 9-1-1 operator;

(3) the underage person was the first person to make the 9-1-1 report; and

(4) the underage person and, if applicable, one or two other persons acting in concert with the underage person who made the 9-1-1 call remained on the scene with the person under the legal age in need of medical assistance until assistance arrived and cooperated with medical assistance and law enforcement personnel on the scene.

The underage person who received medical assistance also shall be immune from prosecution under this section.

C.40:48-1.2a Immunity from prosecution; certain circumstances.

2. a. An underage person and one or two other persons shall be immune from prosecution under an ordinance authorized by section 1 of P.L.2000, c.33 (C.40:48-1.2) prohibiting any person under the legal age who, without legal authority, knowingly possesses or knowingly consumes an alcoholic beverage on private property if:

(1) one of the underage persons called 9-1-1 and reported that another underage person was in need of medical assistance due to alcohol consumption;

(2) the underage person who called 9-1-1 and, if applicable, one or two other persons acting in concert with the underage person who called 9-1-1 provided each of their names to the 9-1-1 operator;

(3) the underage person was the first person to make the 9-1-1 report; and

(4) the underage person and, if applicable, one or two other persons acting in concert with the underage person who made the 9-1-1 call remained on the scene with the person under the legal age in need of medical assistance until assistance arrived and cooperated with medical assistance and law enforcement personnel on the scene.

b. The underage person who received medical assistance as provided in subsection a. of this section also shall be immune from prosecution under an ordinance authorized by section 1 of P.L.2000, c.33 (C.40:48-1.2).

3. This act shall take effect immediately.

Approved October 1, 2009.

CHAPTER 134

AN ACT concerning financial assistance for the closure or replacement of certain petroleum underground storage tanks and amending and supplementing P.L.1997, c.235.

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

1. Section 2 of P.L.1997, c.235 (C.58:10A-37.2) is amended to read as follows:

C.58:10A-37.2 Definitions relative to upgrade, remediation, closure of underground storage tanks.

2. As used in this act:

"Applicant" means a person who files an application for financial assistance from the Petroleum Underground Storage Tank Remediation, Upgrade, and Closure Fund for payment of eligible project costs of a remediation due to a discharge of petroleum from a petroleum underground storage tank, for payment of eligible project costs of a replacement or closure of a petroleum underground storage tank that is not regulated pursuant to P.L.1986, c.102 (C.58:10A-21 et seq.) or 42 U.S.C. s.6991 et seq., and for payment of eligible project costs of an upgrade or closure of a regulated tank;

"Authority" means the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

"Closure" means the proper closure or removal of a petroleum underground storage tank necessary to meet all regulatory requirements of federal, State, or local law;

"Commissioner" means the Commissioner of Environmental Protection;

"Department" means the Department of Environmental Protection;

"Discharge" means the intentional or unintentional release by any means of petroleum from a petroleum underground storage tank into the environment;

"Eligible owner or operator" means (1) any owner or operator, other than the owner or operator of a petroleum underground storage tank storing heating oil for onsite consumption in a residential building, who owns or operates less than 10 petroleum underground storage tanks in New Jersey, who has a net worth of less than $3,000,000 and who demonstrates to the satisfaction of the authority, the inability to qualify for and obtain a commercial loan for all or part of the eligible project costs, (2) the owner or op-

erator of a petroleum underground storage tank storing heating oil for onsite consumption in a residential building, (3) a public entity who owns or operates a petroleum underground storage tank in New Jersey, (4) an independent institution of higher education that owns or operates a petroleum underground storage tank, or (5) a nonprofit organization, corporation, or association with not more than 100 paid individuals that is qualified for exemption from federal taxation pursuant to section 501(c)(3) of the federal Internal Revenue Code, 26 U.S.C.s.501(c)(3), or a duly incorporated volunteer fire, ambulance, first aid, emergency, or rescue company or squad;

"Eligible project costs" means the reasonable costs for equipment, work or services required to effectuate a remediation, an upgrade, or a closure which equipment, work or services are eligible for payment from the Petroleum Underground Storage Tank Remediation, Upgrade, and Closure Fund. In the case of an upgrade or closure of a regulated tank, eligible project costs shall be limited to the cost of the minimal effective system necessary to meet all the regulatory requirements of federal and State law except that an eligible owner or operator who has met the upgrade requirements pursuant to 42 U.S.C. s.6991 et seq. or P.L.1986, c.102 (C.58:10A-21 et seq.) may be awarded a loan which shall not be limited to the cost of a minimal effective system, in order to finance the costs of the improvement or replacement of tanks to meet State and federal standards as provided in subsection g. of section 5 of P.L.1997, c.235 (C.58:10A-37.5). The limitation of eligible project costs to the minimal effective system shall not be construed to deem ineligible those project costs expended to replace a regulated tank rather than to improve the regulated tank. An owner or operator may perform an upgrade or a closure beyond the minimal effective system in which case the eligible project costs that may be awarded from the fund as financial assistance in the form of a grant shall be that amount that would represent the cost of a minimal effective system. In the case of a remediation, replacement, or closure of a petroleum underground storage tank that is unregulated pursuant to P.L.1986, c.102 (C.58:10A-21 et seq.) or 42 U.S.C. s.6991 et seq., eligible project costs shall include the cost to replace a tank with an above-ground or underground storage tank. In the case of a remediation, eligible project costs shall not include the cost to remediate a site to meet residential soil remediation standards if the local zoning ordinances adopted pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) do not allow for residential use. Eligible project costs shall include the cost of a preliminary assessment and site investigation, even if performed prior to the award of financial assistance from the fund if

the preliminary assessment and site investigation were performed after the effective date of P.L.1997, c.235;

"Facility" means one or more operational or nonoperational petroleum underground storage tanks under single ownership at a common site;

"Financial assistance" means a grant or loan or a combination of both that may be awarded by the authority from the fund to an eligible owner or operator as provided in section 5 of P.L.1997, c.235 (C.58:10A-37.5);

"Independent institution of higher education" means those institutions of higher education incorporated and located in this State, which, by virtue of law or character or license, are nonprofit educational institutions empowered to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey. "Independent institution of higher education" does not include any educational institution dedicated primarily to the preparation or training of ministers, priests, rabbis, or other professional persons in the field of religion;

"Operator" means any person in control of, or having responsibility for, the daily operation of a facility;

"Owner" means any person who owns a facility;

"Person" means any individual, partnership, corporation, society, association, consortium, joint venture, commercial entity, or public entity, but does not include the State or any of its departments, agencies or authorities;

"Petroleum" means all hydrocarbons which are liquid at one atmosphere pressure (760 millimeters or 29.92 inches Hg) and temperatures between -20 F and 120 F (-29 C and 49 C), and all hydrocarbons which are discharged in a liquid state at or nearly at atmospheric pressure at temperatures in excess of 120 F (49 C) including, but not limited to, gasoline, kerosene, fuel oil, oil sludge, oil refuse, oil mixed with other wastes, crude oil, and purified hydrocarbons that have been refined, re-refined, or otherwise processed for the purpose of being burned as a fuel to produce heat or usable energy or which is suitable for use as a motor fuel or lubricant in the operation or maintenance of an engine;

"Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund" or "fund" means the fund established pursuant to section 3 of P.L.1997, c.235 (C.58:10A-37.3);

"Petroleum underground storage tank" means a tank of any size, including appurtenant pipes, lines, fixtures, and other related equipment, that

normally and primarily stores petroleum, the volume of which, including the volume of the appurtenant pipes, lines, fixtures and other related equipment, is 10% or more below the ground. "Petroleum underground storage tank" does not include:

(1) Septic tanks installed or regulated pursuant to regulations adopted by the department pursuant to "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.) or the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.);

(2) Pipelines, including gathering lines, regulated under 49 U.S.C. s.60101 et seq., or intrastate pipelines regulated under State law;

(3) Surface impoundments, pits, ponds, or lagoons, operated or regulated pursuant to regulations adopted by the department pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.);

(4) Storm water or wastewater collection systems operated or regulated pursuant to regulations adopted by the department pursuant to the "Water Pollution Control Act";

(5) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations;

(6) Tanks situated in an underground area, including, but not limited to, basements, cellars, mines, drift shafts, or tunnels, if the storage tank is situated upon or above the surface of the floor, or storage tanks located below the surface of the ground which are equipped with secondary containment and are uncovered so as to allow visual inspection of the exterior of the tank; and

(7) Any pipes, lines, fixtures, or other equipment connected to any tank exempted from the provisions of this definition pursuant to paragraphs (1) through (6) above;

"Public entity" means any county, municipality, or public school district, but shall not include any authority created by those entities;

"Regulated tank" means a petroleum underground storage tank that is required to be upgraded pursuant to P.L.1986, c.102 (C.58:10A-21 et seq.) or 42 U.S.C. s.6991 et seq.;

"Remediation" means all necessary actions to investigate and clean up any known, suspected, or threatened discharge of petroleum, including, as necessary, the preliminary assessment, site investigation, remedial investigation, and remedial action, as those terms are defined in section 23 of P.L.1993, c.139 (C.58:10B-1);

"Upgrade" means the replacement of a regulated tank, the installation of secondary containment, monitoring systems, release detection systems, corrosion protection, spill prevention, or overfill prevention therefor, or any other necessary improvement to the regulated tank in order to meet the

standards for regulated tanks adopted pursuant to section 5 of P.L.1986, c.102 (C.58:10A-25) and 42 U.S.C. s.6991 et seq.

2. Section 5 of P.L.1997, c.235 (C.58:10A-37.5) is amended to read as follows:

C.58:10A-37.5 Awarding of financial assistance.

5. a. (1) The authority may award financial assistance from the fund to an eligible owner or operator in the form of a loan or a conditional hardship grant as provided in this section. An award of financial assistance, either as a loan or a grant, or a combination of both, may, upon application therefor, be for 100% of the eligible project costs, except as provided in paragraph (1) of subsection c. and in subsections h., j. and k. of this section. However, a loan that any applicant may receive from the fund for an upgrade, remediation, or closure, or any combination thereof, for any one facility, may not exceed $2,000,000, except as provided below, and a grant that any applicant may receive from the fund for any one facility, may not exceed $500,000. A loan that an applicant may receive from the fund for a remediation of a discharge that poses a threat to a drinking water source may not exceed $3,000,000.

(2) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, an eligible owner or operator of a facility located within an area designated as a Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center as designated pursuant to the "State Planning Act," sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.), or the Highlands Region designated pursuant to section 7 of P.L.2004, c.120 (C.13:20-7), may receive a loan in an amount not to exceed $3,000,000 and a grant in an amount not to exceed $1,000,000 for each facility so located.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subsection to the contrary, an applicant that is an independent institution of higher education may receive a grant from the fund for the eligible project costs of a remediation of a discharge from a petroleum underground storage tank in an amount not to exceed $1,500,000 for each independent institution of higher education. The maximum total amount in grants that an independent institution of higher education may receive pursuant to this section and subsection i. of section 7 of P.L.1997, c.235 (C.58:10A-37.7) shall not exceed $1,500,000.

b. A public entity applying for financial assistance from the fund may only be awarded financial assistance in the form of an interest free loan.

c. An applicant, other than a public entity, may apply for and receive a conditional hardship grant for the upgrade, closure or remediation as provided in paragraph (1) of this subsection or for a remediation as provided in paragraph (3) of subsection a. of this section, or a loan for an upgrade, closure or remediation as provided in paragraph (2) of this subsection, provided that an applicant for a conditional hardship grant or a loan for an upgrade may be eligible for financial assistance only for any underground storage tank with a capacity of over 2,000 gallons used to store heating oil for onsite consumption in a nonresidential building that has received an extension of the deadline for compliance with the standards pursuant to subsection b. of section 9 of P.L.1986, c.102 (C.58:10A-29). Financial assistance awarded an applicant pursuant to this subsection may consist entirely of a conditional hardship grant, a loan for an upgrade, a loan for a closure, or a loan for a remediation, or any combination thereof, except that the total amount of the award of financial assistance shall be subject to the per facility dollar limitation enumerated in subsection a. of this section. Notwithstanding any other provision of this subsection to the contrary, no tax exempt, nonprofit organization, corporation, or association shall be awarded a conditional hardship grant pursuant to paragraph (1) of this subsection, provided that an independent institution of higher education, a nonprofit organization, corporation, or association with not more than 100 paid individuals that is qualified for exemption from federal taxation pursuant to section 501 (c)(3) of the federal Internal Revenue Code, 26 U.S.C.s.501(c)(3), or a duly incorporated volunteer fire, ambulance, first aid, emergency, or rescue company or squad, may be awarded a conditional hardship grant pursuant to paragraph (1) of this subsection or a grant pursuant to paragraph (3) of subsection a. of this section, as appropriate.

(1) A conditional hardship grant for eligible project costs of an upgrade, closure or remediation shall be awarded by the authority based upon a finding of eligibility and financial hardship and upon a finding that the applicant meets the criteria set forth in this act.

In order to be eligible for a conditional hardship grant for closure or upgrade, in the case of a regulated tank, the applicant shall have owned or operated the subject regulated tank as of December 1, 2002 and continually thereafter or shall have inherited the property from a person who owned the regulated tank as of that date. In order to be eligible for a conditional hardship grant for remediation, in the case of a regulated tank, the applicant shall have owned or operated the subject regulated tank at the time of tank closure. No applicant shall be eligible for a conditional hardship grant if the applicant has a taxable income of more than $250,000 or a net worth, exclusive of the ap-

plicant's primary residence and pension, of over $500,000. Any applicant with a taxable income of more than $200,000 who qualifies for a grant shall be required to pay no more than $1,000 of the eligible project costs.

Notwithstanding the eligibility requirements for net worth and income, an independent institution of higher education, a nonprofit organization, corporation, or association with not more than 100 paid individuals that is qualified for exemption from federal taxation pursuant to section 501(c)(3) of the federal Internal Revenue Code, 26 U.S.C.s.501(c)(3), or a duly incorporated volunteer fire, ambulance, first aid, emergency, or rescue company or squad shall be eligible for a conditional hardship grant for eligible project costs of a closure or remediation of a petroleum underground storage tank.

A finding of financial hardship by the authority shall be based upon a determination that an applicant cannot reasonably be expected to repay all or a portion of the eligible project costs if the financial assistance were to be awarded as a loan. The amount of an award of a conditional hardship grant shall be the amount of that portion of the eligible project costs the authority determines the applicant cannot reasonably be expected to repay.

In making a finding of financial hardship for an application for the upgrade, closure, or remediation of a petroleum underground storage tank, where the petroleum underground storage tank is a part of the business property of the owner, the authority shall base its finding upon the cash flow of the applicant's business, whether or not any part of the applicant's business is related to the ownership or operation of that petroleum underground storage tank. In making a finding of financial hardship for an application for the upgrade or remediation of a petroleum underground storage tank, where the petroleum underground storage tank is not a part of the business property of the owner, the authority shall base its finding upon the applicant's taxable income in the year prior to the date of the application being submitted.

If the authority awards a conditional hardship grant in combination with a loan pursuant to this subsection, the authority shall release to the applicant the loan monies prior to the release of the conditional hardship grant monies.

Conditional hardship grants awarded to an applicant shall be subject to the lien provisions enumerated in section 16 of P.L.1997, c.235 (C.58:10A-37.16).

(2) A loan to an eligible owner or operator for the eligible project costs of an upgrade, closure, or remediation shall be awarded by the authority only upon a finding that the applicant other than a public entity is able to repay the amount of the loan.

In making a finding of an applicant's ability to repay a loan for the upgrade, closure, and remediation of a regulated tank, or for the remediation

of a discharge from a petroleum underground storage tank, the authority shall base its finding, as applicable, upon the cash flow of the applicant's business, the applicant's taxable income and the applicant's personal and business assets, except that the authority may not consider the applicant's primary residence as collateral, except that the authority may consider the applicant's primary residence as collateral with the permission of the applicant or where the subject petroleum underground storage tank or regulated tank is located at the primary residence.

d. The authority shall, where applicable, require an applicant applying for financial assistance from the fund to submit to the authority the financial statements of the applicant's business for three years prior to the date of the application, the most recent interim financial statement for the year of the application, the applicant's federal income tax returns, or other relevant documentation.

e. Nothing in this section is intended to alter the priority or criteria for awarding financial assistance established pursuant to section 4 of P.L.1997, c.235 (C.58:10A-37.4).

f. An eligible owner or operator may only be awarded that amount of financial assistance issued as a loan for which the applicant demonstrates he could not qualify for and obtain as a commercial loan. The provisions of this subsection shall not apply to an owner or operator of a petroleum underground storage tank used to store heating oil for onsite consumption in a residential building, to an independent institution of higher education, or to a duly incorporated volunteer fire, ambulance, first aid, emergency, or rescue company or squad.

g. An eligible owner or operator of a regulated tank in this State who has met the upgrade requirements pursuant to 42 U.S.C. s.6991 et seq. or P.L.1986, c.102 (C.58:10A-21 et seq.) may be awarded a loan in order to finance an improvement or replacement of a regulated tank to meet State and federal standards.

h. (1) In the case of a closure of a petroleum underground storage tank used to store heating oil for onsite consumption in a residential building in this State where no remediation is required, an eligible owner or operator may receive a grant for the eligible project costs in an amount consistent with the cost guidelines established by the department pursuant to section 4 of P.L.2009, c.134 (C.58:10A-37.5b) and in effect at the time the closure is performed.

(2) In the case of a replacement and closure of a petroleum underground storage tank used to store heating oil for onsite consumption in a residential building in this State where no remediation is required, an eligible owner or operator may receive a grant for the eligible project costs in an

amount consistent with the cost guidelines established by the department pursuant to section 4 of P.L.2009, c.134 (C.58:10A-37.5b) and in effect at the time the replacement and closure is performed.

(3) If an eligible owner or operator applies for a grant pursuant to this subsection prior to the completion of the project and the authority determines that the eligible owner or operator qualifies for the grant, the authority shall issue written confirmation that the eligible owner or operator will receive the grant upon completion of the project. The written confirmation shall be valid for 45 days from the date of issuance. Any eligible owner or operator who has received written confirmation pursuant to this subsection and fails to submit the relevant documentation, certification or other information required by the rules and regulations adopted by the authority pursuant to section 8 of P.L.1997, c.235 (C.58:10A-37.8) before the expiration of the confirmation shall submit a new application for review.

(4) No person shall be eligible for grant monies from the fund to replace a petroleum underground storage tank that stores heating oil for onsite consumption in a residential building if the tank that stores heating oil for that residential building was previously replaced using a grant from the fund.

i. In the case of a closure and replacement of a petroleum underground storage tank used to store heating oil for onsite consumption in a residential building in this State, to the maximum extent feasible, the owner or operator shall replace the petroleum underground storage tank with an aboveground tank.

j. In the case of a closure or replacement of a petroleum underground storage tank with a capacity of 2,000 gallons or less, used to store heating oil for onsite consumption in a nonresidential building that is owned or operated by a nonprofit organization, corporation, or association with not more than 100 paid individuals that is qualified for exemption from federal taxation pursuant to section 501(c)(3) of the federal Internal Revenue Code, 26 U.S.C.s.501(c)(3), or by a duly incorporated volunteer fire, ambulance, first aid, emergency, or rescue company or squad, where no remediation is required, the eligible owner or operator may receive a grant for the eligible project costs of the closure or replacement in an amount consistent with the cost guidelines developed by the department pursuant to section 4 of P.L.2009, c.134 (C.58:10A-37.5b) and in effect at the time the closure or replacement is performed.

No person shall be eligible for grant monies from the fund pursuant to this subsection if the underground storage tank was previously replaced using a grant from the fund.

k. In the case of an emergency remediation of a discharge from a petroleum underground storage tank used to store heating oil for onsite consumption in a residential building in this State, an eligible owner or operator may receive a grant in an amount equal to the actual costs incurred by the department or an authorized agent thereof, and borne by the eligible owner or operator, except that no award of financial assistance shall be made from the fund for administrative costs incurred by the department.

3. Section 7 of P.L.1997, c.235 (C.58:10A-37.7) is amended to read as follows:

C.58:10A-37.7 Conditions for awarding financial assistance.

7. a. The authority shall award financial assistance to an owner or operator of a facility only if the facility is properly registered with the department pursuant to section 3 of P.L.1986, c.102 (C.58:10A-23), where applicable, and if all fees or penalties due and payable on the facility to the department pursuant to P.L.1986, c.102 have either been paid or the nature or the amount of the fee or penalty is being contested in accordance with law.

b. The authority may deny an application for financial assistance, and any award of financial assistance may be recoverable by the authority, upon a finding that:

(1) in the case of financial assistance awarded for a remediation, the discharge was proximately caused by the applicant's knowing conduct;

(2) in the case of financial assistance awarded for a remediation, the discharge was proximately caused or exacerbated by knowing conduct by the applicant with regard to any lawful requirement applicable to petroleum underground storage tanks intended to prevent, or to facilitate the early detection of, the discharge;

(3) the applicant failed to commence or complete a remediation, closure, or an upgrade for which an award of financial assistance was made within the time required by the department in accordance with the applicable rules and regulations, within the time prescribed in an administrative order, an administrative consent agreement, a memorandum of agreement, or a court order; or

(4) the applicant provided false information or withheld information on a loan or grant application, or other relevant information required to be submitted to the authority, on any matter that would otherwise render the applicant ineligible for financial assistance from the fund, that would alter the priority of the applicant to receive financial assistance from the fund, that resulted in the applicant receiving a larger grant or loan award than the

applicant would otherwise be eligible, or that resulted in payments from the fund in excess of the actual eligible project costs incurred by the applicant or the amount to which the applicant is legally eligible.

Nothing in this subsection shall be construed to require the authority to undertake an investigation or make any findings concerning the conduct described in this subsection.

c. An application for financial assistance from the fund for an upgrade or closure of a regulated tank shall include all regulated tanks at the facility for which the applicant is seeking financial assistance. Except as provided in subsection g. of section 5 of P.L.1997, c.235 (C.58:10A-37.5), once financial assistance for an upgrade or closure is awarded for a facility, no additional award of financial assistance for upgrade or closure costs may be made for that facility. However, if an applicant discovers while performing upgrade or closure activities that a remediation is necessary at the site of a facility, and if financial assistance was previously awarded for that site only for an upgrade or closure of a regulated tank, the applicant may amend his application and apply for financial assistance for the required remediation subject to the limitations enumerated in section 5 of P.L.1997, c.235 (C.58:10A-37.5). An application for financial assistance for an upgrade or closure of a regulated tank shall be conditioned upon the applicant agreeing to perform, at the time of the upgrade or closure, any remediation necessary as a result of a discharge from the regulated tank and commencement of the remediation within the time prescribed and in accordance with the rules and regulations of the department.

d. Except as provided in this subsection, and in subsection g. of section 5 of P.L.1997, c.235 (C.58:10A-37.5), no financial assistance for upgrade shall be awarded for any regulated tank required to meet the upgrade or closure requirements pursuant to 42 U.S.C.s.6991 et seq. or P.L.1986, c.102 (C.58:10A-21 et seq.), unless the application is filed with the authority prior to January 1, 1999 and the application is complete and the application fee is received by August 1, 1999. Except as provided in subsection g. of section 5 of P.L.1997, c.235 (C.58:10A-37.5), no financial assistance for upgrade shall be awarded for any underground storage tank with a capacity of over 2,000 gallons used to store heating oil for onsite consumption in a nonresidential building required to be upgraded pursuant to P.L.1986, c.102 (C.58:10A-21 et seq.) but not pursuant to 42 U.S.C.s.6991 et seq., unless the applicant has received an extension of the deadline for compliance with the standards pursuant to subsection b. of section 9 of P.L.1986, c.102 (C.58:10A-29), the application is filed with the authority prior to June 30, 2005 and the application is complete and the application fee is received by December 31, 2005.

No financial assistance for closure shall be awarded for any regulated tank required to meet the upgrade or closure requirements pursuant to 42 U.S.C.s.6991 et seq. or P.L.1986, c.102 (C.58:10A-21 et seq.), or for the remediation of a discharge from any such regulated tank except as provided in subsection c. of this section, unless the application is filed with the authority prior to June 30, 2010 and the application is complete and the application fee is received by December 31, 2010.

In the case of a regulated tank that is not operational, financial assistance for the closure or the remediation of any discharge therefrom may be awarded if the application is filed with the authority no more than 18 months after the date of discovery of the existence of the regulated tank, or no later than June 30, 2010, whichever is later.

e. The date of occurrence of a discharge shall not affect eligibility for financial assistance from the fund. Except for a preliminary assessment or a site investigation performed after the effective date of P.L.1997, c.235 (C.58:10A-37.1 et seq.), and except as provided in subsections g. through j. of this section, no award of financial assistance shall be made from the fund for the otherwise eligible project costs of a remediation, closure, or an upgrade, or parts thereof, completed prior to an award of financial assistance from the fund.

f. No financial assistance may be awarded from the fund for the remediation of a discharge from a petroleum underground storage tank if financial assistance from the Hazardous Discharge Site Remediation Fund established pursuant to section 26 of P.L.1993, c.139 (C.58:10B-4) has previously been made for a remediation at that site as a result of a discharge from that petroleum underground storage tank. No financial assistance may be awarded from the fund for the remediation of a discharge from a petroleum underground storage tank if the discharge began subsequent to the completion of an upgrade of that petroleum underground storage tank, which upgrade was intended to meet all applicable upgrade regulations of the department, no matter when the upgrade was performed.

g. Notwithstanding any provision of P.L.1997, c.235 (C.58:10A-37.1 et seq.), where an eligible owner or operator has filed an application for financial assistance from the fund, and there are either insufficient monies in the fund or the authority has not yet acted upon the application or awarded the financial assistance, the eligible owner or operator may expend its own funds for the upgrade, closure, or remediation, and upon approval of the application, the authority shall award the financial assistance as a reimbursement of the monies expended for eligible project costs.

h. Notwithstanding any provision of P.L.1997, c.235 (C.58:10A-37.1 et seq.) to the contrary, if an applicant has expended the applicant's own funds on a remediation after filing an application for financial assistance from the fund for the eligible project costs of the remediation, the authority, upon approval of the application, may make a grant from the fund pursuant to paragraph (1) of subsection c. of section 5 of P.L.1997, c.235 (C.58:10A-37.5) to reimburse the eligible owner or operator for the eligible project costs of the remediation.

i. Notwithstanding any provision of P.L.1997, c.235 (C.58:10A-37.1 et seq.) to the contrary, if an applicant that is an independent institution of higher education has expended the applicant's own funds on a remediation prior to filing an application for financial assistance from the fund for the eligible project costs of the remediation, the authority, upon approval of the application, may make a grant from the fund pursuant to paragraph (1) of subsection c. of section 5 of P.L.1997, c.235 (C.58:10A-37.5) to reimburse the applicant for expenditures for the eligible project costs of the remediation made on or after December 1, 1996 in an amount not to exceed $500,000 for each independent institution of higher education.

j. Notwithstanding any provision of P.L.1997, c.235 (C.58:10A-37.1 et seq.) to the contrary, if an applicant has expended the applicant's own funds for a remediation of a petroleum underground storage tank used to store heating oil at the applicant's primary residence prior to filing an application for financial assistance from the fund for the eligible project costs of the remediation, the authority, upon approval of the application, may make a grant from the fund pursuant to paragraph (1) of subsection c. of section 5 of P.L.1997, c.235 (C.58:10A-37.5) to reimburse the applicant for the eligible project costs of the remediation.

k. Notwithstanding any provision of P.L.1997, c.235 (C.58:10A-37.1 et seq.) to the contrary, if an applicant that is a nonprofit organization, corporation, or association with not more than 100 paid individuals that is qualified for exemption from federal taxation pursuant to section 501(c)(3) of the federal Internal Revenue Code, 26 U.S.C.s.501(c)(3), or a duly incorporated volunteer fire, ambulance, first aid, emergency, or rescue company or squad, has expended the applicant's own funds on a remediation of a discharge from a petroleum underground storage tank with a capacity of 2,000 gallons or less, used to store heating oil for onsite consumption in a nonresidential building on or after the effective date of P.L.2009, c.134 (C.58:10A-37.5b et al.) prior to filing an application for financial assistance from the fund for the eligible project costs of the remediation, the authority, upon approval of the application, may make a grant from the fund pursuant

to paragraph (1) of subsection c. of section 5 of P.L.1997, c.235 (C.58:10A-37.5) to reimburse the applicant for expenditures for the eligible project costs of the remediation.

C.58:10A-37.5b Development of cost guidance document, publication.

4. The department shall develop a cost guidance document that establishes the maximum cost to be paid for the eligible project costs of the closure or replacement of a petroleum underground storage tank used to store heating oil for onsite consumption in a residential building or a petroleum underground storage tank with a capacity of 2,000 gallons or less used to store heating oil for onsite consumption in a nonresidential building. Within 90 days after the effective date of P.L.2009, c.134 (C.58:10A-37.5b et al.), the department shall publish the cost guidance document in the New Jersey Register. The department may revise the cost guidance document as necessary and shall publish the revised cost guidance document within 30 days following adoption of any revision. The adoption of a cost guidance document, or of any revision thereto, shall not be subject to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

5. This act shall take effect immediately.

Approved October 1, 2009.

CHAPTER 135

AN ACT concerning county political party committees, amending various parts of the statutory law, and supplementing Title 19 of the Revised Statutes.

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

1. R.S.19:5-2 is amended to read as follows:

Membership and organization of municipal committees.

19:5-2. The members of the municipal committees of political parties shall consist of the elected members of the county committee resident in the respective municipalities. The members of the municipal committee shall take office on the first Saturday following their election as members of the county committee, on which day the terms of all members of such commit-

tees theretofore elected shall terminate. The annual meeting of each municipal committee shall be held on the first Monday following the primary election for the general election, at an hour and place to be designated in a notice to be given by the chairman to each member and member-elect. The members of each committee shall elect some suitable person who shall be a resident of such municipality as chairman. The municipal committee shall have power to adopt a constitution and bylaws for its proper government. The chairman shall preside at all meetings of the committee, and shall perform all duties required of him by law and the constitution and bylaws of such committee.

When a member of a municipal committee ceases to be a resident of the district or unit from which elected, a vacancy on the committee shall exist. A member of a municipal committee of any political party may resign his office to the committee of which he is a member, and upon acceptance thereof by the committee a vacancy shall exist. A vacancy in the office of a member of a municipal committee of any political party, howsoever caused, shall be filled for the unexpired term by the remaining members of the committee in the municipality in which the vacancy occurs.

2. R.S.19:5-3 is amended to read as follows:

Membership and organization of county committees; vacancies; certification of unit of representation and number of election districts.

19:5-3. The members of the county committees of political parties shall be elected at the primary for the general election in the manner provided in this Title for the selection of party candidates to be voted for at the general election by voters of a municipality at such intervals as shall be provided in the bylaws of the county committee. The county committee shall consist of one male and one female member from each unit of representation in the county. The male receiving the highest number of votes among the male candidates and the female receiving the highest number of votes among the female candidates shall be declared elected. Members of the county committee shall actually reside in the districts or units which they respectively represent. The county committee shall determine by its bylaws the units into which the county shall be divided for purpose of representation in the county committee.

The members of the county committee of each of the political parties shall take office on the first Saturday following their election, on which day the terms of all members of such committees theretofore elected shall terminate. The annual meeting of each county committee shall be held on the

first Tuesday following the primary election, except that when such meeting day falls on a legal holiday then the said meeting shall be held on the day following, and when such meeting day falls on the day of a municipal runoff election within the county then said meeting may be held on the day following, at an hour and place to be designated in a notice in writing to be mailed by the chairperson to each member and member-elect. The members of such committee shall elect some suitable person as chairperson who shall be a resident of such county to hold office until a successor is elected. The chairperson of the outgoing county committee shall transmit, with the notice of the annual meeting, a copy of the constitution and bylaws to any newly elected committee member. The members shall also elect a vice-chairperson of the opposite sex of the chairperson to hold office for 1 year or until a successor is elected and the vice-chairperson shall perform all duties required by law and the constitution and bylaws of such committee. Any person elected or appointed to membership on the county committee pursuant to R.S.19:5-2 may request, in writing and by certified mail to the county chairperson, such constitution or bylaws currently in effect. The committee member requesting the constitution or bylaws shall receive the constitution or bylaws within 48 hours of the receipt of the request by the chairperson. The chairperson shall preside at all meetings of the committee and shall perform all duties required by law and the constitution and bylaws of such committee.

When a member of a county committee ceases to be a resident of the district or unit from which elected, a vacancy on the county committee shall exist. A member of a county committee of any political party may resign his or her office to the committee of which he or she is a member, and upon acceptance thereof by the committee, a vacancy shall exist. A vacancy in the office of a member of the county committee of any political party, caused by death, resignation, failure to elect, or removal for cause, shall be filled for the unexpired term by the municipal committee of the municipality wherein the vacancy occurs, if there is such committee, and if not, by the remaining members of the county committee of such political party representing the territory in the county in which such vacancy occurs. The chairperson of the outgoing county committee shall provide a copy of the constitution and bylaws to any committee member appointed pursuant to R.S.19:5-2 to fill a vacancy within three business days of the committee member's selection.

The chairperson of the county committee of the several political parties shall, before April 1in a year in which county committee members are to be elected, certify to the clerk of each municipality in the county the unit of

representation in such municipality, together with the enumeration of the election district or districts embraced within such unit.

C.19:5-3.2 Adoption of constitution, bylaws by county committee, posting on Internet website.

3. The members of the county committee of a political party shall adopt a constitution and bylaws, ensuring fundamental fairness and the rights of the members of the county committee in the governance of the county party. The constitution and bylaws of a county committee shall be posted and displayed on its Internet website, if the committee has a website. A county committee shall provide a copy of its constitution and bylaws to the county board of elections of the county, and the constitution and bylaws shall be posted and displayed on the county board's Internet website, if the county board has a website.

4. R.S.19:5-4 is amended to read as follows:

Membership and organization of State committees; vacancies; national committee members.

19:5-4. The members of the State committee of each of the political parties shall be elected at the primary for the general election of the year in which a Governor is to be elected.

The number of males and females comprising the State committee of each of the political parties from each county may be determined by the bylaws of each such political party, but in any event in accordance with one of the following methods:

a. One male and one female member of the State committee to be elected in each county, each having one vote; or

b. Not less than 79 nor more than 82 elected members, to be apportioned among the several counties in accordance with population as determined at the most recent Federal decennial census; provided that each county shall have at least one vote, and provided further that the members of the State committee from each county shall be divided equally between males and females. In those counties with an odd number of State committee members, one seat shall be shared by one male and one female who shall each have one-half vote in all matters of the State committee; or

c. One male and one female member of the State committee to be elected in each county, each member having a vote weighted in strength on the basis of population as determined at the most recent Federal decennial census.

The members of the State committee of each of the political parties shall take office on the first Tuesday following their election, on which day

the terms of all members of such committees theretofore elected shall terminate. The annual meeting of the State committee shall be held on the first Tuesday after such primary election at the hour and place to be designated in a notice in writing to be mailed by the chairman of the outgoing State committee to each member-elect. The members of the committee shall elect some suitable person as chairman. The committee shall have power to adopt a constitution and bylaws for its proper government. The chairman shall preside at all meetings of the committee and shall perform all duties required of him by law and the constitution and bylaws of such committee.

A member of a State committee of any political party may resign his office to the committee of which he is a member, and upon acceptance thereof by the committee a vacancy shall exist. A vacancy in the office of a member of the State committee of any political party, howsoever caused, shall be filled for the unexpired term by the members of the county committee of such political party in the county in which the vacancy occurs.

Members of the State committee shall serve for 4 years or until their successors are elected. The State committee shall choose its chairperson and the member or members of the national committee of its political party.

5. R.S.19:13-20 is amended to read as follows:

Vacancy procedure.

19:13-20. In the event of a vacancy, howsoever caused, among candidates nominated at a primary election for the general election, which vacancy shall occur not later than the 51st day before the general election, or in the event of inability to select a candidate because of a tie vote at such primary, a candidate shall be selected in the following manner:

a. (1) In the case of an office to be filled by the voters of the entire State, the candidate shall be selected by the State committee of the political party wherein such vacancy has occurred.

(2) In the case of an office to be filled by the voters of a single and entire county, the candidate shall be selected by the county committee in such county of the political party wherein such vacancy has occurred.

(3) In the case of an office to be filled by the voters of a portion of the State comprising all or part of two or more counties, the candidate shall be selected by those members of the county committees of the party wherein the vacancy has occurred who represent those portions of the respective counties which are comprised in the district from which the candidate is to be elected.

(4) In the case of an office to be filled by the voters of a portion of a single county, the candidate shall be selected by those members of the county committee of the party wherein the vacancy has occurred who represent those portions of the county which are comprised in the district from which the candidate is to be elected.

At any meeting held for the selection of a candidate under this subsection, a majority of the persons eligible to vote thereat shall be required to be present for the conduct of any business, and no person shall be entitled to vote at that meeting who is appointed to the State committee or county committee after the seventh day preceding the date of the meeting.

Within 20 days after the meeting of each county committee that is held on the first Tuesday following the primary election at which committee members are elected, the municipal clerk shall certify to the county clerk an official list of the duly elected county committee members and an official list of the municipal committee chairs. The county party chairperson shall have a continuing duty to report to the county clerk any vacancies, resignations, and committee positions filled pursuant to R.S.19:5-2 or 19:5-3. A report of a resignation shall be accompanied by a notarized letter of resignation signed by the resigning committee member or, if the resigning committee member fails to provide such a letter, by a notarized letter stating that the resignation has occurred signed by the chair of the relevant municipal committee who shall also provide a copy thereof to the resigning member. Notice of vacancies in the membership of a county committee that are filled pursuant to R.S.19:5-2 or 19:5-3 shall be accompanied by a certificate of acceptance signed by the newly selected member. The official list of the county committee members and of the municipal committee chairs maintained by the county clerk shall be deemed to be a government record and only those county committee members listed thereon seven days prior to a selection to fill a vacancy and otherwise qualified to vote on the vacancy shall be entitled to vote on filling a vacancy pursuant to this section.

In addition, every person appointed to the county committee shall file with the county clerk a certificate of acceptance which shall be preserved by the county clerk as a government record.

In the case of a meeting held to select a candidate for other than a Statewide office, the chairperson of the meeting shall be chosen by majority vote of the persons present and entitled to vote thereat. The chairperson so chosen may propose rules to govern the determination of credentials and the procedures under which the meeting shall be conducted, and those rules shall be adopted upon a majority vote of the persons entitled to vote upon the selection. If a majority vote is not obtained for those rules, the dele-

gates shall determine credentials and conduct the business of the meeting under such other rules as may be adopted by a majority vote. All contested votes taken at the selection meeting, as referenced in subsections a. and b. of this section, shall be by secret ballot in a location or manner that protects the anonymity of the person's vote.

b. (1) Whenever in accordance with subsection a. of this section members of two or more county committees are empowered to select a candidate to fill a vacancy, it shall be the responsibility of the chairpersons of said county committees, acting jointly not later in any case than the seventh day following the occurrence of the vacancy, to give notice to each of the members of their respective committees, as certified by the county clerk, who are so empowered of the date, time and place of the meeting at which the selection will be made, that meeting to be held at least one day following the date on which the notice is given.

(2) Whenever in accordance with the provisions of subsection a. of this section members of a county committee are empowered to select a candidate to fill a vacancy, it shall be the responsibility of the chairperson of such county committee, not later in any case than the seventh day following the occurrence of the vacancy, to give notice to each of the members of the committee, as certified by the county clerk, who are so empowered of the date, time and place of the meeting at which the selection will be made, that meeting to be held at least one day following the date on which the notice is given.

(3) A county committee chairperson or chairpersons who call a meeting pursuant to paragraph (1) or (2) of this subsection shall not be entitled to vote upon the selection of a candidate at such meeting unless he or she or they are so entitled pursuant to subsection a.

(4) Whenever in accordance with the provisions of subsection a. of this section the State committee of a political party is empowered to select a candidate to fill a vacancy, it shall be the responsibility of the chairperson of that State committee to give notice to each of the members of the committee of the date, time and place of the meeting at which the selection will be made, that meeting to be held at least one day following the date on which the notice is given.

c. Whenever a selection is to be made pursuant to this section to fill a vacancy resulting from inability to select a candidate because of a tie vote at a primary election for the general election, the selection shall be made from among those who have thus received the same number of votes at the primary.

d. A selection made pursuant to this section shall be made not later than the 48th day preceding the date of the general election, and a statement of such selection shall be filed with the Secretary of State or the appropriate county clerk, as the case may be, not later than that day, and in the following manner:

(1) A selection made by a State committee of a political party shall be certified to the Secretary of State by the State chairperson of the political party.

(2) A selection made by a county committee of a political party, or a portion of the members thereof, shall be certified to the county clerk of the county by the county chairperson of such political party; except that when such selection is of a candidate for the Senate or General Assembly or the United States House of Representatives the county chairperson shall certify the selection to the State chairperson of such political party, who shall certify the same to the Secretary of State.

(3) A selection made by members of two or more county committees of a political party acting jointly shall be certified by the chairpersons of said committees, acting jointly, to the State chairperson of such political party, who shall certify the same to the Secretary of State.

e. A statement filed pursuant to subsection d. of this section shall state the residence and post office address of the person so selected, and shall certify that the person so selected is qualified under the laws of this State to be a candidate for such office, and is a member of the political party filling the vacancy. Accompanying the statement, the person endorsed therein shall file a certificate stating that he or she is qualified under the laws of this State to be a candidate for the office mentioned in the statement, that he or she consents to stand as a candidate at the ensuing general election and that he or she is a member of the political party named in said statement, and further that he or she is not a member of, or identified with, any other political party or any political organization espousing the cause of candidates of any other political party, to which shall be annexed the oath of allegiance prescribed in R.S.41:1-1 duly taken and subscribed by him or her before an officer authorized to take oaths in this State. The person so selected shall be the candidate of the party for such office at the ensuing general election. Each candidate for the office of Governor or the office of member of the Senate or General Assembly filing a certification shall annex thereto a statement signed by the candidate that he or she:

(1) has not been convicted of any offense graded by Title 2C of the New Jersey Statutes as a crime of the first, second, third or fourth degree, or any offense in any other jurisdiction which, if committed in this State, would constitute such a crime; or

(2) has been so convicted, in which case, the candidate shall disclose on the statement the crime for which convicted, the date and place of the conviction and the penalties imposed for the conviction. Such a candidate may, as an alternative, submit with the statement a copy of an official document that provides such information. If the candidate has been convicted of more than one criminal offense, such information about each conviction shall be provided. Records expunged pursuant to chapter 52 of Title 2C of the New Jersey Statutes shall not be subject to disclosure.

6. Nothing contained in P.L.2009, c.135 shall affect the term of any county committee member serving as such on the effective date thereof.

7. This act shall take effect immediately.

Approved October 2, 2009.

CHAPTER 136

AN ACT concerning certain public contracts with private entities and supplementing Title 52 of the Revised Statutes.

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

C.52:18-42 Definitions relative to public contracts with private entities.

1. As used in this act:

"Business" means a corporation; sole proprietorship; partnership; corporation that has made an election under Subchapter S of Chapter One of Subtitle A of the Internal Revenue Code of 1986, or any other business entity through which income flows as a distributive share to its owners; limited liability company; nonprofit corporation; or any other form of business organization located either within or outside this State, but excluding any public or private institution of higher education.

"Environmental infrastructure project" means the acquisition, construction, improvement, repair or reconstruction of all or part of any structure, facility or equipment, or real or personal property necessary for or ancillary to any (1) wastewater treatment system project, including any stormwater management or combined sewer overflow abatement projects; or (2) water

supply project, as authorized pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), including any water resources project, as authorized pursuant to P.L.2003, c.162, but excluding the acquisition, construction, repair, or reconstruction of any building or other improvements to real property, or the acquisition or installation of any equipment or other personal property, that, upon completion, shall constitute a qualified employment incentive facility.

"Financial assistance" means funds made available as a grant or loan, including funds derived as proceeds from the issuance of tax-exempt bonds by the entity providing such assistance.

"Lead public agency" means the public entity designated by the State Treasurer pursuant to section 4 of this act to serve as the point of contact between a business and every State governmental entity having oversight of, or involvement in, a project for which the entity or entities are providing or will provide the business with financial assistance.

"Public entity" means the State, other than the Judicial branch of State government, any county, municipality, district, or other political subdivision thereof, and any agency, authority, or instrumentality of the foregoing, including, but not limited to, any county improvement authority and any economic development agency, authority, or other entity.

"Qualified employment incentive facility" means any building or other structure or portion of a building or other structure that, following the date on which occupation of the building or structure shall have commenced, shall be used exclusively as the premises of a project, related to the creation, relocation, or retention of jobs, that qualifies for incentives under the Business Retention and Relocation Assistance Grant Program established by section 3 of P.L.1996, c.25 (C.34:1B-114), the Business Employment Incentive Program established by section 3 of P.L.1996, c.26 (C.34:1B-126), the corporation business tax credit and insurance premium tax credit certificate transfer program established pursuant to section 17 of P.L.2004, c.65 (C.34:1B-120.2), the sales and use tax exemption certificate program established pursuant to section 20 of P.L.2004, c.65 (C.34:1B-186), the exemption of retail sales of energy and utility service to qualified businesses within an urban enterprise zone from the sales and use tax pursuant to section 23 of P.L.2004, c.65 (C.52:27H-87.1), the urban transit hub tax credit program established pursuant to section 3 of P.L.2007, c.346 (C.34:1B-209), or any other program as the State Treasurer shall deem to be of similar kind and purpose; provided, however, that such exclusive use shall continue for the minimum period of time prescribed by the applicable law or any regulation adopted pursuant thereto, or under any project agreement or

other contract executed pursuant to such law or regulation, or if no such minimum period shall be so prescribed, for a period of four years.

"Redevelopment project" means a specific work or improvement, including lands, buildings, structures, improvements, real and personal property or any interest therein, including lands under water, riparian rights, space rights and air rights, acquired, owned, cleared, graded, developed or redeveloped, constructed, reconstructed, rehabilitated or improved, undertaken by a developer, but excluding the acquisition, construction, repair, or reconstruction of any building or other improvements to real property, or the acquisition or installation of any equipment or other personal property, that, upon completion, shall constitute a qualified employment incentive facility.

"Remediation" or "remediate" means all necessary actions to investigate and clean up or respond to any known, suspected, or threatened discharge of contaminants, 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, and shall not include the acquisition, construction, repair, or reconstruction of any building or other improvements to real property, or the acquisition or installation of any equipment or other personal property, that, upon completion, shall constitute a qualified employment incentive facility.

"State governmental entity" means the Executive and Legislative branches of the State government, any agency or instrumentality of the State, including any board, bureau, commission, corporation, department, or division, any independent State authority, including, but not limited to, any economic development authority or agency, and any State institution of higher education. A county, municipality, or school district, or any agency or instrumentality thereof, shall not be deemed a State governmental entity.

C.52:18-43 Conditions for financial assistance from public entity.

2. Notwithstanding any law, rule, regulation, or order to the contrary, any business receiving any financial assistance for the cost of undertaking any redevelopment project, project involving remediation, or environmental infrastructure project pursuant to any contract with any public entity shall include in that contract, as a condition of the public entity's agreement thereto, provisions requiring that upon disbursement to the business, by or through that or any other public entity, of such financial assistance with respect to the project in an aggregate amount totaling $50 million or more:

a. With respect to the cost of the entire project, the amount that the business shall spend of funds from sources other than a public entity shall

be not less than a minimum of $1 for every $5 in financial assistance received from any public entity for expenditure on any project cited in the contract, except that this provision shall not apply if the financial assistance is provided pursuant to a statute, or subject to a rule or regulation, requiring that expenditure by the business of funds from sources other than a public entity on the project exceed one-fifth of the amount of financial assistance received from the public entity;

b. The public entity shall retain a percentage, not exceeding 10 percent of the total amount of financial assistance provided for in the contract, which retainage amount shall not be disbursed to the business until the successful completion of the project as certified by the public entity. The requirements of this subsection shall not apply if the financial assistance is provided pursuant to a statute, or subject to a rule or regulation, requiring that the public entity shall retain or place into an escrow account more than 10 percent of the amount of that financial assistance for disbursement only upon completion of the project;

c. The public entity shall review, at any time during the term of the contract, the qualifications of any subcontractor hired to perform work on the project or projects; and

d. The business shall submit payment of a performance bond which shall be in an amount equal to 110 percent of the total price of the publicly funded improvements under the project and otherwise comply with all applicable State laws, including, but not limited to the business's submission of a surety disclosure statement and certification which complies with the requirements of N.J.S.2A:44-143, except that this provision shall not apply if the financial assistance is provided pursuant to a statute, or subject to a rule or regulation, requiring that the business obtain for the performance of work on the project a bond that shall amount to more than 110 percent of the total price of those publicly funded improvements.

C.52:18-44 Filing of audited financial statements, reports.

3. a. Notwithstanding any law, rule, regulation, or order to the contrary, any business to which there is disbursed, by or through that or any other public entity, any financial assistance in an aggregate amount totaling $50 million or more, for the cost of undertaking any redevelopment project, project involving remediation, or environmental infrastructure project pursuant to one or more contracts with any public entity, shall file with the public entity and with the State Treasurer, not later than the 30th day following such disbursement, and annually thereafter for the duration of such contract or contracts, audited financial statements and reports concerning

the activities of the project or projects and of such business, including any parent or holding company of the business, as prepared by an independent certified public accountant. Such financial statements shall include, but not be limited to, a balance sheet, statement of income or loss, and statement of changes in financial position. If the financial statements are not received by the public entity by the deadlines established hereinabove, the public entity shall increase the amount of the percentage of funds retained or placed into an escrow account in accordance with the provisions of subsection b. of section 2 of this act by:

(1) five percent for any statement 120 or fewer days past the deadline;

(2) ten percent for any statement more than 120 but less than 181 days past the deadline; and

(3) 15 percent for any statement 181 or more days past the deadline.

b. The provisions of this section shall not apply to any business that is required to file such financial statements under federal law or other State law.

c. Each business reporting under this section shall disclose to the public entity on a rapid and current basis such additional information concerning material changes in the financial condition or operations of the business as the public entity determines is necessary or useful for the protection of the public interest. This information shall be expressed in plain English and, if the public entity so requires, shall include trend and qualitative information and graphic presentations.

C.52:18-45 Notification to State Treasurer of contract, designation of lead public agency.

4. If any State governmental entity enters into a contract or contracts with a business to which the provisions of section 2 of this act apply, the State governmental entity shall notify the State Treasurer of such contract and shall include the name of the project, the nature of the project-related activity for which the financial assistance is to be given, and any other information necessary for the implementation of the provisions of this act. The State Treasurer shall monitor the notifications received pursuant to the provisions of this section with respect to each project and, when the aggregate amount of financial assistance disbursed to a business with respect to a project shall equal or exceed $50 million or at any other time the State Treasurer deems it necessary, shall designate the public entity that, as of the date of such designation, shall have disbursed the greatest amount of financial assistance to the business with respect to the project under those contracts, as the lead public agency to serve as the sole point of contact be-

tween the business and every State governmental entity having any manner or degree of oversight of or involvement in the project to which that contract or contracts relates. The lead public agency shall document all State governmental entity activities associated with the project.

The lead public agency shall, upon designation, perform or cause to be performed an assessment of the degree of risk that the business will be financially unable to complete the project and, based upon the results of that assessment, require that, before further disbursements of funds from a public entity under any such contract in connection with the project, the business shall make an investment of its own funds in the project, which investment shall not be less than 10 percent of total project costs.

C.52:15C-17 Additional powers, responsibilities of State Comptroller.

5. In addition to the powers and responsibilities of the State Comptroller, prescribed in P.L.2007, c.52 (C.52:15C-1 et seq.), upon the designation, with respect to the undertaking by any business of a project, of a lead public agency pursuant to section 4 of this act, the State Comptroller is authorized to audit: a. the uses of all financial assistance that shall have been or shall thereafter be received in connection with the project by a business from a public entity pursuant to any contract to which the provisions of section 2 of this act apply; and b. the expenditure by the business, in connection with the project, of funds from sources other than a public entity, as required under the provisions of subsection a. of that section. The audit shall include, but not be limited to, the amount of financial assistance funds that were provided by the public entity to the business and how such funds were spent by the business.

C.52:15C-18 Financial assistance to be used in accordance with terms of contract.

6. Upon the designation, with respect to the undertaking of a project by any business, of a lead public agency pursuant to section 4 of this act, the State Comptroller shall require that any financial assistance received by the business from a public entity in connection with the project pursuant to any contract to which the provisions of section 2 of this act apply shall be spent in accordance with the terms of the contract.

C.52:18-46 Certification by business filing financial statement.

7. Each business filing a financial statement under section 3 of this act shall attach thereto a certification that:

a. the business officer signing the financial statement has reviewed the statement;

b. based on the officer's knowledge, the financial statement does not contain any untrue statement of a material fact or omit the statement of a material fact necessary in order to ensure that the statements made, in light of the circumstances under which such statements were made, were not misleading;

c. based on such officer's knowledge, the financial statements, and other financial information included in the report, fairly present in all material respects the financial condition and results of operations of the business as of, and for, the periods presented in the report; and

d. the signing officer:

(1) is responsible for establishing and maintaining internal controls;

(2) has designed such internal controls to ensure that material information relating to the business and its consolidated subsidiaries is made known to such business officers by others within those entities, particularly during the period in which the reports are being prepared;

(3) has evaluated the effectiveness of the business' internal controls as of a date within 90 days prior to the financial statement;

(4) has presented in the financial statement the officer's conclusions about the effectiveness of the business' internal controls based on the evaluation as of that date;

(5) has disclosed to the business' auditors and the audit committee of the board of directors or those persons fulfilling the equivalent function:

(a) all significant deficiencies in the design or operation of internal controls which could adversely affect the business' ability to record, process, summarize, and report financial data and have identified for the business' auditors any material weaknesses in internal controls; and

(b) any fraud, whether or not material, that involves management or other employees who have a significant role in the business' internal controls; and

(6) has indicated in the financial statement whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

C.52:18-47 Duties of CPA relative to preparation of audit report.

8. For any audit report for which a financial statement shall have been filed under section 3 of this act, an independent certified public accountant shall:

a. prepare, and retain for a period of not less than seven years, audit work papers, and other information related to the audit report, in sufficient detail to support the conclusions reached in the report;

b. provide a concurring or second partner review and approval of the audit report and other related information, and concurring approval in its issuance, by a qualified person associated with the public accounting firm, other than the person in charge of the audit, or by an independent reviewer;

c. describe in the audit report the scope of the auditor's testing of the internal control structure and procedures of the business, and present in such report or in a separate report:

(1) the findings of the auditor from such testing;

(2) an evaluation of whether such internal control structure and procedures:

(a) include maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the business;

(b) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the business are being made only in accordance with authorizations of management and directors of the business; and

(3) a description, at a minimum, of material weaknesses in such internal controls, and of any material noncompliance found on the basis of such testing;

d. provide a statement to the public entity that, contemporaneously with the audit:

(1) the auditor has not provided the business any non-audit service, including any bookkeeping or other services related to the accounting records or financial statements of the business;

(2) the lead or coordinating audit partner having primary responsibility for the audit, or the audit partner responsible for reviewing the audit, has not performed audit services for that business in each of the five previous fiscal years of that business;

(3) the auditor has provided a timely report to the audit committee of the business stating that:

(a) all critical accounting policies and practices were used;

(b) all alternative treatments of financial information within generally accepted accounting principles have been discussed with management officials of the business, the ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the registered public accounting firm;

(c) other material written communications between the registered public accounting firm and the management of the business, such as any management letter or schedule of unadjusted differences, were reported to the business; and

(d) concerning any audit service conducted under this section, whether a chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for the business, was employed by that registered independent public accounting firm and participated in any capacity in the audit of that business during the one-year period preceding the date of the initiation of the audit; and

e. present the financial information included in any such financial statement in a manner that:

(1) does not contain an untrue statement of a material fact or omit a material fact necessary in order to make the pro forma financial information, in light of the circumstances under which it is presented, not misleading; and

(2) reconciles it with the financial condition and results of operations of the business under generally accepted accounting principles.

C.52:18-48 Internal control report.

9. a. Each audited financial statement prepared pursuant to the provisions of section 3 of this act shall contain an internal control report, which shall:

(1) state the responsibility of management for establishing and maintaining an adequate internal control structure and procedures for financial reporting; and

(2) contain an assessment, as of the end of the most recent fiscal year of the business, of the effectiveness of the internal control structure and procedures of the business for financial reporting.

b. With respect to the internal control assessment required by subsection a. of this section, each registered public accounting firm that prepares or issues the audit report for the business shall attest to, and report on, the assessment made by the management of the business. Any such attestation shall not be the subject of a separate engagement.

C.52:18-49 Failure to adhere to requirements, refund of financial assistance.

10. a. Any business, receiving financial assistance from a public entity under a contract to which the provisions of section 2 of this act apply, that knowingly fails to submit a financial statement or report, or that makes a material misrepresentation in any application, report, or other disclosure, that the recipient business is required to make pursuant to this act shall refund the amount of financial assistance to the granting public entity or enti-

ties. The granting public entity or entities shall include provisions for the refund as part of an agreement to provide financial assistance and may pursue an action to collect the amount of the refund plus any attorney fees and other costs of the action.

b. Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any public entity in relation to any provision of this act, shall be subject to the provisions of subsection a. of this section.

C.52:15C-19 Rules, regulations.

11. The State Comptroller 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 shall be necessary to implement the provisions of this act in accordance with the purposes thereof, including, but not limited to, the establishment of guidelines for determining the scope of a project.

12. This act shall take effect immediately except that section 5 shall apply to any contract awarded during calendar year 2004 and thereafter.

Approved October 12, 2009.

CHAPTER 137

AN ACT concerning emergency supplies and supplementing P.L.1984, c.154 (C.58:16A-100 et seq.).

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

C.58:16A-102 "Emergency supplies" defined, regional directory database.

1. a. As used in this section "emergency supplies" means, but is not limited to: equipment such as vehicles, including boats; materials for road closures such as road signs, flares, cones and lights; personal protective gear; emergency food rations; and first aid materials.

b. The Office of Emergency Management shall maintain a regional directory database containing a listing of public and private entities that provide emergency supplies and which identifies emergency supplies and other resources these entities can make available during an emergency.

2. The Office of Emergency Management may adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the provisions of this act.

3. This act shall take effect immediately.

Approved October 19, 2009.

CHAPTER 138

AN ACT concerning ice and snow on motor vehicles, amending and supplementing P.L.1997, c.124, and supplementing P.L.1948, c.454 (C.27:23-1 et seq.) and P.L.1991, c.252 (C.27:25A-1 et seq.).

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

1. Section 1 of P.L.1997, c.124 (C.39:4-77.1) is amended to read as follows:

C.39:4-77.1 Snow, ice dislodged from moving vehicle causing injury, property damage; penalties; public awareness campaign, data collection system.

1. a. (1) Each driver of a motor vehicle operated on a street or highway in this State shall have an affirmative duty to make all reasonable efforts to remove accumulated ice or snow from exposed surfaces of the motor vehicle prior to operation, which surfaces shall include, but not be limited to, the hood, trunk, windshield, windows, and roof of the motor vehicle, the cab of a truck, the top of a trailer or semitrailer being drawn by a motor vehicle, and the top of an intermodal freight container being carried by an intermodal chassis. A person who violates the provisions of this subsection may be stopped on a street or highway by a law enforcement officer who believes the accumulated ice or snow may pose a threat to persons or property and shall be subject to a fine of not less than $25 or more than $75 for each offense regardless of whether any snow or ice is dislodged from the motor vehicle. 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 a violation of this paragraph. Every day upon which a violation occurs shall be considered a separate violation, but no person shall be subject to more than one fine for a violation of this paragraph in a period of 24 consecutive hours.

(2) This subsection shall not apply to any driver of a motor vehicle operated during a snow or ice storm that began and continued for the duration of the motor vehicle's operation or to any operator of a motor vehicle while it is parked.

(3) No fine shall be imposed pursuant to paragraph (1) of this subsection on the driver of a commercial motor vehicle, as the term is defined in R.S.39:1-1, that is traveling to a location where equipment or technology that is used to remove snow and ice from commercial motor vehicles is available, provided that the driver has not already passed a location with snow and ice removal equipment or technology after snow or ice shall have accumulated on the exposed surfaces of the commercial motor vehicle. In determining whether the vehicle has already passed a location with equipment or technology that is used to remove snow and ice from commercial motor vehicles, a law enforcement officer shall have the authority to inspect any documentation relating to the route traveled by the driver of the commercial motor vehicle prior to being stopped, including, but not limited to, a log book or map depicting the route traveled by the vehicle.

(4) Notwithstanding the provisions of paragraph (1) of this subsection:

(a) the person who is in physical possession of a motor vehicle at the time snow or ice accumulates on the exposed surfaces of the motor vehicle shall be responsible for removing the accumulated snow or ice from the exposed surfaces of the motor vehicle and shall be liable for a violation of the duty to remove accumulated snow or ice prior to operation of the motor vehicle pursuant to paragraph (1) of this subsection. If the driver of the motor vehicle was not in physical possession of the motor vehicle at the time the snow or ice accumulated, then such driver shall not be liable for a violation of paragraph (1) of this subsection.

(b) in the case of any trailer or semitrailer being drawn by a motor vehicle or of any vehicle or combination of vehicles carrying an intermodal freight container, the person, including, but not limited to a shipper or consignee, who is in physical possession of the trailer, semitrailer, or container at the time snow or ice accumulates on such trailer, semitrailer, or container shall be responsible for removing the accumulated snow or ice from the trailer, semitrailer, or container and shall be liable for a violation of the duty to remove accumulated snow or ice prior to operation of a motor vehicle pursuant to paragraph (1) of this subsection. If the driver of the motor vehicle was not in physical possession of the trailer, semitrailer, or container at the time the snow or ice accumulated, then such driver shall not be liable for a violation of paragraph (1) of this subsection.

b. When snow or ice is dislodged from a moving vehicle and strikes another vehicle or pedestrian causing injury or property damage, the following penalties shall apply:

The operator of a non-commercial motor vehicle shall be subject to a fine of not less than $200 or more than $1,000 for each offense.

The operator, owner, lessee, bailee or any one of the aforesaid of a commercial motor vehicle shall be subject to a fine of not less than $500 or more than $1,500 for each offense.

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 a violation of this subsection.

c. The Director of the Division of Highway Traffic Safety in the Department of Law and Public Safety shall establish a public awareness campaign that educates the public on the importance of removing snow and ice from the exposed surfaces of motor vehicles prior to the operation of such vehicles. This campaign shall educate the public on the potential dangers associated with failing to remove snow or ice from motor vehicles as well as on the penalties that may be imposed as a result of failing to remove snow or ice from a motor vehicle prior to operation.

d. The Director of the Division of Highway Traffic Safety in the Department of Law and Public Safety, in conjunction with the Division of State Police and other law enforcement agencies, shall establish and maintain a data collection system to be used to determine the number and seriousness of motor vehicle accidents caused by snow or ice becoming dislodged from motor vehicles. In its annual report to the Legislature pursuant to section 16 of P.L.1987, c.284 (C.27:5F-33), the Division of Highway Traffic Safety shall provide an analysis of the information gathered through the data collection system and any recommendations, including any proposed legislation, for reducing the number and seriousness of accidents caused by snow or ice becoming dislodged from motor vehicles.

e. All fines imposed and collected in the enforcement of this section shall be forwarded by the person to whom they are paid to the State Treasurer, who shall annually deposit those moneys in the "Motor Vehicle Snow and Ice Removal Safety Fund" established pursuant to section 2 of P.L.2009, c.138 (C.39:4-77.2).

C.39:4-77.2 "Motor Vehicle Snow and Ice Removal Safety Fund."

2. a. There is established in the General Fund a separate, nonlapsing, dedicated account to be known as the "Motor Vehicle Snow and Ice Removal Safety Fund." All fines imposed and collected as a result of enforce-

ment of section 1 of P.L.1997, c.124 (C.39:4-77.1) shall be forwarded to the State Treasurer for deposit in the Motor Vehicle Snow and Ice Removal Safety Fund account. The fund shall be administered by the Division of Highway Traffic Safety in the Department of Law and Public Safety.

b. Moneys in the account shall be used exclusively for the following purposes:

(1) To offset the costs associated with the public awareness campaign established by the Director of the Division of Highway Traffic Safety in the Department of Law and Public Safety pursuant to subsection c. of section 1 of P.L.1997, c.124 (C.39:4-77.1);

(2) To offset the costs associated with the data collection system established and maintained by the Division of Highway Traffic Safety in the Department of Law and Public Safety pursuant to subsection d. of section 1 of P.L.1997, c.124 (C.39:4-77.1); and

(3) To establish a grant program to provide incentives to encourage private companies to purchase, install, and maintain equipment and technology to be used to remove snow and ice from commercial motor vehicles, as the term is defined in R.S.39:1-1. Recipients of grants provided pursuant to this subsection shall place snow and ice removal equipment and technology at locations around the State that are convenient and easily accessible to commercial motor vehicles, including, but not limited to, service areas, weigh stations, inspection facilities, ports, terminals, and other intermodal transportation facilities.

C.27:23-49 Equipment provided by New Jersey Turnpike Authority.

3. Subject to the rights and security interests of the holders from time to time of bonds or notes heretofore or hereafter issued by the New Jersey Turnpike Authority, the authority shall purchase, install, and maintain, or enter into contracts or agreements providing for the purchase, installation, and maintenance of, equipment and technology to be used to remove snow and ice from commercial motor vehicles, as the term is defined in R.S.39:1-1, at locations along the New Jersey Turnpike and Garden State Parkway that are convenient and easily accessible to such commercial motor vehicles, including, but not limited to, service areas, weigh stations, and inspection facilities.

C.27:25A-44 Equipment provided by South Jersey Transportation Authority.

4. Subject to the rights and security interests of the holders from time to time of bonds or notes heretofore or hereafter issued by the South Jersey Transportation Authority, the authority shall purchase, install, and maintain,

or enter into contracts or agreements providing for the purchase, installation, and maintenance of, equipment and technology to be used to remove snow and ice from commercial motor vehicles, as the term is defined in R.S.39:1-1, at locations along the Atlantic City Expressway that are convenient and easily accessible to such commercial motor vehicles, including, but not limited to, service areas, weigh stations, and inspection facilities.

5. This act shall take effect on the 365th day following the date of enactment. The Director of the Division of Highway Traffic Safety in the Department of Law and Public Safety may take anticipatory action in advance of the effective date as may be necessary for the timely implementation of this act.

Approved October 19, 2009.

CHAPTER 139

AN ACT concerning prohibitions on the acts of certain sex offenders, supplementing chapter 7 of Title 2C of the New Jersey Statutes, and amending P.L.1999, c.432.

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

C.2C:7-22 Definitions relative to sex offenders.

1. As used in this act:

"Excluded sex offender" means a person who has been convicted, adjudicated delinquent or found not guilty by reason of insanity for the commission of a sex offense, as defined in subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2), which involves a victim under 18 years of age.

"Youth serving organization" means a sports team, league, athletic association or any other corporation, association or organization, excluding public and nonpublic schools, which provides recreational, educational, cultural, social, charitable or other activities or services to persons under 18 years of age.

C.2C:7-23 Sex offender prohibited from participation in youth serving organization.

2. a. Except as otherwise provided in subsection e. of this section, it shall be unlawful for an excluded sex offender to hold a position or otherwise participate, in a paid or unpaid capacity, in a youth serving organization.

b. A person who violates subsection a. of this section is guilty of a crime of the third degree.

c. A person who knowingly hires, engages or appoints an excluded sex offender to serve in a youth serving organization in violation of subsection a. of this section is guilty of a crime of the fourth degree.

d. The provisions of this act shall not apply to participation by an excluded sex offender under 18 years of age in a youth serving organization which provides rehabilitative or other services to juvenile sex offenders.

e. It shall not be a violation of subsection a. of this section for an excluded sex offender to serve in a youth serving organization if the excluded sex offender is under Parole Board supervision and the Parole Board has given express written permission for the excluded sex offender to hold a position or otherwise participate in that particular youth serving organization.

f. Nothing herein shall be construed to authorize an excluded sex offender, as defined in section 1 of P.L.2009, c.139 (C.2C:7-22), to hold a position or otherwise participate, in a paid or unpaid capacity, in a youth serving organization or any other entity from which the excluded sex offender is otherwise statutorily disqualified.

3. Section 3 of P.L.1999, c.432 (C.15A:3A-3) is amended to read as follows:

C.15A:3A-3 Conditions under which person is disqualified from service.

3. Except as provided in P.L.2009, c.139 (C.2C:7-22 et al.), a person may be disqualified from serving as an employee or volunteer of a nonprofit youth serving organization if that person's criminal history record background check reveals a record of conviction of any of the following crimes and offenses:

a. In New Jersey, any crime or disorderly persons offense:

(1) 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.;

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

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

(4) 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.

b. In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in subsection a. of this section.

c. Nothing herein shall be construed to authorize an excluded sex offender, as defined in section 1 of P.L.2009, c.139 (C.2C:7-22), to serve as an employee or volunteer in a youth serving organization or any other entity from which the excluded sex offender is otherwise statutorily disqualified.

4. This act shall take effect immediately.

Approved October 19, 2009.

CHAPTER 140

AN ACT concerning certain fiduciaries and amending N.J.S.3B:15-1, N.J.S.3B:12-16 and N.J.S.3B:12-33.

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

1. N.J.S.3B:15-1 is amended to read as follows:

Bonds of fiduciaries; exceptions.

3B:15-1. The court or surrogate appointing a fiduciary in any of the instances enumerated below shall secure faithful performance of the duties of his office by requiring the fiduciary thereby authorized to act to furnish bond to the Superior Court in a sum and with proper conditions and sureties, having due regard to the value of the estate in his charge and the extent of his authority, as the court shall approve:

a. When an appointment is made upon failure of the will, or other instrument creating or continuing a fiduciary relationship, to name a fiduciary;

b. When a person is appointed in the place of the person named as fiduciary in the will, or other instrument creating or continuing the fiduciary relationship;

c. When the office to which the person is appointed is any form of administration, except (1) administration ad litem which may be granted with or without bond; or (2) administration granted to a surviving spouse where the decedent's entire estate is payable to the surviving spouse;

d. When the office to which the person is appointed is any form of guardianship of a minor or incapacitated person, except as otherwise provided in N.J.S.3B:12-16 or N.J.S.3B:12-33 with respect to a guardian appointed by will;

e. When letters are granted to a nonresident executor, except in cases where the will provides that no security shall be required of the person named as executor therein;

f. When an additional or substituted fiduciary is appointed;

g. When an appointment is made under chapter 26 of this title, of a fiduciary for the estate or property, or any part thereof, of an absentee;

h. When a fiduciary moves from the State, the court may require him to give such security as it may determine; or

i. (1) When an appointment is made, regardless of any direction in a last will and testament relieving a personal representative, testamentary guardian or testamentary trustee or their successors from giving bond, that person shall, before receiving letters or exercising any authority or control over the property, provide bond to secure performance of his duties with respect to property to which a developmentally disabled person as defined in section 3 of P.L.1985, c.145 (C.30:6D-25) is, or shall be entitled, if:

(a) the testator has identified that a devisee or beneficiary of property of the decedent's estate is such a developmentally disabled person; or

(b) the person seeking appointment has actual knowledge that a devisee or beneficiary of property of the decedent's estate is such a developmentally disabled person.

(2) No bond shall be required pursuant to paragraph (1) of this subsection if:

(a) the court has appointed another person as guardian of the person or guardian of the estate for the developmentally disabled person;

(b) the person seeking the appointment is a family member within the third degree of consanguinity of the developmentally disabled person; or

(c) the total value of the real and personal assets of the estate or trust does not exceed $25,000.

(3) A personal representative, testamentary guardian or testamentary trustee who is required to provide bond pursuant to paragraph (1) of this subsection shall file with the Superior Court an initial inventory and a final accounting of the estate in his charge containing a true account of all assets of the estate. Such person shall file an interim accounting every five years, or a lesser period of time if so ordered by the Superior Court, in the case of an extended estate or trust administration. A copy of the accountings shall be served on the Public Advocate. The Public Advocate, on behalf of the

developmentally disabled person or that person's estate, may file exceptions and objections to interim or final accountings and may initiate an action to compel the person to file an accounting of the trust or estate.

(4) A personal representative, testamentary guardian or testamentary trustee who is required to provide bond pursuant to paragraph (1) of this subsection may make application to the court to waive the bond or reduce the amount of bond for good cause shown, including the need to preserve assets of the estate.

This subsection shall not apply to qualified financial institutions pursuant to section 30 of P.L.1948, c.67 (C.17:9A-30) or to non-profit community trusts organized pursuant to P.L.1985, c.424 (C.3B:11-19 et seq.).

Nothing contained in this section shall be construed to require a bond in any case where it is specifically provided by law that a bond need not be required.

2. N.J.S.3B:12-16 is amended to read as follows:

Bond of testamentary guardian.

3B:12-16. Bond of testamentary guardian.

Before receiving his letters, a testamentary guardian of a minor shall give bond in accordance with N.J.S.3B:15-1 et seq., unless the guardian is relieved from doing so by direction of the will of the parent appointing the guardian or by order of the court. However, regardless of the direction, the guardian shall, with respect to property to which the ward is or shall be entitled from any source, other than the parent or other than any policy of life insurance upon the life of the parent, give bond in accordance with that section before exercising any authority or control over the property.

The provisions of this section relieving a testamentary guardian of a minor from giving bond by direction of the will of the parent shall not apply to a testamentary guardian of a minor with a developmental disability. Such guardian shall be bonded pursuant to paragraph (1) of subsection i. of N.J.S.3B:15-1, unless the guardian is relieved from doing so pursuant to paragraph (2) of subsection i. of N.J.S.3B:15-1.

3. N.J.S.3B:12-33 is amended to read as follows:

Bond of testamentary guardian.

3B:12-33. Bond of testamentary guardian.

Before receiving his letters, a testamentary guardian of an incapacitated person shall give bond in accordance with N.J.S.3B:15-1 unless the guardian

is relieved from doing so by direction of the will of the parent, spouse or domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3) appointing the guardian. However, regardless of any direction, the guardian shall, with respect to property to which the ward is or shall be entitled from any source, other than the parent, spouse or domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3) or other than any policy of life insurance upon the life of the parent, spouse or domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), give bond in accordance with that section before exercising any authority or control over that property.

The provisions of this section relieving a testamentary guardian of an incapacitated person from giving bond by direction of the will of the parent, spouse or domestic partner shall not apply to a testamentary guardian of a minor with a developmental disability. Such guardian shall be bonded pursuant to paragraph (1) of subsection i. of N.J.S.3B:15-1, unless the guardian is relieved from doing so pursuant to paragraph (2) of subsection i. of N.J.S.3B:15-1.

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

Approved October 19, 2009.

CHAPTER 141

AN ACT concerning public service on municipal authorities, boards, and commissions, supplementing chapter 9 of Title 40A of the New Jersey Statutes and amending P.L.1979, c.302.

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

C.40A:9-9.1 Oath of office administered.

1. a. Notwithstanding the provisions of R.S.41:2-1, concerning persons authorized to administer oaths and affirmations, the chairperson of an authority, board or commission of a municipality may administer an oath of office to any person appointed to that authority, board or commission.

b. In addition to the oath of office required by R.S.41:1-3, and in addition to any other oath that may be specially prescribed, every new appointee to an authority, board or commission shall be sworn in by the chairperson of their respective authority, board or commission, or by another person authorized by law to administer oaths.

C.40A:9-9.2 Directory of local authorities, boards, commissions.

2. a. (1) The clerk of the municipality, or other official designated by the governing body, shall compile and maintain, on an ongoing basis, a directory of local authorities, boards and commissions.

(2) The directory shall include at least the following information for every authority, board and commission:

(a) the name of the authority, board, or commission;

(b) the number of members or positions;

(c) a list of currently appointed members, along with their terms of office;

(d) vacancies;

(e) general frequency of meetings; and

(f) the appointing authority and the enabling statute, ordinance, or resolution, if any.

b. (1) Any person interested in service on a municipal authority, board or commission shall file a one-page form with the clerk of the municipality expressing interest in public service.

(2) The form shall be in substantially the following form however, a municipality may require the submission of additional information:

Citizen Leadership Form

I, , hereby apply to perform public service on the following municipal authorities, boards or commissions:

a)
b)
c)

1. Name:
2. Address of Residence:
3. Phone Number:
4. E-mail Address:
5. Education, prior volunteer or work related experience, or other civic involvement which could be of use to authorities, boards or commissions:

(3) Address, phone number and email address shall be deemed confidential for the purposes of P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.).

3. Section 1 of P.L.1979, c.302 (C.40A:9-12.1) is amended to read as follows:

C.40A:9-12.1 Vacancy deemed on resignation, incapacity, death, residence, absence, or removal; filling unexpired term.

1. The office of any person appointed to a specified term, with or without compensation, by the governing body or chief executive of any local unit, including persons appointed to any board, committee, commission, authority or other agency of one or more local units, shall be deemed vacant:

a. Upon its being so declared by judicial determination;

b. Upon the filing by such officer of his written resignation;

c. Upon the refusal of a person designated for appointment to such office to qualify or serve;

d. Upon the determination of the appointing authority that such officer shall have become physically or mentally incapable of serving;

e. Upon the death of such officer;

f. Upon the determination of the appointing authority that, in violation of a lawful residency requirement, such officer no longer resides within the corporate limits of the local unit or other designated territorial area;

g. In the case of a member of a board, committee, commission, authority or other agency, whenever the member, without being excused by a majority of the authorized members of such body, fails to attend and participate at meetings of such body for a period of 8 consecutive weeks, or for four consecutive regular meetings, whichever shall be of longer duration, at the conclusion of such period, provided that such body shall notify the appointing authority in writing of such determination; provided, further, that such board, committee, commission, authority or other agency may refuse to excuse only with respect to those failures to attend and participate which are not due to legitimate illness; provided, however, that nothing in this subsection shall preclude a municipal appointing authority from adopting by ordinance a policy establishing a lower absentee threshold, provided that the ordinance shall not permit the removal of the member if the member has been absent for less than six consecutive weeks, or three consecutive meetings, whichever shall be of longer duration, without being excused, within the term of office for the position held by the individual;

h. Upon the removal of such officer for cause in accordance with law, or for any other reason prescribed by law.

Whenever any of the above shall occur the appointing authority shall forthwith fill the office for the unexpired term in the manner prescribed by law; provided, however, that in the case of a person failing to qualify or

refusing to serve pursuant to subsection c., such office shall not be deemed vacant, if the incumbent officeholder is authorized by law to continue in such office until a successor is appointed and qualifies therefor.

4. This act shall take effect immediately.

Approved October 19, 2009.

CHAPTER 142

AN ACT concerning interception of computer trespasser communications and supplementing Title 2A of New Jersey Statutes.

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

C.2A:156A-4.1 Interception of wire, electronic communications, certain; permitted.

1. a. It shall not be a violation of any provision of P.L.1968, c.409 (C.2A:156A-1 et seq.) for a person acting under color of law to intercept the wire or electronic communications of a suspected computer trespasser transmitted to, through, or from a computer or any other device with Internet capability, if:

(1) the owner or operator of the computer or other device authorizes the interception of the computer trespasser's wire or electronic communications on the computer;

(2) the person acting under color of law is lawfully engaged in an investigation;

(3) the person acting under color of law has reasonable grounds to believe that the contents of the computer trespasser's wire or electronic communications will be relevant to the investigation; and

(4) such interception does not acquire communications other than those transmitted to or from the computer trespasser.

b. For purposes of this section, "computer trespasser" means a person who accesses a computer or any other device with Internet capability without authorization and thus has no reasonable expectation of privacy in any communication transmitted to, through, or from the computer or other device. The term "computer trespasser" does not include a person known by the owner or operator of the computer or other device with Internet capability to have an existing contractual relationship with the owner or operator

of the computer or other device for access to all or part of the computer or other device.

c. Any aggrieved person in any trial, hearing, or proceeding in or before any court or other authority of this State may move to suppress the contents of any wire or electronic communication intercepted in accordance with subsection a. of this section, or evidence derived therefrom, on the grounds that the communication was unlawfully intercepted or the interception was not made in conformity with the provisions of this section. The motion shall be made at least 10 days before the trial, hearing, or proceeding unless there was no opportunity to make the motion or the moving party was not aware of the grounds for the motion. Motions by coindictees are to be heard in a single consolidated hearing. The court, upon the filing of such motion by the aggrieved person, shall make available to the aggrieved person or his counsel for inspection such portions of the intercepted communication, or evidence derived therefrom, as the court determines to be in the interests of justice. If the motion is granted, the entire contents of all intercepted wire or electronic communications obtained during or after any interception which is determined to be in violation of P.L.1968, c.409 (C.2A:156A-1 et seq.) or evidence derived therefrom, shall not be received in evidence in the trial, hearing or proceeding.

In addition to any other right to appeal, the State shall have the right to appeal from an order granting a motion to suppress upon certification to the court that the appeal is not taken for purposes of delay. The appeal shall be taken within the time specified by the Rules of Court and shall be diligently prosecuted.

2. This act shall take effect immediately.

Approved October 19, 2009.

CHAPTER 143

AN ACT concerning Computer Crime Prevention Fund surcharges, amending P.L.1979, c.396 and P.L.1991, c.329 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:43-3.8 Offenses involving computer criminal activities; penalties; "Computer Crime Prevention Fund."

1. a. In addition to any 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 can be ordered for an adjudication of delinquency, every person convicted of or adjudicated delinquent for a violation of subparagraph (b) of paragraph (5) of subsection b. of N.J.S.2C:24-4, N.J.S.2C:34-3, or an offense involving computer criminal activity in violation of any provision of chapter 20 of this title shall be assessed for each such offense a penalty fixed at:

(a) $2,000 in the case of a crime of the first degree;

(b) $1,000 in the case of a crime of the second degree;

(c) $750 in the case of a crime of the third degree;

(d) $500 in the case of a crime of the fourth degree;

(e) $250 in the case of a disorderly persons or petty disorderly persons offense.

b. All penalties provided for in this section shall be collected as provided for collection of fines and restitutions in section 3 of P.L.1979, c.396 (C.2C:46-4), and shall be forwarded to the Department of the Treasury as provided in subsection c. of this section.

c. All moneys collected pursuant to this section shall be forwarded to the Department of the Treasury to be deposited in a nonlapsing revolving fund to be known as the "Computer Crime Prevention Fund." Moneys in the fund shall be appropriated by the Legislature to the Department of Law and Public Safety on an annual basis for the purposes of investigating and prosecuting computer-related crime, and funding continuing educational programs on high technology crimes and the 24-hour toll-free computer crime hotline telephone service established pursuant to section 3 of P.L.1998, c.134 (C.52:17B-193) and publicizing thereof, as well as other programs designed to enhance public awareness of computer-related crime, including but not limited to use of the Internet to facilitate sexual predatory acts, cyber-stalking and cyberbullying, online child pornography, threats of violence in schools or other institutions, Internet fraud, and unauthorized intrusions into computer systems.

d. There is created in the Department of Treasury a non-lapsing fund entitled the "Computer Crime Prevention Fund." The fund shall be the depository for assessments collected pursuant to subsection a. of this section, to be appropriated and used in accordance with the purposes set forth in subsection c. of this section.

2. Section 3 of P.L.1979, c.396 (C.2C:46-4) is amended to read as follows:

C.2C:46-4 Fines, assessments, penalties, restitution; collection; disposition.

3. a. All fines, assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), all penalties imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5), all penalties imposed pursuant to section 11 of P.L.2001, c.81 (C.2C:43-3.6), all penalties imposed pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10), all penalties imposed pursuant to section 1 of P.L.2009, c.143 (C.2C:43-3.8) and restitution shall be collected as follows:

(1) All fines, assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), all penalties imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5), all penalties imposed pursuant to section 11 of P.L.2001, c.81 (C.2C:43-3.6), all penalties imposed pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10), all penalties imposed pursuant to section 1 of P.L.2009, c.143 (C.2C:43-3.8) and restitution imposed by the Superior Court or otherwise imposed at the county level, shall be collected by the county probation division except when such fine, assessment or restitution is imposed in conjunction with a custodial sentence to a State correctional facility or in conjunction with a term of incarceration imposed pursuant to section 25 of P.L.1982, c.77 (C.2A:4A-44) in which event such fine, assessment or restitution shall be collected by the Department of Corrections or the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170). An adult prisoner of a State correctional institution or a juvenile serving a term of incarceration imposed pursuant to section 25 of P.L.1982, c.77 (C.2A:4A-44) who has not paid an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5), a penalty imposed pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10), a penalty imposed pursuant to section 1 of P.L.2009, c.143 (C.2C:43-3.8) or restitution shall have the assessment, penalty, fine or restitution deducted from any income the inmate receives as a result of labor performed at the institution or on any type of work release program or, pursuant to regulations promulgated by the Commissioner of the Department of Corrections or the Juvenile Justice Commission, from any personal account established in the institution for the benefit of the inmate.

(2) All fines, assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), any penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5) and restitution imposed by a municipal court

shall be collected by the municipal court administrator except if such fine, assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), or restitution is ordered as a condition of probation in which event it shall be collected by the county probation division.

b. Except as provided in subsection c. with respect to fines imposed on appeals following convictions in municipal courts and except as provided in subsection i. with respect to restitution imposed under the provisions of P.L.1997, c.253 (C.2C:43-3.4 et al.), all fines imposed by the Superior Court or otherwise imposed at the county level, shall be paid over by the officer entitled to collect same to:

(1) The county treasurer with respect to fines imposed on defendants who are sentenced to and serve a custodial term, including a term as a condition of probation, in the county jail, workhouse or penitentiary except where such county sentence is served concurrently with a sentence to a State institution; or

(2) The State Treasurer with respect to all other fines.

c. All fines imposed by municipal courts, except a central municipal court established pursuant to N.J.S.2B:12-1 on defendants convicted of crimes, disorderly persons offenses and petty disorderly persons offenses, and all fines imposed following conviction on appeal therefrom, and all forfeitures of bail shall be paid over by the officer entitled to collect same to the treasury of the municipality wherein the municipal court is located.

In the case of an intermunicipal court, fines shall be paid into the municipal treasury of the municipality in which the offense was committed, and costs, fees, and forfeitures of bail shall be apportioned among the several municipalities to which the court's jurisdiction extends according to the ratios of the municipalities' contributions to the total expense of maintaining the court.

In the case of a central municipal court, established by a county pursuant to N.J.S.2B:12-1, all costs, fines, fees and forfeitures of bail shall be paid into the county treasury of the county where the central municipal court is located.

d. All assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) shall be forwarded and deposited as provided in that section.

e. All mandatory Drug Enforcement and Demand Reduction penalties imposed pursuant to N.J.S.2C:35-15 shall be forwarded and deposited as provided for in that section.

f. All forensic laboratory fees assessed pursuant to N.J.S.2C:35-20 shall be forwarded and deposited as provided for in that section.

g. All restitution ordered to be paid to the Victims of Crime Compensation Agency pursuant to N.J.S.2C:44-2 shall be forwarded to the agency for deposit in the Victims of Crime Compensation Agency Account.

h. All assessments imposed pursuant to section 11 of P.L.1993, c.220 (C.2C:43-3.2) shall be forwarded and deposited as provided in that section.

i. All restitution imposed on defendants under the provisions of P.L.1997, c.253 (C.2C:43-3.4 et al.) for costs incurred by a law enforcement entity in extraditing the defendant from another jurisdiction shall be paid over by the officer entitled to collect same to the law enforcement entities which participated in the extradition of the defendant.

j. All penalties imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5) shall be forwarded and deposited as provided in that section.

k. All penalties imposed pursuant to section 11 of P.L.2001, c.81 (C.2C:43-3.6) shall be forwarded and deposited as provided in that section.

l. All mandatory penalties imposed pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10) shall be forwarded and deposited as provided in that section.

m. All mandatory Computer Crime Prevention penalties imposed pursuant to section 1 of P.L.2009, c.143 (C.2C:43-3.8) shall be forwarded and deposited as provided in that section.

3. Section 13 of P.L.1991, c.329 (C.2C:46-4.1) is amended to read as follows:

C.2C:46-4.1 Application of moneys collected; priority.

13. Moneys that are collected in satisfaction of any assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), or in satisfaction of restitution or fines imposed in accordance with the provisions of Title 2C of the New Jersey Statutes or with the provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), shall be applied in the following order:

a. first, in satisfaction of all assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1);

b. second, except as provided in subsection f. of this section, in satisfaction of any restitution ordered;

c. third, in satisfaction of all assessments imposed pursuant to section 11 of P.L.1993, c.220 (C.2C:43-3.2);

d. fourth, in satisfaction of any forensic laboratory fee assessed pursuant to N.J.S.2C:35-20;

e. fifth, in satisfaction of any mandatory Drug Enforcement and Demand Reduction penalty assessed pursuant to N.J.S.2C:35-15;

f. sixth, in satisfaction of any anti-drug profiteering penalty imposed pursuant to N.J.S.2C:35A-1 et seq.;

g. seventh, in satisfaction of any anti-money laundering profiteering penalty imposed pursuant to section 9 of P.L.1999, c.25 (C.2C:21-27.2);

h. eighth, in satisfaction of restitution for any extradition costs imposed pursuant to section 4 of P.L.1997, c.253 (C.2C:43-3.4);

i. ninth, in satisfaction of any penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5);

j. tenth, in satisfaction of any penalty imposed pursuant to section 11 of P.L.2001, c.81 (C.2C:43-3.6);

k. eleventh, in satisfaction of the mandatory penalty imposed pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10);

l. twelfth, in satisfaction of any mandatory Computer Crime Prevention penalty assessed pursuant to section 1 of P.L.2009, c.143 (C.2C:43-3.8); and

m. in satisfaction of any fine.

4. This act shall take effect immediately.

Approved October 19, 2009.

CHAPTER 144

AN ACT concerning employer contributions to the unemployment compensation fund and amending R.S.43:21-7.

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

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

Contributions.

43:21-7. Contributions. Employers other than governmental entities, whose benefit financing provisions are set forth in section 4 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations liable for payment in lieu of contributions on the basis set forth in section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the unemployment compensation fund, contributions as set forth in subsections (a), (b) and (c) hereof,

and the provisions of subsections (d) and (e) shall be applicable to all employers, consistent with the provisions of the "unemployment compensation law" and the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et 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 and Workforce Development on or before September 1 of the preceding year and shall be, 28 times the Statewide average weekly remuneration paid to workers by employers, as determined under R.S.43:21-3(c), raised to the next higher multiple of $100.00 if not already a multiple thereof, provided that if the amount of wages so determined for a calendar year is less than the amount similarly determined for the preceding year, the greater amount will be used; provided, further, that if the amount of such wages so determined does not equal or exceed the amount of wages as defined in subsection (b) of section 3306 of the 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.

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.

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

if the reserve balance in its account is positive, its assigned rate shall be the highest rate in effect for positive balance accounts for that period, or 5.4%, whichever is higher, and

if the reserve balance in its account is negative, its assigned rate shall be the highest rate in effect for deficit accounts for that period.

(ii) If, following the purchase of a corporation with little or no activity, known as a corporate shell, the resulting employing unit operates a new or different business activity, the employing unit shall be assigned a new employer rate.

(iii) Entities operating under common ownership, management or control, when the operation of the entities is not identifiable, distinguishable and severable, shall be considered a single employer for the purposes of this chapter (R.S.43:21-1 et seq.).

(D) The contribution rates prescribed by subparagraphs (A) and (B) of this paragraph (4) shall be increased or decreased in accordance with the

provisions of paragraph (5) of this subsection (c) for experience rating periods through June 30, 1986.

(5) (A) Unemployment Trust Fund Reserve Ratio. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 4% but is less than 7% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by 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 cal-

culation based upon benefit experience, shall be reduced by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 12 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by 6/10 of 1% if his account for all past periods reflects an excess of contributions paid over total benefits charged of 3% or more of his average annual payroll, otherwise by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%.

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

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

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

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

(iii) (Deleted by amendment, P.L.2003, c.107).

(iv) (Deleted by amendment, P.L.2004, c.45).

(v) (Deleted by amendment, P.L.2008, c.17).

(vi) With respect to experience rating years beginning on or after July 1, 2004, 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]	1.40% and Over A	1.00% to 1.39% B	0.75% to 0.99% C	0.50% to 0.74% D	0.49% 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).

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

(ii) (Deleted by amendment, P.L.2008, c.17).

(iii) With respect to experience rating years beginning on or after July 1, 2004, if the fund reserve ratio, based on the fund balance as of the prior March 31, is less than 0.50%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(G) On or after January 1, 1993, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by 0.1%, except that, during any experience rating year starting before January 1, 1998 in which the fund reserve ratio is equal to or greater than 7.00% or during any experience rating year starting on or after January 1, 1998, in which the fund reserve ratio is equal to or greater than 3.5%, there shall be no decrease pursuant to this subparagraph (G) in the contribution of any employer who has a deficit reserve ratio of negative 35.00% or under.

(H) On and after January 1, 1998 until December 31, 2000 and on or after January 1, 2002 until June 30, 2006, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor, as set out below, computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%:

From January 1, 1998 until December 31, 1998, a factor of 12%;
From January 1, 1999 until December 31, 1999, a factor of 10%;
From January 1, 2000 until December 31, 2000, a factor of 7%;
From January 1, 2002 until March 31, 2002, a factor of 36%;
From April 1, 2002 until June 30, 2002, a factor of 85%;
From July 1, 2002 until June 30, 2003, a factor of 15%;
From July 1, 2003 until June 30, 2004, a factor of 15%;
From July 1, 2004 until June 30, 2005, a factor of 7%;
From July 1, 2005 until December 31, 2005, a factor of 16%; and
From January 1, 2006 until June 30, 2006, a factor of 34%.

The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursu-

ant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

(I) (Deleted by amendment, P.L.2008, c.17).

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

(K) With respect to experience rating years beginning on or after July 1, 2009, if the fund reserve ratio, based on the fund balance as of the prior March 31, is:

(1) Equal to or greater than 5.00% but less than 7.5%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be reduced by a factor of 25% computed to the nearest multiple of 1/10% if not already a multiple thereof except that there shall be no decrease pursuant to this subparagraph (K) in the contribution of any employer who has a deficit reserve ratio of 35.00% or under.

(2) Equal to or greater than 7.5% but less than 10.0%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be reduced by a factor of 50% computed to the nearest multiple of 1/10% if not already a multiple thereof except that there shall be no decrease pursuant to this subparagraph (K) in the contribution of any employer who has a deficit reserve ratio of 35.00% or under.

(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 con-

tribution so made, except that, following a transfer as described under R.S.43:21-7(c)(7)(D), neither the predecessor nor successor in interest shall be eligible to make a voluntary payment of additional contributions during the year the transfer occurs and the next full calendar year. Any such additional contribution shall be made during the 30-day period following the 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, liable for a penalty of 5% thereof or $5.00, whichever is greater, not to exceed $50.00. Any adjustment under this subsection shall be made only in the form of credits against accrued or future contributions.

(7) Transfers.

(A) Upon the transfer of the organization, trade or business, or substantially all the assets of an employer to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, the controller shall transfer the employment experience of the predecessor employer to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer, pursuant to regulation, if it is determined that the employment experience of the predecessor employer with respect to the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. The successor in interest may, within four months of the date of such transfer of the organization, trade, assets or business, or thereafter upon good cause shown, request a reconsideration of the transfer of employment experience of the predecessor employer. The request for reconsideration shall demonstrate, to the satisfaction of the controller, that the employment experience of the predecessor is not indicative of the future employment experience of the successor.

(B) An employer who transfers part of his or its organization, trade, assets or business to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, may jointly make application with such successor in interest for transfer of that portion of the employment experience of the predecessor employer relating to the portion of the or-

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

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

(D) If an employer transfers in whole or in part his or its organization, trade, assets or business to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise and both the employer and successor in interest are at the time of the transfer under common ownership, management or control, then the employment experience attributable to the transferred business shall also be transferred to and combined with the employment experience of the successor in interest. The transfer of the employment experience is mandatory and not subject to appeal or protest.

(E) The transfer of part of an employer's employment experience to a successor in interest shall become effective as of the first day of the calendar quarter following the acquisition by the successor in interest. As of the effective date, the successor in interest shall have its employer rate recalculated by merging its existing employment experience, if any, with the employment experience acquired. If the successor in interest is not an employer as of the date of acquisition, it shall be assigned the new employer rate until the effective date of the transfer of employment experience.

(F) Upon the transfer in whole or in part of the organization, trade, assets or business to a successor in interest, the employment experience shall not be transferred if the successor in interest is not an employer at the time of the acquisition and the controller finds that the successor in interest ac-

quired the business solely or primarily for the purpose of obtaining a lower rate of contributions.

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

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

(B) Effective January 1, 1978 there shall be no contributions by workers in the employ of any governmental or nongovernmental employer electing or required to make payments in lieu of contributions unless the employer is covered by the State plan under the "Temporary Disability Benefits Law" (C.43:21-25 et 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" or while the worker is exempt under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that such contributions shall be at the rate of 0.625% of wages paid with respect to em-

ployment 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 con-

tributions 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 em-

ployer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 2002 until June 30, 2004, contribute to the unemployment compensation fund 0.1825% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or a nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.0825% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on and after July 1, 2004, contribute to the unemployment compensation fund 0.3825% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.0825% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

(E) Each employer shall, notwithstanding any provision of law in this State to the contrary, withhold in trust the amount of his workers' contributions from their wages at the time such wages are paid, shall show such deduction on his payroll records, shall furnish such evidence thereof to his workers as the division or controller may prescribe, and shall transmit all such contributions, in addition to his own contributions, to the office of the controller in such manner and at such times as may be prescribed. If any employer fails to deduct the contributions of any of his workers at the time their wages are paid, or fails to make a deduction therefor at the time wages

are paid for the next succeeding payroll period, he alone shall thereafter be liable for such contributions, and for the purpose of R.S.43:21-14, such contributions shall be treated as employer's contributions required from him.

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

(G)(i) Each worker shall, starting on July 1, 1994, contribute to the State disability benefits fund an amount equal to 0.50% of wages paid with respect to the worker's employment with a government employer electing or required to pay contributions to the State disability benefits fund or 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.

(ii) Each worker shall contribute to the State disability benefits fund, in addition to any amount contributed pursuant to subparagraph (i) of this paragraph (1)(G), an amount equal to, during calendar year 2009, 0.09%, and during calendar year 2010 and each subsequent calendar year, 0.12%, of wages paid with respect to the worker's employment with any covered employer, including a governmental employer which is an employer as defined under R.S.43:21-19(h)(5), unless the employer is covered by an approved private disability plan for benefits during periods of family temporary disability leave. The contributions made pursuant to this subparagraph (ii) to the State disability benefits fund shall be deposited into an account of that fund reserved for the payment of benefits during periods of family temporary disability leave as defined in section 3 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the administration of those payments and shall not be used for any other purpose. This account shall be known as the "Family Temporary Disability Leave Account." Necessary administrative costs shall include the cost of an outreach program to inform employees of the availability of the benefits and the cost of issuing the reports required or permitted pursuant to section 13 of P.L.2008, c.17 (C.43:21-39.4). No monies, other than the funds in the "Family Temporary Disability Leave Account," shall be used for the payment of benefits during periods of family temporary disability leave or for the administration of those payments, with the sole exception that, during calendar years 2008 and 2009, a total amount not exceeding $25 million may be transferred to that account from the revenues received in the State

disability benefits fund pursuant to subparagraph (i) of this paragraph (1)(G) and be expended for those payments and their administration, including the administration of the collection of contributions made pursuant to this subparagraph (ii) and any other necessary administrative costs. Any amount transferred to the account pursuant to this subparagraph (ii) shall be repaid during a period beginning not later than January 1, 2011 and ending not later than December 31, 2015. No monies, other than the funds in the "Family Temporary Disability Leave Account," shall be used under any circumstances after December 31, 2009, for the payment of benefits during periods of family temporary disability leave or for the administration of those payments, including for the administration of the collection of contributions made pursuant to this subparagraph (ii).

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

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

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

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

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

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

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

(3) If an employee receives wages from more than one employer during any calendar year, and either the sum of his contributions deposited in and credited to the State disability benefits fund plus the amount of his contributions, if any, required towards the costs of benefits under one or more approved private plans under the provisions of section 9 of the "Temporary Disability Benefits Law" (C.43:21-33) and deducted from his wages, or the sum of such latter contributions, if the employee is covered during such calendar year only by two or more private plans, exceeds an amount equal to 1/2 of 1% of the "wages" determined in accordance with the provisions of R.S.43:21-7(b)(3) during the calendar years beginning on or after January 1, 1976, the employee shall be entitled to a refund of the excess if he makes a claim to the controller within two years after the end of the calendar year in which the wages are received with respect to which the refund is claimed and establishes his right to such refund. Such refund shall be made by the controller from the State disability benefits fund. No interest shall be allowed or paid with respect to any such refund. The controller shall, in accordance with prescribed regulations, determine the portion of the aggregate amount of such refunds made during any calendar year which is applicable to private plans for which deductions were made under section 9 of the "Temporary Disability Benefits Law" (C.43:21-33) such determination to be based upon the ratio of the amount of such wages exempt from con-

tributions 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 al.) 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 al.), or to cease to be an employer subject to this chapter (R.S.43:21-1 et al.), 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 em-

ployer 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 al.);

(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.

(F) Notwithstanding any other provisions of this subsection (e), the rate of contribution paid to the State disability benefits fund by each covered employer as defined in paragraph (1) of subsection (a) of section 3 of P.L.1948, c.110 (C.43:21-27), shall be determined as if:

(i) No disability benefits have been paid with respect to periods of family temporary disability leave;

(ii) No worker paid any contributions to the State disability benefits fund pursuant to paragraph (1)(G)(ii) of subsection (d) of this section; and

(iii) No amounts were transferred from the State disability benefits fund to the "Family Temporary Disability Leave Account" pursuant to paragraph (1)(G)(ii) of subsection (d) of this section.

2. This act shall take effect immediately.

Approved November 20, 2009.

CHAPTER 145

AN ACT concerning loan redemption for primary care practitioners, amending and supplementing N.J.S.18A:71C-32 et seq., and repealing N.J.S.18A:71C-45.

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

1. N.J.S.18A:71C-32 is amended to read as follows:

Definitions.

18A:71C-32. As used in N.J.S.18A:71C-32 through N.J.S.18A:71C-48:

"Approved site" means a site located within a State designated underserved area or a health professional shortage area, or a clinic which is part of the extramural network of dental clinics established by the New Jersey Dental School of the University of Medicine and Dentistry of New Jersey, or a site that has been determined by the Higher Education Student Assistance Authority, in consultation with the Department of Health and Senior Services, to serve medically underserved populations according to criteria determined by the authority, including, but not limited to, the percentage of medically underserved patients served.

"Authority" means the Higher Education Student Assistance Authority.

"Eligible qualifying loan expenses" means the cumulative outstanding balance of student loans covering the cost of attendance at an undergraduate institution of medical, dental, or other primary care professional education at the time an applicant is selected for the program. Interest paid or due on qualifying loans that an applicant has taken out for use in paying the costs of undergraduate medical, dental, or other primary care professional education shall be considered eligible for reimbursement under the program. The authority may establish a limit on the total amount of qualifying loans which may be redeemed for participants under the program, provided that the total redemption of qualifying loans does not exceed $120,000, or the maximum amount authorized by the federal government, whichever is greater, either in State funds or the sum of federal, State, and other non-federal matching funds, pursuant to section 338I of the Public Health Service Act (42 U.S.C.s.254q-1), whichever is applicable.

"Executive director" means the executive director of the Higher Education Student Assistance Authority.

"Health professional shortage area" (HPSA) means an urban or rural area, a population group or a public or non-profit private medical or dental facility or other public facility which the Secretary of Health and Human Services determines has a health professional shortage pursuant to section 332 of the Public Health Service Act (42 U.S.C. s.254e).

"Primary care" means the practice of family medicine, general internal medicine, general pediatrics, general obstetrics, gynecology, pediatric den-

tistry, general dentistry, public health dentistry, and any other areas of medicine or dentistry which the Commissioner of Health and Senior Services may define as primary care. Primary care also includes the practice of a nurse-practitioner, certified nurse-midwife, and physician assistant.

"Primary care practitioner" means a State-licensed or certified health care professional who has obtained a degree in allopathic or osteopathic medicine, dentistry, or another primary care profession at an undergraduate institution of medical, dental, or other primary care professional education, as applicable.

"Program" means the Primary Care Practitioner Loan Redemption Program established pursuant to N.J.S.18A:71C-33.

"Program participant" means a primary care practitioner who contracts with the authority to engage in the clinical practice of primary care at an approved site in exchange for the redemption of eligible qualifying loan expenses provided under the program.

"Qualifying loan" means a government or commercial loan for the actual costs paid for tuition and reasonable education and living expenses relating to the obtaining of a degree in allopathic or osteopathic medicine, dentistry, or another primary care profession.

"State designated underserved area" means a geographic area in this State which has been ranked by the Commissioner of Health and Senior Services on the basis of health status and economic indicators as reflecting a medical or dental health professional shortage.

"Total and permanent disability" means a physical or mental disability that is expected to continue indefinitely or result in death and renders a participant in the program unable to perform that person's service obligation, as determined by the executive director or his designee.

"Undergraduate medical, dental, or other primary care professional education" means the period of time between entry into medical school, dental school, or other primary care professional training program and the award of a degree in allopathic or osteopathic medicine, dentistry, or another primary care profession, respectively.

2. N.J.S.18A:71C-33 is amended to read as follows:

Primary care practitioner loan redemption program established.

18A:71C-33. There is established a Primary Care Practitioner Loan Redemption Program within the Higher Education Student Assistance Authority. The program shall provide for the redemption of a portion of the eligible qualifying loan expenses of program participants for each year of service at an approved site.

3. N.J.S.18A:71C-34 is amended to read as follows:

Eligibility for participation in program.

18A:71C-34. To be eligible to participate in the program, an applicant shall:

a. be a resident of the State;

b. be a primary care practitioner; and

c. (Deleted by amendment, P.L.2009, c.145.)

d. agree to practice primary care, as appropriate, at an approved site under the terms and conditions provided in N.J.S.18A:71C-36 and the agreement issued thereunder.

4. N.J.S.18A:71C-35 is amended to read as follows:

Ranking of State designated underserved areas.

18A:71C-35. The Commissioner of Health and Senior Services, after consultation with the Commissioner of Corrections and the Commissioner of Human Services, shall designate and establish a ranking of State designated underserved areas. The criteria used by the Commissioner of Health and Senior Services in designating areas shall include, but not be limited to:

a. the financial resources of the population under consideration, including the percentage of the population that is eligible for medical assistance pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.2005, c.156 (C.30:4J-8 et seq.), and the percentage of the population that does not have health insurance coverage;

b. the population's access to primary care services;

c. appropriate physician, dentist, or other primary care staffing in State, county, municipal and private nonprofit health care facilities and in clinics which are part of the extramural network of dental clinics established by the New Jersey Dental School of the University of Medicine and Dentistry of New Jersey; and

d. the extent to which racial and ethnic disparities in health care in a geographic area, including, but not limited to, disparities in the incidence of cancer, cardiovascular disease, stroke, chemical dependency, diabetes, asthma, homicide, suicide, accidental injury, infant mortality, child immunization rates, HIV/AIDS, dental caries, and periodontal disease, indicate the need to increase access to primary care services among racial and ethnic minority populations in that area.

The Commissioner of Health and Senior Services shall transmit the list of State designated underserved areas and the number of positions needed in each area to the executive director or designee.

5. N.J.S.18A:71C-36 is amended to read as follows:

Entry into program; agreements.

18A:71C-36. a. In administering the program, the authority or its designated agent shall contract only with a primary care practitioner.

b. The contract shall require a program participant to:

(1) serve at least an initial two-year period at an approved site in the full-time clinical practice of that person's primary care profession;

(2) charge for professional services at the usual and customary rate prevailing in the area in which the approved site is located, but allow a patient who is unable to pay that charge to pay at a reduced rate or receive care at no charge;

(3) not discriminate against any patient in the provision of health care services on the basis of that person's ability to pay or source of payment; and

(4) agree not to impose any charge in excess of the limiting fee for a service, as determined by the United States Secretary of Health and Human Services, to a recipient of benefits under the federal Medicare program established pursuant to Pub.L.89-97 (42 U.S.C.s.1395 et seq.).

c. The contract shall also specify the applicant's dates of required service and the total amount of eligible qualifying loan expenses to be redeemed by the State in return for service, and stipulate that the applicant has knowledge of and agrees to the six-month probationary period required prior to final acceptance into the program pursuant to N.J.S.18A:71C-38.

6. N.J.S.18A:71C-37 is amended to read as follows:

Redemption limits; service.

18A:71C-37. a. Maximum redemption of loans under the loan redemption program shall amount to 18% of principal and interest of eligible qualifying loan expenses in return for one full year of service at an approved site, an additional 26% for a second full year of service, an additional 28% for a third full year of service and an additional 28% for a fourth full year of service for a total redemption of eligible qualifying loan expenses of up to, but not to exceed, $120,000, or the maximum amount authorized by the federal government, whichever is greater, either (1) in State funds or (2) the sum of federal, State, and other non-federal funds pursuant to section 338I of the Public Health Service Act (42 U.S.C.s.254q-1), whichever is applicable. No amount of eligible qualifying loan expenses shall be redeemed for services performed for less than a full year.

b. A participant who enters an agreement to fulfill service in a State designated underserved area that is also a HPSA shall be permitted a total

redemption of eligible qualifying loan expenses for four years of service up to, but not to exceed, the sum of federal, State and other non-federal matching funds provided pursuant to section 338I of the Public Health Service Act (42 U.S.C.s.254q-1).

c. A program participant who enters an agreement to fulfill service in a State designated underserved area that is not also a HPSA shall be permitted a total redemption of eligible qualifying loan expenses for four years of service up to, but not to exceed, $120,000, or the maximum amount authorized by the federal government, whichever is greater, in State funds.

d. A program participant who has engaged in full-time clinical practice during the participant's initial two years of participation in the program shall be permitted to fulfill the program participant's subsequent service obligations on a part-time basis with the approval of the authority or its designee and the program participant's employer in a State designated underserved area, with the program participant's redemption credit accruing on a pro rata basis. The program participant may be permitted a total redemption of eligible qualifying loan expenses for the equivalent of four years of full-time service.

7. N.J.S.18A:71C-38 is amended to read as follows:

Probationary period.

18A:71C-38. Each program participant shall serve a six-month probationary period upon initial placement at an approved site. During that period, the primary care staff of the approved site, or in the case of a clinic which is part of the extramural network of dental clinics established by the New Jersey Dental School of the University of Medicine and Dentistry of New Jersey, the director of the clinics and the vice-dean of the dental school, together with the program participant and the executive director or his designee, shall evaluate the suitability of the placement for the program participant. At the end of the probationary period, the primary care staff shall recommend the continuation of the program participant's present placement, a change in placement, or its determination that the program participant is an unsuitable candidate for the program. If the primary care staff of the approved site recommends a change in placement, the executive director or a designee shall approve an alternate placement at an approved site. If the primary care staff determines that the program participant is not a suitable candidate for the program, the executive director or his designee shall take this recommendation into consideration in regard to the program participant's final acceptance into the program. No loan redemption pay-

ment shall be made during the six-month probationary period; however, a program participant shall receive credit for the six-month period in calculating the first year of required service under the loan redemption contract.

8. N.J.S.18A:71C-39 is amended to read as follows:

Matching of participants with areas.

18A:71C-39. The executive director or his designee, in consultation with the Commissioner of Health and Senior Services, shall match program participants to State designated underserved areas or HPSAs.

9. N.J.S.18A:71C-40 is amended to read as follows:

Selection of participants; priority.

18A:71C-40. The executive director or his designee shall select the program participants from among those applicants who meet the eligibility criteria established pursuant to N.J.S.18A:71C-34, subject to available funds and available approved sites. In the event that there are insufficient funds or approved sites to select all of the applicants who meet the eligibility criteria, the executive director or his designee shall accord priority to applicants in the following manner:

a. first, to any applicant who is completing a fourth, third or second year of a loan redemption contract;

b. second, to any applicant according to the severity of the physician, dentist, or other primary care provider shortage in the area selected by the applicant; and

c. third, to any applicant whose residence in the State at the time of entry into postsecondary education was within a State designated underserved area.

In the event that there are more applicants who have the same priority than there are program positions, the executive director or his designee shall select program participants by means of a lottery or other form of random selection.

C.18A:71C-36.1 Performance standards for program participants.

10. a. A program participant, as a condition of participation, shall be required to adhere to performance standards established by the executive director or his designee and if the approved site is a clinic which is part of the extramural network of dental clinics established by the New Jersey Dental School of the University of Medicine and Dentistry of New Jersey

the program participant shall also meet performance standards set by the New Jersey Dental School.

b. The standards shall include, but not be limited to, requirements that a participant:

(1) maintain residency in the State;

(2) maintain a license or certification to practice a primary care profession in the State;

(3) remain current with payments on student loans;

(4) enter into a mutually acceptable contract with an approved site;

(5) maintain satisfactory performance of services rendered at an approved site; and

(6) report to the authority or its designee, on a form and in a manner prescribed by the authority or its designee, on the program participant's performance of services rendered at an approved site prior to repayment of the annual amount eligible for redemption.

11. N.J.S.18A:71C-41 is amended to read as follows:

Nullification of agreement.

18A:71C-41. A program participant who has previously entered into a contract with the authority may nullify the agreement by notifying the authority in writing and reassuming full responsibility for the remaining outstanding balance of the loan debt. In no event shall service at an approved site for less than the full calendar year of each period of service entitle the program participant to any benefits under the program. A program participant seeking to nullify the contract before completing a second full year of service shall be required to pay 50% of the redeemed portion of indebtedness in not more than one year following nullification of the agreement.

12. N.J.S.18A:71C-42 is amended to read as follows:

Death or permanent disability of participant.

18A:71C-42. In case of a program participant's death or total and permanent disability, the authority or its designee shall nullify the service obligation of the program participant. The nullification shall terminate the authority's obligations under the loan redemption contract, except in the event that a program participant's death or total and permanent disability occurs during the second year of service, the authority shall not require repayment of the prior redeemed portion of indebtedness. When continued enforcement of the contract may result in extreme hardship, the authority or its designee may nullify or suspend the service obligation of the program participant.

C.18A:71C-43.1 False, misleading information, fourth degree crime.

13. A person who knowingly or willfully furnishes any false or misleading information for the purpose of receiving loan redemption benefits under the program is guilty of a crime of the fourth degree.

14. N.J.S.18A:71C-43 is amended to read as follows:

Conviction of crime; gross negligence; breach of performance standards; failure to repay; penalties.

18A:71C-43. a. In the case of:

(1) a program participant's conviction of a crime or an act of gross negligence in the performance of service obligations;

(2) suspension or revocation of the program participant's license or certification to practice; or

(3) a program participant's breach of the performance standards established pursuant to section 10 of P.L.2009, c.145 (C.18A:71C-36.1);

the executive director or his designee is authorized to terminate the program participant's service in the program.

b. A program participant who fails to repay an amount due the authority under the program may be subject to actions initiated by the authority or its designee, which may include, but are not limited to, recovery of the amount due by an action brought in a court of competent jurisdiction or through the offset of State tax refunds or rebates, making this information available to credit reporting agencies, and exclusion from eligibility for any student assistance benefits administered by the authority, as well as action by the federal government, to the extent that loan redemption benefits are federally funded, to recover any amount due it as permitted by federal law. In any action brought by the authority or its designee in a court of competent jurisdiction pursuant to this subsection, the program participant shall be liable for: the debt incurred, interest on the debt at the maximum legal prevailing rate as determined by the United States Treasurer, and the administrative and court costs associated with collection of the debt.

15. N.J.S.18A:71C-44 is amended to read as follows:

National Health Service Corps Loan Repayment Program participants ineligible.

18A:71C-44. A student who is participating in the federally administered National Health Service Corps Loan Repayment Program, section 338B of the Public Health Service Act (42 U.S.C.s.254 l-1), shall not be eligible to participate simultaneously in the Primary Care Practitioner Loan Redemption Program.

C.18A:71C-37.1 Reimbursement payments for tax liability of participant.

16. The executive director or his designee may, within the limits of available funds and in accordance with eligibility criteria determined by the executive director or his designee, make payments in a reasonable amount, as determined by the executive director or his designee, to reimburse a program participant for all or part of any increased tax liability incurred by the participant, pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., which results from the redemption of eligible qualifying loan expenses under the program.

Repealer.

17. N.J.S.18A:71C-45 is repealed.

C.18A:71C-46.1 Availability of information.

18. The authority shall work with State institutions of medical, dental, and other primary care professional education to ensure that information on the Primary Care Practitioner Loan Redemption Program is made available to students upon enrollment.

19. This act shall take effect immediately.

Approved November 20, 2009.

CHAPTER 146

AN ACT concerning certain property uses and structures under local zoning ordinances and amending P.L.1975, c.291.

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

1. Section 3.1 of P.L.1975, c.291 (C.40:55D-4) is amended to read as follows:

C.40:55D-4 Definitions; D to L.

3.1."Days" means calendar days.

"Density" means the permitted number of dwelling units per gross area of land to be developed.

"Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to this act.

"Development potential" means the maximum number of dwelling units or square feet of nonresidential floor area that may be constructed on a specified lot or in a specified zone under the master plan and land use regulations in effect on the date of the adoption of the development transfer ordinance, and in accordance with recognized environmental constraints.

"Development regulation" means a zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land, or amendment thereto adopted and filed pursuant to this act.

"Development transfer" or "development potential transfer" means the conveyance of development potential, or the permission for development, from one or more lots to one or more other lots by deed, easement, or other means as authorized by ordinance.

"Development transfer bank" means a development transfer bank established pursuant to section 22 of P.L.2004, c.2 (C.40:55D-158) or the State TDR Bank.

"Drainage" means the removal of surface water or groundwater from land by drains, grading or other means and includes control of runoff during and after construction or development to minimize erosion and sedimentation, to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, to lessen nonpoint pollution, to maintain the integrity of stream channels for their biological functions as well as for drainage, and the means necessary for water supply preservation or prevention or alleviation of flooding.

"Environmental commission" means a municipal advisory body created pursuant to P.L.1968, c.245 (C.40:56A-1 et seq.).

"Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice and gravity.

"Final approval" means the official action of the planning board taken on a preliminarily approved major subdivision or site plan, after all condi-

tions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees.

"Floor area ratio" means the sum of the area of all floors of buildings or structures compared to the total area of the site.

"General development plan" means a comprehensive plan for the development of a planned development, as provided in section 4 of P.L.1987, c.129 (C.40:55D-45.2).

"Governing body" means the chief legislative body of the municipality. In municipalities having a board of public works, "governing body" means such board.

"Historic district" means one or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites.

"Historic site" means any real property, man-made structure, natural object or configuration or any portion or group of the foregoing of historical, archeological, cultural, scenic or architectural significance.

"Inherently beneficial use" means a use which is universally considered of value to the community because it fundamentally serves the public good and promotes the general welfare. Such a use includes, but is not limited to, a hospital, school, child care center, group home, or a wind, solar or photovoltaic energy facility or structure.

"Instrument" means the easement, credit, or other deed restriction used to record a development transfer.

"Interested party" means: (a) in a criminal or quasi-criminal proceeding, any citizen of the State of New Jersey; and (b) in the case of a civil proceeding in any court or in an administrative proceeding before a municipal agency, any person, whether residing within or without the municipality, whose right to use, acquire, or enjoy property is or may be affected by any action taken under this act, or whose rights to use, acquire, or enjoy property under this act, or under any other law of this State or of the United States have been denied, violated or infringed by an action or a failure to act under this act.

"Land" includes improvements and fixtures on, above or below the surface.

"Local utility" means any sewerage authority created pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.); any utilities authority created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); or any utility, authority,

commission, special district or other corporate entity not regulated by the Board of Regulatory Commissioners under Title 48 of the Revised Statutes that provides gas, electricity, heat, power, water or sewer service to a municipality or the residents thereof.

"Lot" means a designated parcel, tract or area of land established by a plat or otherwise, as permitted by law and to be used, developed or built upon as a unit.

2. Section 3.4 of P.L.1975, c.291 (C.40:55D-7) is amended to read as follows:

C.40:55D-7 Definitions; S to Z.

3.4."Sedimentation" means the deposition of soil that has been transported from its site of origin by water, ice, wind, gravity or other natural means as a product of erosion.

"Sending zone" means an area or areas designated in a master plan and zoning ordinance, adopted pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.), within which development may be restricted and which is otherwise consistent with the provisions of section 8 of P.L.2004, c.2 (C.40:55D-144).

"Site plan" means a development plan of one or more lots on which is shown (1) the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, flood plains, marshes and waterways, (2) the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices, and (3) any other information that may be reasonably required in order to make an informed determination pursuant to an ordinance requiring review and approval of site plans by the planning board adopted pursuant to article 6 of this act.

"Standards of performance" means standards (1) adopted by ordinance pursuant to subsection 52d. regulating noise levels, glare, earthborn or sonic vibrations, heat, electronic or atomic radiation, noxious odors, toxic matters, explosive and inflammable matters, smoke and airborne particles, waste discharge, screening of unsightly objects or conditions and such other similar matters as may be reasonably required by the municipality or (2) required by applicable federal or State laws or municipal ordinances.

"State Transfer of Development Rights Bank," or "State TDR Bank," means the bank established pursuant to section 3 of P.L.1993, c.339 (C.4:1C-51).

"Street" means any street, avenue, boulevard, road, parkway, viaduct, drive or other way (1) which is an existing State, county or municipal roadway, or (2) which is shown upon a plat heretofore approved pursuant to law, or (3) which is approved by official action as provided by this act, or (4) which is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board of the power to review plats; and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.

"Structure" means a combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land.

"Subdivision" means the division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this act, if no new streets are created: (1) divisions of land found by the planning board or subdivision committee thereof appointed by the chairman to be for agricultural purposes where all resulting parcels are 5 acres or larger in size, (2) divisions of property by testamentary or intestate provisions, (3) divisions of property upon court order, including but not limited to judgments of foreclosure, (4) consolidation of existing lots by deed or other recorded instrument and (5) the conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the tax map or atlas of the municipality. The term "subdivision" shall also include the term "resubdivision."

"Transcript" means a typed or printed verbatim record of the proceedings or reproduction thereof.

"Variance" means permission to depart from the literal requirements of a zoning ordinance pursuant to sections 47 and subsections 29.2b., 57c. and 57d. of this act.

"Wind, solar or photovoltaic energy facility or structure" means a facility or structure for the purpose of supplying electrical energy produced from wind, solar, or photovoltaic technologies, whether such facility or structure is a principal use, a part of the principal use, or an accessory use or structure.

"Zoning permit" means a document signed by the administrative officer (1) which is required by ordinance as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure or building and (2) which acknowledges that such use, structure or building complies with the provisions of the municipal zoning ordinance or variance therefrom duly authorized by a municipal agency pursuant to sections 47 and 57 of this act.

3. This act shall take effect immediately.

Approved November 20, 2009.

CHAPTER 147

AN ACT concerning the acquisition, and resale or lease, of real property by counties and municipalities for farmland preservation purposes, amending P.L.1971, c.199, and supplementing P.L.1983, c.32.

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

1. Section 4 of P.L.1971, c.199 (C.40A:12-4) is amended to read as follows:

C.40A:12-4 Further acquisitions authorized.

4. Any county or municipality may acquire:

(a) Any real property, capital improvement, personal property or any interest or estate whatsoever therein, including easements, water, water power, or water rights, either within or without the county or municipality, except that no such property belonging to the State or any of its agencies, a county or any municipality shall be acquired without its express consent;

(b) Any outstanding easement, right or interest in any real property, capital improvement or personal property previously acquired by the county or municipality which the governing body shall determine to be necessary or useful for the proper exercise of any power conferred or duty imposed upon the county or municipality by this or any other law; but this section shall not operate, or be construed, to repeal or supersede any law requiring the consent of any other county or municipality, or any State authority, department, agency or commission for the acquisition of any such property; or

(c) Any real property for the purpose of farmland preservation, which property may be resold or leased by the county or municipality with an agricultural deed restriction placed on the property by the county or municipality.

C.4:1C-37.1 Acquisition of property for farmland preservation purposes.

2. A county, county agriculture development board, or municipality may acquire real property in fee simple for farmland preservation purposes, which property may be resold or leased by the county, county agriculture development board, or municipality with an agricultural deed restriction placed on the property by the county, county agriculture development board, or municipality.

3. This act shall take effect immediately.

Approved November 20, 2009.

CHAPTER 148

AN ACT concerning certain credit card solicitations 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:3C-1 Definitions relative to certain credit card solicitations.

1. As used in this act:

"Credit card" means a card, plate or other single credit device that may be used from time to time to obtain credit.

"Credit card issuer" means a person who extends to a student the right to use a credit card in connection with purchases of goods or services primarily for personal, family or household use.

"Institution of higher education" means any public or private university, college, technical college or community college located in New Jersey.

"Solicit" or "solicitation" means any activity on a campus of an institution of higher education specifically intended, in whole or in part, to encourage, entice, urge or request that a student apply for a credit card, but does not include:

(1) advertising in newspapers, magazines, or similar publications; or

(2) any activity within the physical location of a credit card issuer's business located on the campus of an institution of higher education, so long as the activity is conducted as part of the issuer's regular course of business.

"Student" means a person who attends an institution of higher education as an undergraduate, whether enrolled on a full-time or part-time basis.

C.18A:3C-2 Annual registration of credit card issuer.

2. a. Prior to engaging in the solicitation of students for applications for credit cards on a campus of an institution of higher education, a credit card issuer shall annually register its request to solicit for that purpose with an appropriate official of the institution of higher education.

b. The registration submitted to the institution of higher education shall include the principal place of business of the credit card issuer and any other information as requested by the institution.

C.18A:3C-3 Provision of program of education on responsible use of credit.

3. a. A credit card issuer, with an approved registration as filed pursuant to section 2 of this act, who solicits applications for credit cards on a campus of an institution of higher education shall provide to students of that campus a one-time, on-campus program of education on the responsible use of credit.

b. A program of education on the responsible use of credit that meets the requirements of subsection a. of this section shall include at a minimum:

(1) A full explanation of the financial consequences of not paying off credit card balances in full within the time specified by the billing statement to avoid interest charges, including an explanation of how the credit card issuer computes interest on unpaid balances;

(2) A full explanation of the impact of a shift from an introductory or initial interest rate to an ongoing interest rate that is higher, including the exact time when the higher ongoing interest rate takes effect, and a description of acts on the part of the cardholder that will cause an immediate shift to the higher interest rate;

(3) A full explanation, with examples, of how long it would take to pay off various illustrative balance amounts by paying the minimum monthly payment required under the credit card agreement at the interest rate charged by the credit card issuer;

(4) A full explanation of credit related terms, including fixed rates, variable rates, introductory rates, balance transfers, grace periods, annual fees and any other fees charged by the credit card issuer; and

(5) A full discussion of the generally accepted prudent uses of credit, and the consequences of imprudent uses, as presented by recognized consumer credit counseling agencies.

C.18A:3C-4 Certificate required for issuance of credit card to student.

4. A credit card issuer who solicits applications for credit cards on a campus of an institution of higher education shall not issue a credit card to a student enrolled in that institution of higher education, unless the application submitted by the student includes a certificate indicating that the student has attended a one-time, on-campus program of education provided by the credit card issuer, as required by section 3 of this act.

C.18A:3C-5 Prohibited actions for credit card issuer.

5. A credit card issuer shall not:

a. purchase or otherwise obtain from an institution of higher education the names or addresses of the students at the institution of higher education; or

b. offer gifts or other promotional incentives to students at an institution of higher education in order to entice the students to apply for a credit card.

C.18A:3C-6 Prohibited debt collection actions.

6. A credit card issuer shall not take any debt collection action, including, but not limited to, telephone calls or demand letters against the parent or legal guardian of a student for whom a credit card has been issued, unless the parent or legal guardian has agreed in writing to be liable for the debts of the student under the credit card agreement.

C.18A:3C-7 Violations, penalties.

7. Any credit card issuer who violates the provisions of this act shall be liable in a civil action to any person for damages arising from the violation, as well as attorney's fees and costs of suit. Additionally, the credit card issuer shall be subject to a civil penalty of not less than $5,000 and not more than $10,000 for each offense. The penalty may be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

8. This act shall take effect on the 180th day following enactment.

Approved November 20, 2009.

CHAPTER 149

AN ACT concerning limitations on local budget increases and amending P.L.1976, c.68.

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

1. Section 2 of P.L.1976, c.68 (C.40A:4-45.2) is amended to read as follows:

C.40A:4-45.2 Limitation on increase of appropriations.

2. For local budget years beginning on or after July 1, 2004 municipalities and counties shall be prohibited from increasing their final appropriations by more than 2.5% or the cost-of-living adjustment, whichever is less, over the previous year, except within the provisions set forth hereunder.

For the purpose of this section, in computing its final appropriations for the previous year, a municipality or county shall include, as part of its final appropriations:

a. Amounts of revenue generated by:

(1) an increase in its valuations based solely on applying the preceding year's local purposes tax rate of the municipality to the assessed value of new construction or improvements, or on applying the preceding year's county tax rate to the apportionment valuation of new construction or improvements, as may be appropriate, and

(2) payments in lieu of taxes on a parcel of land received on or after January 1, 2007 pursuant to the terms of a financial agreement under the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et seq.), less any amounts remitted by a municipality to a county pursuant to subsection b. of section 12 of P.L.1991, c.431 (C.40A:20-12);

b. (Deleted by amendment, P.L.1990, c.89.)

c. Amounts approved by referendum, pursuant to section 1 of P.L.1979, c.268 (C.40A:4-45.3a) and section 2 of P.L.1983, c.312 (C.40A:4-45.19);

d. (Deleted by amendment, P.L.1990, c.89.)

e. Expenditures for the assumption of any service or function of a local public utility, a local public authority, or a special purposes district, as approved by the Local Finance Board pursuant to section 3 of P.L.1983, c.49 (C.40A:4-45.13).

For the 1991 local budget year, the final appropriations from the prior year shall be the total appropriations for the 1990 budget year. In each local budget year in which any service, function, or portion thereof, is transferred to, or assumed by, the State or federal government from a municipal government, the municipality shall deduct from its final appropriations upon which its permissible expenditures are calculated the amount which the municipality expended for that service or function during the last full budget year, or portion thereof, throughout which the service or function so transferred was funded from appropriations in the municipal budget.

In each budget year subsequent to 1990, whenever any municipality shall have transferred to any local public utility, any local public authority or any special purposes district, during the immediately preceding budget year, or at any time during the current budget year prior to the final adoption of the budget, any service or function funded during the immediately preceding budget year, either partially or wholly, from appropriations in the municipal budget, the municipality shall deduct from its final appropriations upon which its permissible expenditures are calculated pursuant to this section the amount which the municipality expended for that service or function during the last full budget year throughout which the service or function so transferred was funded from appropriations in the municipal budget.

2. This act shall take effect immediately and shall be first applicable to local budgets introduced in the 2009 calendar fiscal year and the 2010 State fiscal year, as appropriate, in computing a municipality's final appropriations for the previous year.

Approved November 20, 2009.

CHAPTER 150

AN ACT concerning the range of investment vehicles in which the Director of the Division of Investment may invest moneys in the State of New Jersey Cash Management Fund and State pension funds, amending and supplementing P.L.1977, c.281 (C.52:18A-90.4 et seq.) and supplementing P.L.1970, c.270 (C.52:18A-90.1 et seq.).

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

1. Section 1 of P.L.1977, c.281 (C.52:18A-90.4) is amended to read as follows:

C.52:18A-90.4 State of New Jersey Cash Management Fund.

1. a. Notwithstanding the provisions of section 2 of P.L.1970, c.270 (C.52:18A-90.2), the Director of the Division of Investment may, subject to the approval of the State Investment Council and the State Treasurer, establish, maintain and operate a common trust fund to be known as the State of New Jersey Cash Management Fund in which may be deposited the surplus public moneys of the State, its counties, municipalities and school districts and the agencies or authorities created by any of these entities. This fund shall be considered a legal depository for public moneys and shall satisfy the requirements in that regard of section 1 of P.L.1956, c.174 (C.52:18-16.1) and N.J.S.40A:5-14.

b. The State Treasurer shall be the custodian of the fund and may receive public moneys paid into the fund by any other custodian of public moneys for the purpose of holding and investing said moneys. In that capacity, he may enter into an agreement with any one or more of the national banks and the banks authorized by this State to carry on a banking business, as he may select, for the custodianship of securities held in the fund and for recording the amounts deposited and withdrawn by each participant, the investment transactions entered into, and the balance to each participant's credit each day. A bank selected by the State Treasurer as custodian pursuant to this section shall have a physical presence in this State in the form of a principal office or branch office and shall employ New Jersey residents. Each bank selected by the State Treasurer may use recognized depositories or clearinghouses for the securities held in the fund or may use other banks as sub-custodians or sub-fiscal agents for these securities, provided that in every case each bank selected by the State Treasurer shall retain primary responsibility for these securities.

c. If a bank selected by the State Treasurer delegates its responsibilities as custodian or fiscal agent, or both, to a sub-custodian or sub-fiscal agent, the sub-custodian or sub-fiscal agent shall be responsible for the services delegated to it to the same degree as the primary custodian or primary fiscal agent and shall maintain accounting records and be otherwise held accountable to the same degree of fiduciary duty and responsibility as the appointing primary custodian or fiscal agent.

d. A bank selected by the State Treasurer as a primary custodian or fiscal agent which delegates its responsibilities as custodian or fiscal agent,

or both, to a sub-custodian or sub-fiscal agent, shall not be relieved of its fiduciary duties and responsibilities.

e. The State Treasurer may promulgate such rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as he deems necessary for the efficient administration of the State of New Jersey Cash Management Fund, including but not limited to, (1) the specification of minimum amounts which may be deposited in the fund and minimum periods of time for which deposits shall be retained in the fund; (2) creation of a reserve for losses; (3) provision for payment of administration expenses from its earnings; and (4) distribution of the earnings in excess of such expenses or allocation of losses to the several participants in a manner which equitably reflects the differing amounts of their respective investments and the differing periods of time for which such amounts were in the custody of the fund.

f. The Director of the Division of Investment may invest the public moneys constituting the State of New Jersey Cash Management Fund in the same types of investments and subject to the same limitations provided for the investment of funds in the State Treasury. The director shall be responsible for the adequacy of the accounting services provided by the custodian bank and shall maintain such accounting records as may be required for that purpose.

g. The Director of the Division of Investment may establish separate sub-funds within the State of New Jersey Cash Management Fund or establish a separate fund where the public moneys are invested in tax-exempt securities in order to segregate and account for separately the investment of moneys from participants in the fund to comply with federal law and regulations governing tax-exempt securities, provided however, that such sub-funds or funds shall be subject to all laws and regulations that apply to the New Jersey Cash Management Fund.

2. a. Notwithstanding the restrictions of any regulation in effect as of the effective date of this act, P.L.2009, c.150, for the period of one year from the effective date of this act the Director of the Division of Investment may invest the public moneys in the State of New Jersey Cash Management Fund or a separate fund created pursuant to P.L.2009, c.150 in bonds or notes with maturities not greater than one year issued by the State and its authorities, or by any local government unit of the State, that are exempt from both federal and State taxes, in accordance with federal and State laws and regulations.

b. If the State Investment Council does not adopt regulations extending the authority to make the investments allowed in subsection a. of this section, the Division of Investment shall not be required to liquidate investments made pursuant to the authority of that subsection.

3. a. Notwithstanding the restrictions of any regulation in effect as of the effective date of this act, P.L.2009, c.150, for the period of one year from the effective date of this act the Director of the Division of Investment may invest the public moneys of the State of New Jersey Cash Management Fund or a separate fund created pursuant to P.L.2009, c.150 without limitation as to amount or percentage invested in any one issue of obligations, and without limitation as to ratings, provided such issue of obligations is insured or guaranteed by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund (NCUSIF). Consistent with the director's fiduciary responsibilities, the director may give preference to investments issued by financial institutions that through participation in programs administered by the New Jersey Economic Development Authority, including the Preferred Lender Program, provide access to capital to businesses in New Jersey.

b. If the State Investment Council does not adopt regulations extending the authority to make the investments allowed in subsection a. of this section, the Division of Investment shall not be required to liquidate investments made pursuant to the authority of that subsection.

4. a. Notwithstanding the restrictions of any regulation in effect as of the effective date of this act, P.L.2009, c.150, for the period of one year from the effective date of this act, the Director of the Division of Investment may invest the public moneys of Common Pension Fund B, created pursuant to section 1 of P.L.1970, c.270 (C.52:18A-90.1 et seq.) and N.J.A.C.17:16-63.1 et seq., without limitation as to the amount or percentage invested in any one issue of obligations, and without limitation as to ratings, provided such issue of obligations is insured or guaranteed by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund (NCUSIF). Consistent with the director's fiduciary responsibilities, the director may give preference to investments issued by financial institutions that through participation in programs administered by the New Jersey Economic Development Authority, including the Preferred Lender Program, provide access to capital to businesses in New Jersey.

b. If the State Investment Council does not adopt regulations extending the authority to make the investments allowed in subsection a. of this

section, the Division of Investment shall not be required to liquidate investments made pursuant to the authority of that subsection.

5. This act shall take effect immediately.

Approved November 20, 2009.

CHAPTER 151

AN ACT concerning medical examiners and supplementing Title 52 of the Revised Statutes.

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

C.52:17B-88a Facility where patient died, provision of information relative to next-of-kin to medical examiner.

1. In the case of the death of a resident of a long-term care facility licensed by the Department of Health and Senior Services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a State psychiatric hospital operated by the Department of Human Services and listed in R.S.30:1-7, a county psychiatric hospital, a facility for persons with developmental disabilities as defined in section 3 of P.L.1977, c.82 (C.30:6D-3), or a facility for persons with traumatic brain injury as defined in 42 U.S.C. s.280b-1c that is operated by or under contract with the Department of Human Services, the psychiatric hospital or facility, as the case may be, shall, in addition to notifying the next-of-kin of the resident's death, so notify the county medical examiner and provide the county medical examiner with contact information for the resident's next-of-kin. The county medical examiner, or a deputy or assistant county medical examiner or investigator on his behalf, shall make every practicable effort to contact the resident's next-of-kin to offer that person the opportunity to provide the medical examiner with information that the person deems relevant to: the circumstances of the resident's death; and whether there is a need to perform a dissection or autopsy of the decedent.

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

Approved November 20, 2009.

CHAPTER 152

AN ACT concerning international labor matching or matchmaking organizations and supplementing chapter 8 of Title 56 of the Revised Statutes.

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

C.56:8-185 Definitions relative to international labor matching, matchmaking organizations.

1. As used in this act:

"Client" means a resident of this State for whom an international labor matching organization seeks to locate labor assistance from non-citizens residing outside the country or for whom an international matchmaking organization renders dating, matrimonial or social referral services involving citizens of a foreign country.

"Criminal history record background check" means a determination of whether a person has a criminal record by cross-referencing that person's name and fingerprints with those on file with the Federal Bureau of Investigation, Identification Division and the State Bureau of Identification in the Division of State Police.

"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.

"International labor matching organization" means a corporation, partnership, sole proprietorship, or other entity that does business in the United States, whose primary purpose is to offer to State residents, opportunities to locate labor assistance from foreign recruits residing outside the country for the purpose of bringing the foreign recruit to the State.

"International matchmaking organization" means a corporation, partnership, sole proprietorship, or other entity that does business in the United States and whose primary purpose is offering, including to State residents, dating, matrimonial, or social referral services involving citizens of a foreign country or countries who are not residing in the United States, such as (1) an exchange of names, telephone numbers, addresses, or statistics; (2) a selection of photographs; or (3) a social environment in a country other than the United States. The term shall not include an on-line personal services organization.

"On-line personal services organization" means a corporation, partnership, sole proprietorship, or other entity that does business in the United States and for profit provides an on-line forum for persons to post personal profiles as a means of self-referral for dating, matrimonial, or other social purpose.

"Recruit" means a noncitizen, nonresident person that is recruited by an international labor matching organization for the purpose of bringing the laborer to the State or by an international matchmaking organization for the purpose of providing dating, matrimonial or social referral services.

C.56:8-186 Criminal history record background checks condition for employment.

2. a. The division shall initiate criminal history record background checks of present and prospective owners and employees of an international labor matching organization or an international matchmaking organization.

b. No person shall own or be employed by an international labor matching organization or an international matchmaking organization unless the division certifies that the person has no criminal history record of a conviction for an offense enumerated in subsection d. of this section.

c. No international labor matching organization or international matchmaking organization shall employ a person who has not been certified pursuant to subsection b. of this section.

d. A person subject to subsection b. of this section whose criminal history record background check reveals a conviction for any of the following crimes and offenses shall be disqualified from owning or being employed by an international labor matching organization or an international matchmaking organization:

(1) If the conviction was in New Jersey for a crime:

(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 the "Prevention of Domestic Violence Act," P.L.1991, c.261 (C.2C:25-17 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 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; or

(e) involving terrorism as set forth in the "September 11th, 2001 Anti-Terrorism Act," P.L.2002, c.26 (C.2C:38-1 et seq.); or

(f) involving prostitution and related offenses as set forth in N.J.S.2C:34-1.

(2) If the conviction was in any other state or jurisdiction for conduct constituting any of the crimes described in paragraph (1) of this subsection.

C.56:8-187 Certification as qualified to own enterprise.

3. a. Every owner or prospective owner of an international labor matching organization or an international matchmaking organization shall apply to the director to be certified as qualified to own the enterprise.

b. Every owner of an international labor matching organization or an international matchmaking organization shall apply to the director to have certified as qualified any person who will be employed by the enterprise.

c. The owner of an international labor matching organization or an international matchmaking organization shall apply to the director, within 90 days of the effective date of this act, for the certifications of persons employed by the enterprise on the effective date. These persons shall be permitted to continue their employment pending the completion of the certification process.

d. An application for certification shall be accompanied by the fee required to perform a criminal history record background check.

e. The international labor matching organization or international matchmaking organization shall retain a copy of the certification of persons subject to certification under this act. The certifications shall be made available upon request to interested members of the public.

C.56:8-188 Authorization for receipt of criminal history record information.

4. a. The director is authorized to receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

b. The Division of State Police in the Department of Law and Public Safety, upon the request of the director, shall conduct a criminal history record background check requested by the director in accordance with the provisions of this act. The check shall be performed only upon certification by the director that the person has submitted to the director the person's name, address, fingerprints and written consent for a criminal history record background check to be performed.

For the purpose of conducting the criminal history record background check, the State Police shall examine its own files and arrange for a similar examination of federal criminal records. The information obtained as a result of any such check shall be forwarded to the director.

C.56:8-189 Written consent for criminal history record background check.

5. a. The division shall not initiate a criminal history record background check pursuant to this act without the written consent of the person. The consent required under this section shall be in a manner and form prescribed by the director and shall include, but not be limited to, the signature, name, address and fingerprints of the person.

b. Upon receiving the results of a criminal history record background check, the director shall promptly notify any person who has not been convicted of a disqualifying offense. Along with that notice, the director shall forward a certification stating that the person has been subjected to a criminal history record background check and that the check has not revealed any record that the person has been convicted of a disqualifying offense. The certificate shall be in a form and contain any additional information as the director may prescribe by rule and regulation.

c. The director shall promptly notify a person whose criminal history record background check reveals a disqualifying criminal conviction of the results of the background check. The person shall have 30 days from the receipt of that notice to petition the director for a review and cite reasons substantiating the review. If the person successfully challenges the accuracy of the criminal history record information indicating a criminal conviction or the person demonstrates affirmatively to the director clear and convincing evidence of rehabilitation, the director may issue a certificate indicating that the person has successfully cleared a background check.

In determining whether the rehabilitation of a person has been affirmatively demonstrated, the director shall consider:

(1) The nature and seriousness of the offense;

(2) The circumstances under which the offense occurred;

(3) The date of the offense;

(4) The age of the person when the offense was committed;

(5) Whether the offense was repeated;

(6) Social conditions which may have contributed to the offense; and

(7) Any evidence of rehabilitation, including good conduct in the community; counseling, psychological or psychiatric treatment; additional academic or vocational training; or personal recommendations.

d. The director shall not certify a person subject to the provisions of this act who refuses to consent to, or cooperate in, the securing of a criminal history record background check.

C.56:8-190 Information provided to recruits of international matchmaking organization.

6. An international matchmaking organization conducting business in this State shall provide all recruits with the telephone numbers for the Statewide Domestic Violence Hotline and the National Domestic Violence Hotline and shall provide recruits with basic information concerning domestic violence. This may include information on what is considered domestic violence, statistics concerning domestic violence, legal rights of persons in abusive relationships and suggestions about what to do in the event of domestic violence.

C.56:8-191 Public education program.

7. The division shall develop and undertake a public education program designed to inform the citizens of this State of the provisions of this act. A component of this program shall be the establishment and maintenance of a file of certifications granted by the director in accordance with the provisions of this act. The certifications shall be made available to interested members of the public upon request. The program also shall publicize those international labor matching organizations and international matchmaking organizations which are in compliance with the provisions of this act.

C.56:8-192 Registration, fee.

8. The division may require an international labor matching organization or an international matchmaking organization operating in this State to register with the division and to pay an annual registration fee sufficient to defray the cost of administering this act.

C.56:8-193 Criminal history, provision required before information provided to recruit.

9. a. Upon receipt of a request for information from a recruit, an international labor matching organization or an international matchmaking organization shall refrain from providing any further services to the recruit or the client with regard to facilitating future interaction between the recruit and the client until the client has submitted to the organization the complete transcript of any criminal history record obtained from the State Bureau of Identification in the Division of State Police consistent with applicable

State and Federal laws, rules and regulations. The client shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

b. The Division of State Police shall promptly notify the director if the person who was the subject of a criminal history record background check pursuant to subsection a. of section 2 of this act is convicted of a disqualifying crime or offense in this State after the date the background check was performed.

C.56:8-194 Violations.

10. It is a violation of P.L.1960, c.39 (C.56:8-1 et seq.) to violate a provision of this act.

C.56:8-195 Rules, regulations.

11. The director, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate and enforce rules and regulations to effectuate the purposes of this act.

12. This act shall take effect on the first day of the thirteenth month after enactment.

Approved November 20, 2009.

CHAPTER 153

AN ACT establishing a financial literacy pilot program in the Department of Education and supplementing chapter 6 of Title 18A of the New Jersey Statutes.

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

C.18A:6-115 Personal financial literacy course pilot program.

1. a. The Commissioner of Education shall establish a three-year pilot program to provide high school seniors in selected school districts with a personal financial literacy course. The goal of the pilot program shall be to ensure that high school graduates in the pilot districts receive instruction on budgeting, savings and investment, credit card debt, and other issues associated with personal financial responsibility. The commissioner shall select

two districts in each of the southern, central, and northern regions of the State to participate in the program and shall seek a cross section of school districts from urban, suburban, and rural areas of the State.

b. The commissioner shall provide pilot districts with curriculum and sample instructional materials that may be used to support implementation of the pilot program.

c. At the conclusion of the pilot program, the commissioner shall submit a report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature. The report shall contain information on the implementation of the pilot program and shall include the commissioner's recommendation on the feasibility of implementing the program on a Statewide basis.

d. The commissioner shall provide a grant to each of the pilot districts to finance the costs associated with offering the personal financial literacy course.

2. This act shall take effect immediately.

Approved November 20, 2009.

CHAPTER 154

AN ACT concerning public access to certain liens and supplementing chapter 4 of Title 30 of the Revised Statutes.

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

C.30:4-80.6b Public access to certain liens limited.

1. a. Except as provided in subsection f. of this section and notwithstanding the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.) or any other provision of law to the contrary, all liens filed against a person treated at a psychiatric facility as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2) and any index of such liens shall not be made available to a member of the public for inspection, review, or copying or included in any index that is available to the public on or after the effective date of this act, as provided in this section.

b. For any lien identified as a "hospital lien" on the records of the Clerk of the Superior Court where the issuer of the lien is:

(1) a State-operated psychiatric facility listed in R.S.30:1-7 or any variation of such a facility name as identified by the Commissioner of Human Services; or

(2) a county-operated psychiatric facility as identified by the chief executive officer of such a facility,

the Clerk of the Superior Court shall mark the lien as extinguished in accordance with section 8 of P.L.2005, c.55 (C.30:4-80.6a) and remove any record of the lien from public access so that it is not available to a member of the public for inspection, review, or copying or included in any index that is available to the public on or after the effective date of this act.

For the purposes of this subsection, "lien" means a lien index, abstract or other record maintained in electronic or digital format.

c. For any lien related to the cost of patient care identified as an "institutional lien" on the records of the clerk of the county, register of deeds and mortgages, or any other public custodian of such record where the issuer of the lien is:

(1) a State-operated psychiatric facility listed in R.S.30:1-7 or any variation of such a facility name as identified by the commissioner; or

(2) a county-operated psychiatric facility as identified by the chief executive officer of such a facility,

the clerk of the county, register of deeds and mortgages, or any other public custodian of such record shall mark the lien as extinguished in accordance with section 8 of P.L.2005, c.55 (C.30:4-80.6a) and remove any record of the lien from public access so that it is not available to a member of the public for inspection, review, or copying or included in any index that is available to the public on or after the effective date of this act.

d. Upon the filing of the discharge certificate pursuant to section 6 of P.L.1938, c.239 (C.30:4-80.6), with the clerk of the county, register of deeds and mortgages, the Clerk of the Superior Court, or other custodian of such record, the record of any such lien or index shall be removed from public access by the clerk of the county, register of deeds and mortgages, the Clerk of the Superior Court, or other custodian of such record, as appropriate, and shall not be made available to a member of the public for inspection, review, or copying or included in any index that is available to the public on or after the effective date of this act.

e. Any commercial public records company that has obtained a record of a lien filed against a person treated at a psychiatric facility from the clerk of the county, register of deeds and mortgages, the Clerk of the Superior Court, or other custodian of such record shall remove the record from its database within a reasonable amount of time from when the clerk of the

county, register of deeds and mortgages, the Clerk of the Superior Court or other custodian removes the record of such lien from public access.

f. A member of the public may gain access to a lien removed from public access pursuant to this section by applying to the Superior Court of the county in which the lien was filed. The application shall be granted if, in the discretion of the court, there is a demonstrated, necessary, and reasonable basis and need for the access. The access and use of the information about the lien shall be on such terms as an order of the court shall provide.

g. No person shall have a private cause of action against a public entity or public employee for failing to carry out the provisions of this act and no public entity or public employee shall be liable for any claim arising from the failure to fulfill the provisions of this act, provided that a good faith effort was made by the public entity or public employee to carry out the provisions of this act.

h. The commissioner, in the case of a State-operated psychiatric facility listed in R.S.30:1-7, the chief executive officer of a county-operated psychiatric facility, the clerk of the county, register of deeds and mortgages, the Clerk of the Superior Court, or any other public custodian of a record of a lien filed against a person treated at a State or county-operated psychiatric facility prior to the effective date of section 8 of P.L.2005, c.55 (C.30:4-80.6a), shall jointly cooperate to ensure that, to the extent practicable, such records of liens are removed from public access.

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

Approved November 20, 2009.

CHAPTER 155

AN ACT concerning certain cemetery trust fund requirements and amending P.L.1957, c.182.

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

1. Section 1 of P.L.1957, c.182 (C.2A:102-13) is amended to read as follows:

C.2A:102-13 Trust funds.

1. Any and all moneys paid to a funeral director, undertaker, cemetery, or any other person, firm or corporation, under or in connection with an agreement for the sale of personal property to be used in connection with a funeral or burial, or for the furnishing of personal services of a funeral director, undertaker or cemetery, wherein the personal property is not to be delivered or the personal services are not to be rendered until the occurrence of the death of the person for whose funeral or burial such property or services are to be furnished, shall be trust funds in the possession of such funeral director, undertaker, cemetery, or other person, firm or corporation, and shall be deposited by him or it within 30 days after receipt thereof in a special account maintained exclusively for the deposit of such moneys in a federally insured State or federally chartered bank, savings bank or savings and loan association; or, if the person paying the moneys requests, in a pooled trust account established pursuant to P.L.1985, c.147 (C.3B:11-16 et al.) and chosen by the person paying the moneys, and shall be so held on deposit, together with any interest thereon, until said personal property has been delivered and said personal services have been rendered, unless sooner repaid, in whole or in part. No depository institution shall be liable for the misuse, misapplication or improper withdrawal by any such funeral director, undertaker, cemetery or other person, firm or corporation, of any moneys deposited in such depository institution pursuant to this act.

Any agreement for funeral goods or funeral services, or both, executed on or after the effective date of P.L.1993, c.147 by a provider shall comply with the provisions set forth in sections 1 through 13 of P.L.1993, c.147 (C.45:7-82 to 45:7-94).

2. This act shall take effect immediately.

Approved November 20, 2009.

CHAPTER 156

AN ACT concerning the sale of certain fur products and supplementing Title 56 of the Revised Statutes.

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

C.56:14-1 Sale of fur garments regulated.

1. a. No person shall sell or offer to sell any new coat, jacket, garment or other clothing apparel made wholly or in part of fur, regardless of the price of the clothing apparel or the amount of the value of the fur contained therein, unless it has attached and conspicuously displayed a tag or label including the following information:

(1) the name or names of the animal or animals that produced the fur, as set forth in the Fur Products Name Guide, promulgated by the Federal Trade Commission pursuant to section 7 of the federal "Fur Products Labeling Act," Pub.L.82-110 (15 U.S.C. s.69e); and

(2) the name of the country of origin of any imported furs used.

b. Labeling of a new article of clothing apparel pursuant to this section shall be accomplished by adding the required disclosures to a permanent or temporary tag attached to the clothing apparel, or by affixing in a conspicuous place a sticker listing these disclosures upon the clothing apparel.

c. As used in this section, "fur" means animal skin or part thereof, with hair, fleece, or fibers attached thereto, either in its raw or processed state.

d. A retail merchant shall not be held liable for a violation of this section if a manufacturer or supplier for the merchant certifies to that merchant, in the invoice or other written document describing the clothing apparel, that any tag or label attached by the manufacturer or supplier conforms to the requirements of this section, unless the retail merchant knew, or reasonably should have known, that the certification is false.

e. This section shall only apply to new clothing apparel sold or offered for sale to a retail consumer in the first instance, and shall not apply to the resale of that clothing apparel by any second-hand, consignment, goodwill or similar resale merchant. Additionally, nothing contained in this section shall be construed to apply to the isolated or occasional sale of new clothing apparel by an individual not regularly engaged in the business of selling clothing apparel and who originally purchased the clothing apparel for the individual's personal use.

C.56:14-2 Violations, penalties.

2. A person who violates this act shall be subject to a penalty of not more than $500 for the first offense and not more than $1,000 for each subsequent 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.).

Each article of clothing apparel that is not marked in accordance with the provisions of this act shall constitute a separate violation.

C.56:14-3 Rules, regulations.

3. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the provisions of this act.

4. This act shall take effect on the first day of the fourth month following enactment.

Approved November 20, 2009.

CHAPTER 157

AN ACT concerning law enforcement procedures, supplementing Title 2C of the New Jersey Statutes and amending P.L.1986, c.160 and P.L.1982, c.79.

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

C.2C:43-5.1 Crimes committed by students, notification to principal, certain circumstances.

1. At the time of a criminal charge, adjudication of delinquency, or conviction of any student who is 18 years of age or older and is enrolled in secondary school, the law enforcement or prosecuting agency shall provide written notice to the school principal of the identity of that student, the offense charged, the adjudication, and the conviction if:

a. The offense occurred on school property or a school bus, occurred at a school-sponsored function or was committed against an employee or official of the school;

b. The student was taken into custody as a result of information or evidence provided by school officials; or

c. The offense constitutes a crime, and the offense:

(1) resulted in death or serious bodily injury or involved an attempt or conspiracy to cause death or serious bodily injury;

(2) involved the unlawful use or possession of a firearm or other weapon;

(3) involved the unlawful manufacture, distribution or possession with intent to distribute a controlled dangerous substance or controlled substance analog;

(4) was committed with a purpose to intimidate an individual or group of individuals because of race, color, religion, sexual orientation or ethnicity; or

(5) is a crime of the first, second, or third degree.

Information provided to the principal pursuant to this subsection shall be maintained by the school and shall be treated as confidential but may be made available to such members of the staff and faculty of the school as the principal deems appropriate for maintaining order, safety or discipline in the school or for planning programs relevant to a student's educational and social development.

2. 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, in writing, if it has obtained any information pursuant to section 1 of P.L.1982, c.79 (C.2A:4A-60) or section 1 of P.L.2009, c.157 (C.2C:43-5.1). If the receiving district, after having requested in writing the student's records from the school district of last attendance, does not receive those records, it shall use every available means to obtain the records. If the school district of last attendance does not receive a written request for the student's records within two weeks of the student's transfer, it shall use every available means to determine which local school district the student has enrolled in, and to send the student's records, including any information received regarding criminal history pursuant to section 1 of P.L.1982, c.79 (C.2A:4A-60) or section 1 of P.L.2009, c.157 (C.2C:43-5.1), to that district.

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.

3. Section 1 of P.L.1982, c.79 (C.2A:4A-60) is amended to read as follows:

C.2A:4A-60 Disclosure of juvenile information; penalties for disclosure.

1. Disclosure of juvenile information; penalties for disclosure.

a. Social, medical, psychological, legal and other records of the court and probation division, and records of law enforcement agencies, pertaining to juveniles charged as a delinquent or found to be part of a juvenile-family crisis, shall be strictly safeguarded from public inspection. Such records shall be made available only to:

(1) Any court or probation division;

(2) The Attorney General or county prosecutor;

(3) The parents or guardian and to the attorney of the juvenile;

(4) The Department of Human Services or Department of Children and Families, if providing care or custody of the juvenile;

(5) Any institution or facility to which the juvenile is currently committed or in which the juvenile is placed;

(6) Any person or agency interested in a case or in the work of the agency keeping the records, by order of the court for good cause shown, except that information concerning adjudications of delinquency, records of custodial confinement, payments owed on assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or restitution ordered following conviction of a crime or adjudication of delinquency, and the juvenile's financial resources, shall be made available upon request to the Victims of Crime Compensation Agency established pursuant to section 2 of P.L.2007, c.95 (C.52:4B-3.2), which shall keep such information and records confidential;

(7) The Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170);

(8) Law enforcement agencies for the purpose of reviewing applications for a permit to purchase a handgun or firearms purchaser identification card;

(9) Any potential party in a subsequent civil action for damages related to an act of delinquency committed by a juvenile, including the victim or a member of the victim's immediate family, regardless of whether the action has been filed against the juvenile; provided, however, that records available under this paragraph shall be limited to official court documents, such as complaints, pleadings and orders, and that such records may be disclosed by the recipient only in connection with asserting legal claims or obtaining indemnification on behalf of the victim or the victim's family and otherwise shall be safeguarded from disclosure to other members of the public. Any potential party in a civil action related to the juvenile offense may file a motion with the civil trial judge seeking to have the juvenile's social, medi-

cal or psychological records admitted into evidence in a civil proceeding for damages;

(10) Any potential party in a subsequent civil action for damages related to an act of delinquency committed by a juvenile, including the victim or a member of the victim's immediate family, regardless of whether the action has been filed against the juvenile; provided, however, that records available under this paragraph shall be limited to police or investigation reports concerning acts of delinquency, which shall be disclosed by a law enforcement agency only with the approval of the County Prosecutor's Office or the Division of Criminal Justice. Prior to disclosure, all personal information regarding all individuals, other than the requesting party and the arresting or investigating officer, shall be redacted. Such records may be disclosed by the recipient only in connection with asserting legal claims or obtaining indemnification on behalf of the victim or the victim's family, and otherwise shall be safeguarded from disclosure to other members of the public;

(11) The Office of the Child Advocate established pursuant to P.L.2005, c.155 (C.52:27EE-1 et al.). Disclosure of juvenile information received by the child advocate pursuant to this paragraph shall be in accordance with the provisions of section 76 of P.L.2005, c.155 (C.52:27EE-76); and

(12) Law enforcement agencies with respect to information available on the juvenile central registry maintained by the courts pursuant to subsection g. of this section, including, but not limited to: records of official court documents, such as complaints, pleadings and orders for the purpose of obtaining juvenile arrest information; juvenile disposition information; juvenile pretrial information; and information concerning the probation status of a juvenile.

b. Records of law enforcement agencies may be disclosed for law enforcement purposes, or for the purpose of reviewing applications for a permit to purchase a handgun or a firearms purchaser identification card to any law enforcement agency of this State, another state or the United States, and the identity of a juvenile under warrant for arrest for commission of an act that would constitute a crime if committed by an adult may be disclosed to the public when necessary to execution of the warrant.

c. At the time of charge, adjudication or disposition, information as to the identity of a juvenile charged with an offense, the offense charged, the adjudication and disposition shall, upon request, be disclosed to:

(1) The victim or a member of the victim's immediate family;

(2) (Deleted by amendment P.L.2005, c.165).

(3) On a confidential basis, the principal of the school where the juvenile is enrolled for use by the principal and such members of the staff and faculty of the school as the principal deems appropriate for maintaining order, safety or discipline in the school or to planning programs relevant to the juvenile's educational and social development, provided that no record of such information shall be maintained except as authorized by regulation of the Department of Education; or

(4) A party in a subsequent legal proceeding involving the juvenile, upon approval by the court.

d. A law enforcement or prosecuting agency shall, at the time of a charge, adjudication or disposition, send written notice to the principal of the school where the juvenile is enrolled of the identity of the juvenile charged, the offense charged, the adjudication and the disposition if:

(1) The offense occurred on school property or a school bus, occurred at a school-sponsored function or was committed against an employee or official of the school; or

(2) The juvenile was taken into custody as a result of information or evidence provided by school officials; or

(3) The offense, if committed by an adult, would constitute a crime, and the offense:

(a) resulted in death or serious bodily injury or involved an attempt or conspiracy to cause death or serious bodily injury; or

(b) involved the unlawful use or possession of a firearm or other weapon; or

(c) involved the unlawful manufacture, distribution or possession with intent to distribute a controlled dangerous substance or controlled substance analog; or

(d) was committed by a juvenile who acted with a purpose to intimidate an individual or group of individuals because of race, color, religion, sexual orientation or ethnicity; or

(e) would be a crime of the first, second, or third degree.

Information provided to the principal pursuant to this subsection shall be maintained by the school and shall be treated as confidential but may be made available to such members of the staff and faculty of the school as the principal deems appropriate for maintaining order, safety or discipline in the school or for planning programs relevant to a juvenile's educational and social development.

e. Nothing in this section prohibits a law enforcement or prosecuting agency from providing the principal of a school with information identifying one or more juveniles who are under investigation or have been taken into cus-

tody for commission of any act that would constitute an offense if committed by an adult when the law enforcement or prosecuting agency determines that the information may be useful to the principal in maintaining order, safety or discipline in the school or in planning programs relevant to the juvenile's educational and social development. Information provided to the principal pursuant to this subsection shall be treated as confidential but may be made available to such members of the staff and faculty of the school as the principal deems appropriate for maintaining order, safety or discipline in the school or for planning programs relevant to the juvenile's educational and social development. No information provided pursuant to this section shall be maintained.

f. Information as to the identity of a juvenile adjudicated delinquent, the offense, the adjudication and the disposition shall be disclosed to the public where the offense for which the juvenile has been adjudicated delinquent if committed by an adult, would constitute a crime of the first, second or third degree, or aggravated assault, destruction or damage to property to an extent of more than $500.00, unless upon application at the time of disposition the juvenile demonstrates a substantial likelihood that specific and extraordinary harm would result from such disclosure in the specific case. Where the court finds that disclosure would be harmful to the juvenile, the reasons therefor shall be stated on the record.

g. (1) Nothing in this section shall prohibit the establishment and maintaining of a central registry of the records of law enforcement agencies relating to juveniles for the purpose of exchange between State and local law enforcement agencies and prosecutors of this State, another state, or the United States. These records of law enforcement agencies shall be available on a 24-hour basis.

(2) Certain information and records relating to juveniles in the central registry maintained by the courts, as prescribed in paragraph (12) of subsection a. of this section, shall be available to State and local law enforcement agencies and prosecutors on a 24-hour basis.

h. Whoever, except as provided by law, knowingly discloses, publishes, receives, or makes use of or knowingly permits the unauthorized use of information concerning a particular juvenile derived from records listed in subsection a. or acquired in the course of court proceedings, probation, or police duties, shall, upon conviction thereof, be guilty of a disorderly persons offense.

i. Juvenile delinquency proceedings.

(1) Except as provided in paragraph (2) of this subsection, the court may, upon application by the juvenile or his parent or guardian, the prosecutor or any other interested party, including the victim or complainant or

members of the news media, permit public attendance during any court proceeding at a delinquency case, where it determines that a substantial likelihood that specific harm to the juvenile would not result. The court shall have the authority to limit and control attendance in any manner and to the extent it deems appropriate;

(2) The court or, in cases where the county prosecutor has entered an appearance, the county prosecutor shall notify the victim or a member of the victim's immediate family of any court proceeding involving the juvenile and the court shall permit the attendance of the victim or family member at the proceeding except when, prior to completing testimony as a witness, the victim or family member is properly sequestered in accordance with the law or the Rules Governing the Courts of the State of New Jersey or when the juvenile or the juvenile's family member shows, by clear and convincing evidence, that such attendance would result in a substantial likelihood that specific harm to the juvenile would result from the attendance of the victim or a family member at a proceeding or any portion of a proceeding and that such harm substantially outweighs the interest of the victim or family member to attend that portion of the proceeding;

(3) The court shall permit a victim, or a family member of a victim to make a statement prior to ordering a disposition in any delinquency proceeding involving an offense that would constitute a crime if committed by an adult.

j. The Department of Education, in consultation with the Attorney General, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations concerning the creation, maintenance and disclosure of pupil records including information acquired pursuant to this section.

4. This act shall take effect immediately.

Approved November 20, 2009.

CHAPTER 158

AN ACT concerning mergers or consolidation of certain domestic corporations and amending N.J.S.14A:1-2.1 and P.L.1995, c.279.

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

1. N.J.S.14A:1-2.1 is amended to read as follows:

Definitions.

14A:1-2.1. Definitions.

As used in this act, unless the context otherwise requires, the term:

(a) "Act" or "this act" means the "New Jersey Business Corporation Act" and includes all amendments and supplements thereto.

(b) "Attorney General" means the Attorney General of New Jersey.

(c) "Authorized shares" means the shares of all classes and series which the corporation is authorized to issue.

(d) "Board" means board of directors. "Entire board" means the total number of directors which the corporation would have if there were no vacancies.

(e) "Bonds" includes secured and unsecured bonds, debentures, notes and other written obligations for the payment of money.

(f) "Certificate of incorporation" includes:

(i) the original certificate of incorporation or any other instrument filed or issued under any statute to form a domestic or foreign corporation, as amended, supplemented or restated by certificates of amendment, merger or consolidation or by other certificates or instruments filed or issued under any statute; and

(ii) a special act or charter creating a domestic or foreign corporation, as amended, supplemented or restated.

(g) "Corporation" or "domestic corporation" means a corporation for profit organized under this act, or existing on its effective date and theretofore organized under any other law of this State for a purpose or purposes for which a corporation may be organized under this act.

(h) "Director" means any member of the governing board of a corporation, whether designated as director, trustee, manager, governor, or by any other title.

(i) "Foreign corporation" means a corporation for profit organized under the laws of a jurisdiction other than this State, including any state or territory of the United States or the District of Columbia, the United States or any foreign country or other foreign jurisdiction.

(j) "Resolution" means any action taken or authority granted by the shareholders, the board, or a committee of the board, regardless of whether evidenced by a formal resolution.

(k) "Secretary of State" means the Secretary of State of New Jersey.

(l) "Shareholder" means one who is a holder of record of shares in a corporation.

(m) "Shares" means the units into which the proprietary interests in a corporation are divided.

(n) "Subscriber" means one who subscribes for shares in a corporation, whether before or after incorporation.

(o) "Subsidiary" means a domestic or foreign corporation whose outstanding shares are owned directly or indirectly by another domestic or foreign corporation in such number as to entitle the holder at the time to elect a majority of its directors without regard to voting power which may thereafter exist upon a default, failure or other contingency.

(p) "Treasury shares" means shares of a corporation which have been issued, and have been subsequently acquired by the corporation under circumstances which do not result in cancellation. Treasury shares are issued shares, but not outstanding shares.

(q) "Other business entity" means a partnership, limited liability company, statutory trust, business trust or association, real estate investment trust, common-law trust, national association, or any other unincorporated business, whether organized under the laws of this State or under the laws of any other state or territory of the United States or the District of Columbia, the United States or any foreign country or other foreign jurisdiction.

(r) "Votes cast" means all votes cast in favor of and against a particular proposition, but shall not include abstentions.

2. Section 30 of P.L.1995, c.279 (C.14A:10-14) is amended to read as follows:

C.14A:10-14 Merger or consolidation of domestic corporation with other entities; manner.

30. (1) A domestic corporation may merge or consolidate with one or more other business entities in the following manner:

(a) Each domestic corporation shall comply with the provisions of chapter 10 of Title 14A of the New Jersey Statutes with respect to the merger or consolidation of domestic corporations and each other business entity shall comply with the applicable provisions of the laws of the jurisdiction under which it is organized.

(b) The certificate of merger or consolidation required by N.J.S.14A:10-4.1 shall be executed on behalf of each domestic corporation and each other business entity and, in addition to the information required by subsection (1) of N.J.S.14A:10-4.1, shall set forth that the applicable provisions of the laws of the jurisdiction under which each other business

entity was organized have been, or upon compliance with filing and recording requirements will have been, complied with.

(c) If the surviving business entity or new business entity meets the definition of "other business entity" pursuant to subsection (q) of N.J.S.14A:1-2.1, and is organized under the laws of another jurisdiction and is to transact business in this State, it shall comply with the laws of this State applicable to that other business entity, and, whether or not it is to transact business in this State, the certificate of merger or consolidation required by N.J.S.14A:10-4.1 shall, in addition to other required information, set forth:

(i) an agreement by that other business entity that it may be served with process in this State in any proceeding for the enforcement of any obligation of any domestic corporation or any other business entity, previously amenable to suit in this State, which is a party to such merger or consolidation, and in any proceeding for the enforcement of the rights of a dissenting shareholder of any such domestic corporation against the surviving or new corporation;

(ii) an irrevocable appointment by that other business entity of the Secretary of State of this State as its agent to accept service of process in any such proceeding, and the post office address, within or without this State, to which the Secretary of State shall mail a copy of the process in such proceeding; and

(iii) an agreement by that other business entity that it will promptly pay to the dissenting shareholders of any such domestic corporation the amount, if any, to which they shall be entitled under the provisions of chapter 11 of Title 14A of the New Jersey Statutes with respect to the rights of dissenting shareholders.

(2) The provisions of subsection (4) of N.J.S.14A:10-3 shall apply to a merger in which the surviving corporation is a domestic corporation.

(3) If the surviving or new corporation is a domestic corporation, the effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations. If the surviving or new corporation is any other business entity, the effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except insofar as provided otherwise in the laws under which such other business entity is organized.

3. This act shall take effect immediately.

Approved November 20, 2009.

CHAPTER 159

AN ACT concerning equity awards under certain employee benefit plans and amending N.J.S.14A:8-1.

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

1. N.J.S.14A:8-1 is amended to read as follows:

Employee benefit plans.

14A:8-1. Employee benefit plans.

(1) A corporation may establish and carry out wholly or partly at its expense, any one or more of the following plans for the benefit of some or all employees, as hereinafter defined, and their families, dependents or beneficiaries:

(a) Plans providing for the sale or distribution of its shares of any class or series, held by it or issued or purchased by it for the purpose, including stock option, stock purchase, stock bonus, profit-sharing, savings, pension, retirement, deferred compensation and other plans of similar nature, whether or not such plans also provide for the distribution of cash or property other than its shares;

(b) Plans providing for payments solely in cash or property other than shares of the corporation, including profit-sharing, bonus, savings, pension, retirement, deferred compensation and other plans of similar nature; and

(c) Plans for the furnishing of medical services; life, sickness, accident, disability or unemployment insurance or benefits; education; housing; social and recreational services; and other similar aids and services.

(2) The term "employees" as used in this chapter means employees, officers, directors, and agents of the corporation or any subsidiary thereof, or other persons who are or have been actively engaged in the conduct of the business of the corporation or any subsidiary thereof, including any who have retired, become disabled or died prior to the establishment of any plan heretofore or hereafter adopted.

(3) Employee benefits plans may be adopted, amended or terminated by a corporation by the act of its board, a committee of the board, or officers to whom the responsibility has been delegated. Notwithstanding the foregoing, any plan providing for the issuance of shares shall be initially adopted by the board or any committee thereof.

(4) The board of directors may, by a resolution adopted by the board or a committee of the board, authorize one or more officers of the corporation to do one or both of the following: (a) designate officers and employees of the corporation or of any of its subsidiaries to be recipients of shares of stock, rights or options created by the corporation; or (b) determine the number of shares, rights or options to be received by those officers and employees; provided, however that the resolution authorizing those officers shall specify the total number of shares, rights or options the officers may award. A resolution adopted pursuant to this subsection shall prohibit any officer from designating himself as a recipient of any shares, rights or options.

2. This act shall take effect immediately.

Approved November 20, 2009.

CHAPTER 160

AN ACT concerning the Personal Assistance Services Program and amending P.L.1987, c.350.

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

1. Section 2 of P.L.1987, c.350 (C.30:4G-14) is amended to read as follows:

C.30:4G-14 Definitions.

2. As used in this act:

"Advisory Council" means the Statewide Consumer Advisory Council on Personal Assistance Services" established pursuant to section 8 of P.L.1987, c.350 (C.30:4G-20).

"Applicant" means a person who applies for services under the personal assistance services program.

"Assessor" means a person who is employed by the program to conduct eligibility assessments. An assessor shall have a master's degree in social work or a baccalaureate degree and three years of experience in rehabilitation services, or shall be a registered professional nurse with a

bachelor of science degree in nursing or with three years experience in home care.

"Available" means, as applied to a caregiver, physically present, able, and appropriate, as determined with full consideration of the consumer's personal situation.

"Cash Management Plan" means the document used by the program which indicates the monthly cash allowance and details the services and supports required by the consumer in order to meet the consumer's personal care needs.

"Commissioner" means the Commissioner of Human Services.

"Community-based independent living" means self-directed living whereby a consumer is actively participating in community-based activities aside from employment or education, including, but not limited to, parenting, searching for employment, and community service such as volunteering on governing boards or serving on committees.

"Consumer" means a person who either meets the eligibility criteria set forth in section 4 of P.L.1987, c.350 (C.30:4G-16), or has received an individual exception to the eligibility criteria in subsection i. or j. of section 4 of P.L.1987, c.350 under rules established by the commissioner, and who is receiving services.

"County designated agency" means a county office for the disabled or other agency designated by the county government, subject to approval by the commissioner, to administer in that county the personal assistance services program established pursuant to P.L.1987, c.350 (C.30:4G-13 et seq.).

"Department" means the Department of Human Services.

"Employment" means working in a paid occupation, whether in cash or in kind, including, but not limited to, full time employment; part time employment; the practice of a profession; self-employment; farm work; home-based employment; or other gainful work.

"Federal poverty level" means the official poverty level based on family size, established and adjusted under Section 673(2) of Subtitle B of the "Community Services Block Grant Act, "Pub.L.97-35 (42 U.S.C.s.9902 (2)).

"Fiscal intermediary service organization" or "FISO" means a company or agency that is set up to disburse the cash benefit to consumers using the cash option under the program, and serves as the business agent for the consumer, handles the distribution of payroll checks and other disbursements at the direction of the consumer, and keeps records of all transactions.

"Informal caregiver" means an individual who is 18 years of age or older residing in the household for a purpose other than the sharing of expenses.

"Permanent physical disability" means a severe impairment of a permanent nature which so restricts a person's ability to perform essential activities of daily living that the person needs assistance to maintain the person's independence and health.

"Personal assistant" means a person who meets the qualifications with regard to training, equivalent work experience or certification in the provision of personal assistance services established by the commissioner and who provides personal assistance services to a consumer.

"Personal assistance services" means health and chore related tasks performed by a personal assistant. Personal assistance services include, but are not limited to, assistance in essential daily activities such as bathing, dressing and meal preparation; assistance with mobility, laundry and shopping; and driving or other forms of transportation.

"Program" means the Personal Assistance Services Program established pursuant to P.L.1987, c.350 (C.30:4G-13 et seq.).

"Relative" means a person who is 18 years of age or older and is related to the consumer by blood or law.

"Resident" means a person who abides or resides in this State for other than a temporary purpose and who has no present intention of moving from the State.

"Self-directed" means a person who is able to: make decisions regarding daily activities; and make major life decisions, manage and supervise a personal assistant, and accept the responsibility for those decisions and actions.

"Time sheet" means a legal document used to verify the number of hours worked under the program, that is issued by the fiscal intermediary service organization, completed by the employee, and verified by the consumer.

"Training" means the attendance and participation of a consumer or personal assistant in an established Statewide educational program or equivalent, as provided by regulation of the department.

"Training Vendor" means an agency or business that provides a training curriculum to consumers and personal assistants under the guidelines of the program.

"Vendor" mean an agency or business that provides an allowable service to a consumer under the guidelines of the program.

2. Section 3 of P.L.1987, c.350 (C.30:4G-15) is amended to read as follows:

C.30:4G-15 Personal assistance services program.

3. There is established a personal assistance services program in the Division of Disability Services in the Department of Human Services, to be administered by county designated agencies in each of the 21 counties. The program, within the limits of funds appropriated or otherwise made available to it, shall assist adults with permanent physical disabilities in the performance of routine, nonmedical tasks that are directly related to maintaining their health and independence, in order to enable these persons to be employed or receive training or education related to employment, parenting, or volunteering, or to support community-based independent living. The program shall seek to promote the greatest possible degree of self-control and self-direction on the part of each recipient of services.

3. Section 4 of P.L.1987, c.350 (C.30:4G-16) is amended to read as follows:

C.30:4G-16 Eligibility.

4. A person is eligible for the personal assistance services program if:

a. The person has a permanent physical disability;

b. The person is 18 through 70 years of age;

c. The person is a resident of this State;

d. The person is in need of personal assistance services pursuant to a written plan of service;

e. The person is capable of managing and supervising their personal assistance services;

f. A relative or other informal caregiver is not available to provide the services that the person needs;

g. The person lives or plans to live in a private house or apartment, rooming or boarding house, group home, educational facility or residential health care facility; and the personal assistance services that the person shall receive are supplemental to, and not duplicative of, services provided to the person in the rooming or boarding house, group home, educational facility or residential health care facility pursuant to licensure requirements. A person who resides, or is a patient, in a nursing, assisted living, or intermediate care facility, special hospital or other inpatient medical setting is not eligible for the personal assistance services program;

h. The attending physician of the person who shall receive the personal assistance services has confirmed in writing that the person has a permanent physical disability, requires no assistance in the coordination of

therapeutic regimes, and that the personal assistance services will be appropriate to meet the person's needs; and

i. The person receives no more than 40 hours of personal assistance services from this program or any other program per week. The commissioner shall develop rules for individual exceptions to this requirement.

j. The commissioner shall develop rules for individual exceptions to the age criteria.

4. Section 10 of P.L.1993, c.215 (C.30:4G-16.1) is amended to read as follows:

C.30:4G-16.1 Personal assistance consumer bill of rights.

10. There is established a personal assistance consumer bill of rights. Each consumer, and, as appropriate, each applicant:

a. Shall be treated with courtesy, respect, and full recognition of one's dignity, individuality, and right to control one's own household and lifestyle, including the identification and determination of one's own needs, schedules and the services necessary to meet these needs;

b. Shall be served by personal assistants or vendors who are properly trained and competent to perform their duties;

c. Shall receive services in compliance with all State laws and regulations without discrimination based on race, religion, gender, age, creed or disability in the provision or quality of services;

d. Shall be free from mental and physical abuse, neglect and exploitation, and shall be free from chemical and physical restraints;

e. Shall be accorded privacy while receiving services in communications and in all daily activities;

f. Shall be accorded respect for one's property rights;

g. Shall have one's personal, financial and medical records treated as confidential;

h. Shall be free to fully exercise one's civil and due process rights and to be assisted by a personal assistant or vendors as appropriate and necessary;

i. Shall receive in a timely manner all decisions regarding eligibility and amount and kind of services and the reasons therefor in writing and, if appropriate, orally, along with administrative hearings and appeals procedures;

j. Shall have access to a fair appeals process through which disputes can be resolved;

k. Shall receive written information regarding consumer standards and responsibilities in the personal assistance services program and to have them verbally explained as needed;

l. Shall have as few personal assistants entering one's home as possible;

m. Shall have the right to interview, screen and select one's personal assistant; and

n. Shall dismiss those personal assistants who do not respect consumer rights.

5. Section 5 of P.L.1987, c.350 (C.30:4G-17) is amended to read as follows:

C.30:4G-17 Application process.

5. a. An individual requesting personal assistance services shall make an inquiry to the county designated agency in the county where the individual resides, or intends to reside. If the applicant meets the criteria set forth in subsections a., b., c., and g. of section 4 of P.L.1987, c.350 (C.30:4G-16), then the county designated agency shall furnish the applicant with a complete application package for services under the personal assistance services program. If the applicant does not meet the criteria set forth in subsections a., b., c., and g. of section 4 of P.L.1987, c.350, the individual shall be provided with written notification of ineligibility by the county designated agency.

b. Upon notification from the applicant that he has completed the application package, the county designated agency shall arrange for a social assessment of the applicant. The assessment shall be used to determine the applicant's eligibility as set forth in subsections d., e., f., h., and i. of section 4 of P.L.1987, c.350.

c. As part of the application process, the applicant shall prepare a personal assistance services plan, with participation from the county designated agency and assessor, if requested by the applicant, which will meet the applicant's need for personal assistance services. The plan shall include a list of the types of services required, and include an estimate of the time needed and frequency of services to be provided under the personal assistance services program.

d. Following receipt of the results of an assessment, the personal assistance services plan and the other application materials from the applicant, the county designated agency shall determine the applicant's eligibility and provide written notification of the result to the applicant.

e. If the applicant has been determined to be eligible, the county designated agency shall conduct a financial evaluation of the applicant to determine the requirement of the person, or person's spouse, to pay for personal assistance services, in accordance with the sliding fee scale estab-

lished pursuant to section 7 of P.L.1987, c.350 (C.30:4G-19). If the eligible applicant is found to be responsible for the payment of cost share, the applicant shall be furnished with an estimate of the total monthly cost of services, and a statement of the percentage of total cost, or actual amount of money that the eligible person or the person's spouse is required to pay.

f. The county designated agency shall seek to implement the personal assistance services plan or Cash Management Plan, as applicable, prepared by the consumer, subject to the availability of funding for personal assistance services. The respective plan shall be revised upon request of the consumer or the county designated agency.

g. The county designated agency shall arrange for a comprehensive social and financial reassessment of the consumer at 12-month intervals.

h. In the event of a dispute between the applicant and the county designated agency with regard to the applicant's eligibility for the personal assistance services program or concerning the services plan prepared pursuant to subsection c. of this section, the applicant may request a hearing, which shall be conducted pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.).

i. The social assessments and financial evaluations performed pursuant to subsections b. and e., respectively, of this section, and the personal assistance services plan prepared pursuant to subsection c. of this section, shall be completed on forms prescribed by the commissioner.

j. To assure the timeliness of the process, the commissioner shall establish, in rules, specific time frames for the activities in subsections a., b., d. and e. of this section.

6. Section 6 of P.L.1987, c.350 (C.30:4G-18) is amended to read as follows:

C.30:4G-18 Fee schedule.

6. a. (Deleted by amendment, P.L.2009, c.160)

b. The commissioner shall establish a fee schedule for payments or reimbursements to providers of personal assistance services. The fee schedule shall be reviewed every two years and recommendations shall be made to the commissioner by the Statewide Consumer Advisory Council on Personal Assistance Services.

7. Section 7 of P.L.1987, c.350 (C.30:4G-19) is amended to read as follows:

C.30:4G-19 Sliding fee scale.

7. a. The commissioner shall establish a sliding fee scale for personal assistance services based upon the ability of an eligible person to pay for those services. The sliding fee scale shall apply only to an eligible person whose individual annual gross income is equal to or exceeds 350% of the federal poverty level. Any eligible person whose annual gross income is less than 350% of the federal poverty level shall not be required to pay for personal assistance services.

b. If the costs of an eligible person's personal assistance services are covered in whole or in part by another State or federal government program or insurance contract, the government program or insurance carrier shall be the primary payer and the personal assistance services program shall be the secondary payer.

c. The eligible person receiving personal assistance services and the personal assistant shall sign time sheets attesting to the hours of service rendered, and the personal assistant shall then be paid through the fiscal intermediary service organization.

8. Section 8 of P.L.1987, c.350 (C.30:4G-20) is amended to read as follows:

C.30:4G-20 Statewide Consumer Advisory Council on Personal Assistance Services.

8. a. There is established the Statewide Consumer Advisory Council on Personal Assistance Services in the Division of Disability Services in the department, which shall consist of 19 members, at least 75 percent of whom are consumers of personal assistance services.

(1) The members of the council shall include the Commissioner of Human Services, or his designee, who shall serve ex officio; and 18 public members appointed by the commissioner as follows:

(a) five members who are residents of Central New Jersey, which consists of Burlington, Hunterdon, Mercer, Middlesex, Monmouth, Somerset, and Warren counties;

(b) five members who are residents of Northern New Jersey, which consists of Bergen, Essex, Hudson, Morris, Passaic, Sussex, and Union counties;

(c) five members who are residents of Southern New Jersey, which consists of Atlantic, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem counties;

(d) one member who represents a fiscal intermediary service organization;

(e) one member who represents a training vendor; and

(f) one member who represents a vendor.

(2) Vacancies in the membership of the advisory council shall be filled in the same manner provided for the original appointments. The members of the advisory council shall serve without compensation but shall be reimbursed for the reasonable expenses necessarily incurred in the performance of their duties.

(3) The public members of the council shall serve for a term of three years from the date of their appointment, and until their successors are appointed; except that, of the members serving on the council on the date of enactment of P.L.2009, c.160, the commissioner shall designate six members to serve for a term of one year, six members to serve for a term of two years, and six members to serve for a term of three years.

(4) A member of the council shall be eligible for reappointment.

b. The advisory council shall organize no later than 30 days after the appointment of its members and shall select a chairperson and vice chairperson from among its members and a secretary who need not be a member of the advisory council.

c. The department shall provide such administrative and professional support as needed to carry out its work.

d. It shall be the responsibility of the advisory council to:

(1) Advise the commissioner on matters pertaining to personal assistance services and the development of the personal assistance services program, upon the commissioner's request;

(2) Review the rules adopted for the personal assistance services program and make recommendations to the commissioner thereon;

(3) Evaluate the effectiveness of the personal assistance services program in meeting its objectives and share that evaluation with the commissioner; and

(4) Actively explore innovative service delivery models to enhance the consumer-driven nature of the personal assistance services program.

C.30:4G-22 Direct contract with provider.

9. A consumer shall be free to contract directly with a provider of the consumer's choice, including a vendor providing services on the effective date of P.L.2009, c.160 if the vendor so agrees.

10. This act shall take effect on the 90th day following enactment.

Approved November 20, 2009.

CHAPTER 161

AN ACT concerning State psychiatric hospitals and supplementing chapter 4 of Title 30 of the Revised Statutes.

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

C.30:4-3.23 Definitions relative to State psychiatric hospitals.

1. As used in this act:

"Commissioner" means the Commissioner of Human Services.

"Department" means the Department of Human Services.

"Major injury" means an injury that requires treatment that can only be performed at a general or special hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), and may include admission to the hospital for additional treatment or observation.

"Moderate injury" means an injury that requires treatment beyond basic first aid that can only be performed by a health care professional at the office of a physician, at a hospital emergency room, or by a physician at a State psychiatric hospital.

"Physical assault" means an act upon a person that results in a major or moderate injury that occurs at a State psychiatric hospital.

"State psychiatric hospital" means a psychiatric hospital listed in R.S.30:1-7.

"Unexpected death" means a death that was not medically anticipated, including, but not limited to suicide, homicide or unanticipated death due to an unforeseen medical complication or other circumstance.

C.30:4-3.24 Reporting system for physical assaults, unexpected deaths at State psychiatric hospitals.

2. a. The department shall establish a reporting system for compiling information about physical assaults and unexpected deaths that occur at State psychiatric hospitals, and shall summarize the information in a report which, at a minimum, shall separately identify for each State psychiatric hospital:

(1) the number of major and moderate injuries among patients;

(2) the number of major and moderate injuries between patients and staff members; and

(3) the number of unexpected deaths.

b. The report prepared pursuant to this section shall not contain any identifying information about a patient or staff member.

c. The report shall be considered a public or government record under P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.), and shall be posted on the official website of the department and updated quarterly.

C.30:4-3.25 Notification of Public Advocate.

3. The department shall notify the Public Advocate within 24 hours after an unexpected death occurs at a State psychiatric hospital and shall promptly notify the Public Advocate of any death of which the department has knowledge that occurs within seven days after a patient was discharged from a State psychiatric hospital.

C.30:4-3.26 Rules, regulations.

4. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall adopt rules and regulations necessary to effectuate the purposes of this act.

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

Approved November 20, 2009.

CHAPTER 162

AN ACT concerning the practice of cosmetology and hairstyling, amending P.L.1984, c.205, P.L.1995, c.82 and P.L.1987, c.92, 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.1984, c.205 (C.45:5B-3) is amended to read as follows:

C.45:5B-3 Definitions.

3. As used in this act:

a. "Barber" means any person who is licensed to engage in any of the practices encompassed in barbering.

b. "Barbering" means any one or combination of the following practices when performed on the human body for cosmetic purposes and not for

the treatment of disease or physical or mental ailments and when performed for the general public, primarily for male customers:

(1) shaving or trimming of the beard, mustache or other facial hair;

(2) shampooing, cutting, arranging, relaxing or styling of the hair;

(3) singeing, dyeing, tinting, coloring, bleaching of the hair;

(4) applying cosmetic preparations, antiseptics, tonics, lotions or creams to the hair, scalp, face or neck;

(5) massaging, cleansing or stimulating the face, neck or scalp with or without cosmetic preparations, either by hand, mechanical or electrical appliances; or

(6) cutting, fitting, coloring or styling of hairpieces or wigs, to the extent that the services are performed while the wig is being worn by a person.

c. "Beautician" means any person who is licensed to engage in any of the practices encompassed in beauty culture.

d. "Beauty culture" means any one or combination of the following practices when performed on the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when performed for the general public, primarily for female customers:

(1) shampooing, cutting, arranging, dressing, relaxing, curling, permanent waving or styling of the hair;

(2) singeing, dyeing, tinting, coloring, bleaching of the hair;

(3) applying cosmetic preparations, antiseptics, tonics, lotions, creams or makeup to the hair, scalp, face, neck or upper part of the body;

(4) massaging, cleansing, or stimulating the face, scalp, neck or upper part of the body, with or without cosmetic preparations either by hand, mechanical or electrical appliances;

(5) removing superfluous hair from the face, neck, arms, legs or abdomen by the use of depilatories, waxing or tweezers, but not by the use of electrolysis;

(6) manicuring the fingernails, nail-sculpturing or pedicuring the toenails; or

(7) cutting, fitting, coloring or styling of hairpieces or wigs to the extent that the services are performed while the wig is being worn by a person.

e. "Board" means the New Jersey State Board of Cosmetology and Hairstyling.

f. "Board of Barber Examiners" means the State Board of Barber Examiners established pursuant to P.L.1938, c.197 (C.45:4-27 et seq.).

g. "Board of Beauty Culture Control" means the Board of Beauty Culture Control established pursuant to Chapter 4A of Title 45 of the Revised Statutes.

h. "Clinic" means a designated portion of a licensed school in which members of the general public may receive cosmetology and hairstyling services from registered students in exchange for a fee which shall be calculated to recoup only the cost of materials used in the performance of those services.

i. "Cosmetologist-hairstylist" means any person who is licensed to engage in the practices encompassed in cosmetology and hairstyling.

j. "Cosmetology and hairstyling" means any one or combination of the following practices when performed on the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when performed for the general public, for male or female customers:

(1) shaving or trimming of the beard, mustache or other facial hair;

(2) shampooing, cutting, arranging, dressing, relaxing, curling, permanent waving or styling of the hair;

(3) singeing, dyeing, tinting, coloring, bleaching of the hair;

(4) applying cosmetic preparations, antiseptics, tonics, lotions, creams or makeup to the hair, scalp, face or neck;

(5) massaging, cleansing or stimulating the face, neck or upper part of the body, with or without cosmetic preparations, either by hand, mechanical or electrical appliances;

(6) removing superfluous hair from the face, neck, arms, legs or abdomen by the use of depilatories, waxing or tweezers, but not by the use of electrolysis;

(7) manicuring the fingernails, nail-sculpturing or pedicuring the toenails;

(8) cutting, fitting, coloring or styling of hairpieces or wigs to the extent that the services are being performed while the wig is being worn by a person; or

(9) hairweaving to the extent that the procedure does not involve the replacement of human hair by means of the insertion of any natural or synthetic fiber hair into the scalp.

k. "Manicurist" means a person who holds a license to engage in only the practice of manicuring.

l. "Manicuring" means any one or combination of the following practices when performed on the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when performed for the general public, for male or female customers:

(1) manicuring of the fingernails;

(2) pedicuring of the toenails;

(3) nail sculpturing; or

(4) removing superfluous hair from the face, neck, arms, legs or abdomen by the use of depilatories, waxing or tweezers, but not by the use of electrolysis.

m. "Owner" means any person, corporation, firm or partnership who has a financial interest in a school or shop entitling him to participate in the promotion, management and proceeds thereof. It does not include a person whose connection with a school or shop entitles him only to reasonable salary or wages for services actually rendered.

n. "Practicing licensee" means any person who holds a license to practice barbering, beauty culture, cosmetology and hairstyling, manicuring or as a skin care specialist.

o. "Registered student" means a person who is engaged in learning and acquiring a knowledge of any of the practices included in the definition of cosmetology and hairstyling, including beauty culture, barbering, manicuring and skin care specialty, under the direction and supervision of a person duly authorized under this act to teach cosmetology and hairstyling and who is enrolled in a program of instruction at a licensed school of cosmetology and hairstyling, completion of which may render him eligible for licensure pursuant to this act but does not mean a person who is enrolled in a public school vocational program in cosmetology and hairstyling approved by the State Board of Education or in any other cosmetology and hairstyling program approved by the State Board of Education.

p. "Registration card" means a document issued by the board to a registered student upon receipt of documentation from a licensed school of cosmetology and hairstyling that the student is enrolled.

q. "School" means an establishment or place licensed by the board to be maintained for the purpose of teaching cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty to registered students.

r. "Senior student" means a registered student who has successfully completed one-half of the total hours of instruction required for licensure as a cosmetologist-hairstylist, beautician, barber, manicurist or skin care specialist in a licensed school of cosmetology and hairstyling, as determined by the board pursuant to regulation, or in any public school vocational training program approved by the State Board of Education.

s. "Student permit" means a permit issued to a senior student which enables him to practice cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty, as appropriate, based on the course of instruction in which the student is enrolled, in a school clinic or shop while a

registered student at a licensed school of cosmetology and hairstyling or enrolled in an approved vocational training program.

t. "Shop" means any fixed establishment or place where one or more persons engage in one or more of the practices included in the definition of cosmetology and hairstyling, barbering, beauty culture, manicuring or skin care specialty.

u. "Teacher" means any person who is licensed by the board to give instruction or training in the theory or practice of cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty.

v. "Temporary permit" means a permit issued to applicants for licensure awaiting scheduling or results of an examination.

w. (Deleted by amendment, P.L.2009, c.162)

x. "Skin care specialist" means a person who holds a license to engage in only the practices included in the definition of skin care specialty.

y. "Skin care specialty" means any one or combination of the following practices when performed on the male or female human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when performed for the general public, primarily for male customers:

(1) applying cosmetic preparations, antiseptics, tonics, lotions, creams or makeup to the scalp, face or neck;

(2) massaging, cleansing or stimulating the face, neck or upper part of the body, with or without cosmetic preparations, either by hand, mechanical or electrical appliances; or

(3) removing superfluous hair from the face, neck, arms, legs or abdomen by the use of depilatories, waxing or tweezers, but not by the use of electrolysis.

z. (Deleted by amendment, P.L.2009, c.162)

2. Section 4 of P.L.1984, c.205 (C.45:5B-4) is amended to read as follows:

C.45:5B-4 New Jersey State Board of Cosmetology and Hairstyling.

4. There is created within the Division of Consumer Affairs in the Department of Law and Public Safety the New Jersey State Board of Cosmetology and Hairstyling. The board shall consist of 11 members who are residents of the State, three of whom shall be public members, two appointed pursuant to subsection b. of section 2 of P.L.1971, c.60 (C.45:1-2.2) and one additional public member, and one of whom shall be a State executive department member appointed pursuant to subsection c. of section 2 of

P.L.1971, c.60 (C.45:1-2.2). Of the remaining seven members, six shall hold practicing licenses issued by the board and shall have been engaged in the practice of beauty culture, barbering or cosmetology and hairstyling for at least five years prior to their appointments, but shall not have been engaged in the conduct of or teaching at a licensed school of beauty culture or cosmetology and hairstyling. The remaining one member appointed by the board created by this act shall hold a teacher's license issued by the board and shall have been engaged in the teaching of beauty culture or cosmetology and hairstyling or shall have been involved in the conduct of a licensed school of beauty culture or school of cosmetology and hairstyling in this State for at least five years prior to the appointment.

3. Section 5 of P.L.1984, c.205 (C.45:5B-5) is amended to read as follows:

C.45:5B-5 Board members; appointment; terms; compensation.

5. The Governor shall appoint members to the board with the advice and consent of the Senate. The Governor shall appoint each member for a term of three years. Each member shall hold office until his successor has been qualified. Any vacancy in the membership of the board shall be filled in the same manner as the original appointment for the unexpired term only. No member of the board may serve more than two successive terms in addition to any unexpired term to which he has been appointed. Members of the board shall be compensated and reimbursed for expenses and provided with office and meeting facilities pursuant to section 2 of P.L.1977, c.285 (C.45:1-2.5). The board shall annually elect from among its members a chairman and vice chairman. The board shall meet six times per year and may hold additional meetings as necessary to discharge its duties.

4. Section 6 of P.L.1984, c.205 (C.45:5B-6) is amended to read as follows:

C.45:5B-6 Duties of board.

6. The board shall:

a. Review the qualifications of applicants for licensure;

b. Devise examinations for licensure which include practical and written portions;

c. Administer and grade examinations or employ competent examiners to administer and grade examinations but in no case shall the board permit a person having any affiliation with a licensed school to examine or

grade an applicant who has been a registered student at the school with which the examiner has an affiliation;

d. Issue and renew licenses of any cosmetologist-hairstylist, beautician, barber, manicurist, skin care specialist, teacher, shop, or school;

e. Issue student permits to senior students, which permits shall remain valid during the period that the student is registered at a licensed school or enrolled in an approved vocational training program;

f. Issue temporary permits to applicants for licensure who are awaiting scheduling for or results from an examination;

g. Issue registration cards to registered students;

h. Suspend, revoke or refuse to renew a license and exercise investigative powers pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.);

i. Appoint and employ an executive director and an assistant executive director subject to the approval of the Attorney General, and other employees as necessary to carry out the provisions of this act;

j. Determine the duties that the executive director and the assistant executive director shall perform;

k. File with the Attorney General a petition to remove any executive director or assistant executive director for cause, which petition shall be acted upon by the Attorney General in a manner which he deems appropriate;

l. Establish fees for initial licensure, permits, renewals and restoration of licenses as well as for duplication of lost licenses pursuant to section 2 of P.L.1974, c.46 (C.45:1-3.2);

m. Maintain records of all practicing licensees and all licensed teachers. Records shall include the latest work address of each licensee, as provided on applications for licensure and renewals thereof;

n. Maintain a record of all registered students and all persons holding student permits;

o. Maintain a record of all shops licensed by the board to offer one or more of the services encompassed within the definition of cosmetology and hairstyling;

p. Maintain a record of all schools licensed by the board to offer courses of instruction or training in the practice and theory of cosmetology and hairstyling, beauty culture, barbering, manicuring and skin care specialty to registered students, which courses shall be approved by the board for the awarding of credit for licensure;

q. Make available for public inspection all records required to be kept pursuant to this section;

r. Promulgate regulations governing the practice and teaching of cosmetology and hairstyling, beauty culture, barbering, manicuring and skin care specialty as are necessary to implement this act and to insure that cosmetology and hairstyling services and instruction in those services are being offered both in a manner which is sanitary and safe and in a manner which is not intended to deceive or mislead the general public;

s. Promulgate regulations governing the conduct of shops and schools as are necessary to implement this act and to assure that cosmetology and hairstyling services and instruction in those services are being offered both in a manner that is sanitary and safe, and in a manner not intended to deceive or mislead the general public, students of the schools, or organizations awarding financial aid to the students and to clarify or define any term used in the act and to define any activity included in hairstyling and cosmetology, beauty culture, barbering, manicuring and skin care specialty;

t. Review curricula offered by licensed schools in courses of instruction offered to registered students and approve those curricula which offer comprehensive training in cosmetology and hairstyling, beauty culture, barbering, manicuring and skin care specialty;

u. Direct the conduct of inspections or investigations of all licensed shops and schools;

v. Direct the conduct of inspections or investigations of any premises from which the board may have reason to believe that cosmetology and hairstyling, beauty culture, barbering, manicuring and skin care specialty services are being offered, or that courses of instruction are being offered to registered students; and

w. Establish criteria and standards for education and experience required for licensure.

5. Section 7 of P.L.1984, c.205 (C.45:5B-7) is amended to read as follows:

C.45:5B-7 Services requiring license; exceptions.

7. No person shall render any of the services encompassed within the definition of cosmetology and hairstyling, beauty culture, barbering, manicuring and skin care specialty services, without first having secured a license from the board which permits the offering of that service in accordance with the authority provided by the license, except for the following persons when acting within the scope of their profession or occupation:

a. Persons authorized by the laws of this State to practice medicine and surgery, dentistry, chiropractic and acupuncture;

b. Registered nurses, licensed practical nurses, nurses' aides, physical therapists, physical therapy assistants, and other licensed health care professionals;

c. Personnel employed by, and providing services in facilities regulated by, the United States Department of Veterans Affairs or the United States Department of Defense;

d. Persons employed to render cosmetology and hairstyling services in the course of and incidental to the business of employers engaged in the theatrical, radio, television or motion picture production industries, modeling or photography;

e. Persons employed to demonstrate, recommend or administer cosmetic preparations, lotions, creams, makeup or perfume intended for home use for the purposes of effecting retail sales if those persons neither accept payment from the consumer for that demonstration nor make the demonstration contingent upon the purchase of any product or service; or

f. Senior students holding a student permit; provided that those services are rendered in a school clinic or licensed shop during hours that the student does not have scheduled classes.

6. Section 8 of P.L.1984, c.205 (C.45:5B-8) is amended to read as follows:

C.45:5B-8 Premises exemptions.

8. No person shall offer or render any of the services encompassed within the definition of cosmetology and hairstyling, beauty culture, barbering, manicuring and skin care specialty services, in a place which is not licensed as a shop or school, except that a practicing licensee, duly licensed pursuant to this act, may render the services which he is licensed to offer:

a. Upon patients in hospitals, nursing homes, and other licensed health care facilities;

b. Upon inmates and residents of institutions of the Department of Corrections or the Department of Human Services;

c. Upon an invalid or handicapped person in the person's place of residence, if the practicing licensee is sponsored by a licensed shop and a record of those services is maintained by that shop;

d. Upon performers or models, prior to, in anticipation of or during a performance; or

e. Upon potential consumers of cosmetic preparations, lotions, creams, makeup or perfume which are intended for home use if the application of the product is made for the purposes of effecting a retail sale and the

person neither accepts payment from the consumer for the service, nor makes the provision of the service contingent upon the purchase of any product or service.

Nothing contained in this section shall be construed to preclude a student enrolled in a school of cosmetology and hairstyling licensed in this State, or in a public school approved by the State Board of Education to offer a vocational program in cosmetology and hairstyling, or a student enrolled in a cosmetology and hairstyling program approved by the State Board of Education, from engaging in any activities incident to the instruction provided in such school or program.

7. Section 9 of P.L.1984, c.205 (C.45:5B-9) is amended to read as follows:

C.45:5B-9 Shop licenses.

9. No person, firm, corporation, partnership or other legal entity shall operate, maintain or use premises for the offering of or rendering of any one or more of the services encompassed in the definition of cosmetology and hairstyling, beauty culture, barbering, manicuring and skin care specialty without first having secured a shop license from the board.

8. Section 10 of P.L.1984, c.205 (C.45:5B-10) is amended to read as follows:

C.45:5B-10 Licensure for schools required.

10. No person, firm, corporation, partnership or other legal entity shall operate, maintain or use premises at which courses of instruction in cosmetology and hairstyling, beauty culture, barbering, manicuring and skin care specialty services are offered to registered students without first having secured a school license from the board. Nothing herein shall prohibit the offering of educational programs and courses in cosmetology and hairstyling, beauty culture, barbering, manicuring and skin care specialty to practicing licensees or teachers at unlicensed premises. However, no course offered at an unlicensed premises shall be recognized by the board in satisfaction of licensure eligibility requirements. All educational programs and courses offered at unlicensed premises shall be conducted by practicing licensees.

9. Section 11 of P.L.1984, c.205 (C.45:5B-11) is amended to read as follows:

C.45:5B-11 Practicing licensee requirement.

11. A shop licensed by the board shall employ at least one experienced practicing licensee to generally oversee the management of the shop. The practicing licensee shall:

a. Hold a cosmetologist-hairstylist license and have three years of experience as a cosmetologist-hairstylist; or

b. (1) If the shop performs only beauty culture services, hold a cosmetologist-hairstylist or beauty culture license and have three years of experience as a cosmetologist-hairstylist or beautician; or

(2) If the shop performs only barbering services, hold a cosmetologist-hairstylist or barbering license and have three years of experience as a cosmetologist-hairstylist or barber; or

c. If the shop performs only manicuring services, hold a cosmetologist-hairstylist, beautician or manicurist license and have three years of experience as a cosmetologist-hairstylist, beautician or manicurist; or

d. If a shop performs only skin care specialty services, hold a cosmetologist-hairstylist, beautician or skin care specialty license and have three years of experience as a cosmetologist-hairstylist, beautician or skin care specialist.

A shop which satisfies the requirements of this section by employing a practicing licensee who holds a beautician, barber, manicuring or skin care specialty license is precluded from employing senior students other than those being trained in the practice for which the practicing licensee holds a license unless the shop also employs a practicing licensee who holds a license as a cosmetologist-hairstylist and has at least three years of experience as a cosmetologist-hairstylist.

10. Section 12 of P.L.1984, c.205 (C.45:5B-12) is amended to read as follows:

C.45:5B-12 Unlawful practices; persons.

12. In addition to any practice declared unlawful pursuant to P.L.1978, c.73 (C.45:1-14 et seq.), it shall be unlawful for any person to engage in the following practices:

a. Advertise in a manner which would tend to mislead consumers of cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty services;

b. Advertise, practice or attempt to practice under another's name or trade name;

c. Continue to practice while knowingly having an infectious, contagious or communicable disease which could reasonably be expected to be transmitted during the course of rendering cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty services;

d. Engage in fraudulent practices for the purpose of securing financial aid from any institution or agency offering that aid to students of cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty;

e. Aid, abet, or knowingly permit a person not licensed pursuant to this act to render any of the services encompassed within the definition of cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty;

f. Fail to display a practicing license at any place at which the licensee renders services; or

g. Engage in one or more of the practices included in the definition of cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty, in premises not licensed as a shop or a school, except as provided in section 8 of this act.

11. Section 14 of P.L.1995, c.82 (C.45:5B-12.1) is amended to read as follows:

C.45:5B-12.1 License under act required for certain practices.

14. a. No person shall represent himself or hold himself out as engaging in the practices encompassed in cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty, unless licensed under this act.

b. No person shall use the title or designation "cosmetologist-hairstylist," "beautician," "barber," "manicurist," or "skin care specialist" or any other title or designation suggesting that the person is a cosmetologist-hairstylist, beautician, barber, manicurist or skin care specialist unless licensed under this act, and unless the title or designation corresponds to the license held by the person pursuant to this act.

12. Section 13 of P.L.1984, c.205 (C.45:5B-13) is amended to read as follows:

C.45:5B-13 Unlawful practices; shops, owners.

13. In addition to any practice declared unlawful pursuant to P.L.1978, c.73 (C.45:1-14 et seq.), it shall be unlawful for a licensed shop or shop owner to engage in the following practices:

a. Advertise in a manner which would tend to mislead consumers of cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty services;

b. Advertise, operate a shop or attempt to operate a shop under another's name or trademark;

c. Knowingly permit any practicing licensee to render services when that licensee has an infectious, contagious or communicable disease which could reasonably be expected to be transmitted during the course of rendering cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty services;

d. Aid, abet or permit a person not licensed pursuant to this act to render any of the services encompassed within the definition of cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty;

e. Maintain a shop in a manner which is unsafe or unsanitary;

f. Fail to display, in a conspicuous place, its shop license; or

g. Fail to employ one person with the required experience as provided in section 11 of this act.

13. Section 14 of P.L.1984, c.205 (C.45:5B-14) is amended to read as follows:

C.45:5B-14 Unlawful practices; schools, owners.

14. In addition to any practice declared unlawful pursuant to P.L.1978, c.73 (C.45:1-14 et seq.), it shall be unlawful for a licensed school or school owner to engage in the following practices:

a. Advertise in a manner which would tend to mislead potential students or consumers of cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty services offered within the school's clinic;

b. Advertise, operate a school or attempt to open a school under another's name or trade name;

c. Permit students to practice upon each other or members of the public while knowingly having an infectious, contagious or communicable disease which could reasonably be expected to be transmitted during the course of teaching or rendering cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty services;

d. Permit teachers to demonstrate cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty services on students while knowingly having an infectious, contagious or communicable disease

which could reasonably be expected to be transmitted during the course of teaching or rendering cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty services;

e. Engage in fraudulent practices for the purpose of securing financial aid from any institution or agency offering aid to students of cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty;

f. Aid, abet, or permit a person not licensed pursuant to this act to teach any of the services encompassed within the definition of cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty to registered students;

g. Maintain any premises from which the practice of cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty is offered, or the teaching of cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty is offered in a manner which is unsanitary or unsafe;

h. Fail to display, in a conspicuous place, its school license;

i. Fail to maintain accurate records of attendance by any registered student for at least five years after the student's enrollment ends, which records shall be subject to inspection by the board;

j. Fail to notify the board on forms it may prescribe of any student who obtains a leave of absence, fails to attend classes for a period of more than 90 consecutive days or withdraws from school; or

k. Fail to maintain the required bond during all periods of operation.

14. Section 15 of P.L.1984, c.205 (C.45:5B-15) is amended to read as follows:

C.45:5B-15 Unlawful practices; teachers.

15. In addition to any practice declared unlawful pursuant to P.L.1978, c.73 (C.45:1-14 et seq.), it shall be unlawful for a licensed teacher to engage in the following practices:

a. Advertise in a manner which would tend to mislead potential students or consumers of cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty services offered in the school clinic;

b. Advertise, teach or attempt to open a school under another person's name;

c. Knowingly permit students to practice upon each other or members of the public while having an infectious, contagious or communicable disease which could reasonably be expected to be transmitted during the

course of rendering cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty services;

d. Demonstrate cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty services on students while knowingly having an infectious, contagious or communicable disease which could reasonably be expected to be transmitted during the course of rendering cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty services;

e. Engage in fraudulent practices for the purpose of securing financial aid from any institution or agency offering aid to students of cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty;

f. Aid, abet or permit a person not licensed pursuant to this act to teach any of the services included in the definition of cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty to registered students;

g. Teach cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty in a manner which is unsatisfactory or unsafe;

h. Fail to display in a conspicuous place a valid teacher's license at the school; or

i. Fail to accurately and truthfully record attendance by registered students.

15. Section 16 of P.L.1984, c.205 (C.45:5B-16) is amended to read as follows:

C.45:5B-16 Application for licensure.

16. Each applicant for initial licensure as a practicing licensee shall submit to the board satisfactory evidence, on forms as the board requires, that he:

a. Is of good moral character;

b. Is at least 17 years of age;

c. Does not have any communicable, contagious or infectious disease which could reasonably be expected to be transmitted during the course of rendering cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty services; and

d. Has successfully completed high school or has successfully passed an examination developed by the General Education Development (GED) Testing Service.

16. Section 17 of P.L.1984, c.205 (C.45:5B-17) is amended to read as follows:

C.45:5B-17 Licensure as cosmetologist-hairstylist.

17. An applicant seeking licensure as a cosmetologist-hairstylist shall:

a. (Deleted by amendment, P.L.2009, c.162)

b. Demonstrate successful completion of a course in cosmetology and hairstyling consisting of:

(1) Instruction at a school of cosmetology and hairstyling licensed in this State, the curriculum for which shall be established by the board pursuant to regulation; or

(2) A program in a public school approved by the State Board of Education to offer a vocational program in cosmetology and hairstyling, or other cosmetology and hairstyling program approved by the State Board of Education; or

(3) Instruction at a school of cosmetology and hairstyling licensed in another state or a foreign country which, in the opinion of the board, offers curricula which is substantially similar to that offered at licensed schools within the State; and

c. Take and pass an examination conducted by the board, as provided by this act.

17. Section 20 of P.L.1984, c.205 (C.45:5B-20) is amended to read as follows:

C.45:5B-20 Initial licensure as beautician.

20. An applicant seeking initial licensure as a beautician shall:

a. (Deleted by amendment, P.L.2009, c.162)

b. (Deleted by amendment, P.L.2009, c.162)

c. (Deleted by amendment, P.L.2009, c.162)

d. (Deleted by amendment, P.L.2009, c.162)

e. Demonstrate successful completion of a course of instruction in beauty culture consisting of:

(1) Instruction at a school of cosmetology and hairstyling licensed in this State, the curriculum for which shall be established by the board pursuant to regulation; or

(2) A program in a public school approved by the State Board of Education to offer a vocational program in cosmetology and hairstyling or beauty culture, or other cosmetology and hairstyling or beauty culture program approved by the State Board of Education; or

(3) Instruction at a school of cosmetology and hairstyling or beauty culture licensed in another state or a foreign country which, in the opinion of the board, offers curricula which are substantially similar to that offered at licensed schools within the State; and

f. Take and pass an examination conducted by the board.

18. Section 21 of P.L.1984, c.205 (C.45:5B-21) is amended to read as follows:

C.45:5B-21 Initial licensure as barber.

21. An applicant seeking initial licensure as a barber shall:

a. (Deleted by amendment, P.L.2009, c.162)

b. (Deleted by amendment, P.L.2009, c.162)

c. (Deleted by amendment, P.L.2009, c.162)

d. Demonstrate successful completion of a course of instruction in barbering consisting of:

(1) Instruction at a school of cosmetology and hairstyling licensed in this State, the curriculum for which shall be established by the board pursuant to regulation; or

(2) A program at a public school approved by the State Board of Education to offer a vocational program in cosmetology and hairstyling or barbering, or other cosmetology and hairstyling or barbering program approved by the State Board of Education; or

(3) Instruction at a school of cosmetology and hairstyling or barbering licensed in another state or a foreign country which, in the opinion of the board, offers curricula which are substantially similar to that offered at licensed schools within the State; and

e. Take and pass an examination conducted by the board, as provided by this act.

19. Section 22 of P.L.1984, c.205 (C.45:5B-22) is amended to read as follows:

C.45:5B-22 Initial licensure as manicurist.

22. An applicant seeking initial licensure as a manicurist shall:

a. (Deleted by amendment, P.L.2009, c.162)

b. Demonstrate successful completion of a course of instruction in manicuring, the curriculum for which shall be established by the board pursuant to regulation at:

(1) a school of cosmetology and hairstyling licensed in this State; or

(2) a public school approved by the State Board of Education to offer a vocational program in cosmetology and hairstyling, beauty culture or manicuring, or other cosmetology and hairstyling, beauty culture or manicuring program approved by the State Board of Education; or

(3) a school of cosmetology and hairstyling, beauty culture or manicuring licensed in another state or foreign country which, in the opinion of the board, offers curricula which are substantially similar to that offered at licensed schools within this State; and

c. Take and pass an examination conducted by the board.

20. Section 13 of P.L.1995, c.82 (C.45:5B-22.1) is amended to read as follows:

C.45:5B-22.1 Initial licensure as skin care specialist.

13. An applicant seeking initial licensure as a skin care specialist shall:

a. (Deleted by amendment, P.L.2009, c.162)

b. Demonstrate successful completion of a course of instruction in the practice of a skin care specialty, the curriculum for which is to be established by the board pursuant to regulation at:

(1) a school of cosmetology and hairstyling licensed in this State; or

(2) a public school approved by the State Board of Education to offer a vocational program in cosmetology and hairstyling, beauty culture or skin care specialty or other cosmetology and hairstyling, beauty culture or skin care specialty program approved by the State Board of Education; or

(3) a school of cosmetology and hairstyling, beauty culture or skin care specialty licensed in another state or foreign country which, in the opinion of the board, offers curricula which is substantially similar to that offered at licensed schools within this State; and

c. Take and pass an examination conducted by the board.

21. Section 23 of P.L.1984, c.205 (C.45:5B-23) is amended to read as follows:

C.45:5B-23 Licensure as teacher of cosmetology and hairstyling.

23. An applicant for a license to teach cosmetology and hairstyling shall submit to the board satisfactory evidence that he:

a. Is of good moral character;

b. Is at least 18 years of age;

c. Does not have a communicable, contagious or infectious disease;

d. Has successfully completed high school or successfully passed the examination developed by the General Education Development (GED) Testing Service;

e. Holds a cosmetologist-hairstylist license issued by the board;

f. Has successfully completed a teacher training course, the curriculum for which shall be established by the board pursuant to regulation, consisting of practice and theory of teaching conducted at a licensed school of cosmetology and hairstyling in this State or a school of cosmetology and hairstyling or beauty culture licensed in another state or foreign country which, in the opinion of the board, offers a curriculum which is substantially similar to that offered at licensed schools within this State;

g. Has successfully completed a 30-hour teaching methods course conducted by a college approved by the Commission on Higher Education and recognized by the board or a substantially equivalent teaching methods course conducted by a college in another state which is approved by the higher education authorities of that state and recognized by the board;

h. Has attained six months' employment experience in a licensed shop within this State which may be obtained prior to, at the same time as, or subsequent to the period during which the applicant is attending the teacher training course offered by a licensed school of cosmetology and hairstyling of this State or has attained six months' licensed employment in another state or foreign country; and

i. Has successfully completed an examination conducted by the board.

22. Section 25 of P.L.1984, c.205 (C.45:5B-25) is amended to read as follows:

C.45:5B-25 Eligibility to obtain student permit.

25. To be eligible to obtain a student permit, an applicant shall submit to the board satisfactory evidence that he:

a. Is a senior student in a course of instruction in cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care, as appropriate; and

b. Does not have a communicable, contagious or infectious disease which could reasonably be expected to be transmitted during the course of rendering cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty services.

All permits shall remain valid only during the period that the student is registered at a licensed school of cosmetology and hairstyling or enrolled in

an approved vocational program and shall expire upon a student's graduation, withdrawal or leave of absence from the school or program for more than 90 consecutive days.

23. Section 28 of P.L.1984, c.205 (C.45:5B-28) is amended to read as follows:

C.45:5B-28 Licensees from other state, country; eligibility for licensure.

28. Applicants possessing a license to render services in another state or a foreign country, which services are included within the definition of cosmetology and hairstyling as set forth in this act, may be issued a license as a cosmetologist-hairstylist, beautician, barber, manicurist or skin care specialist, as appropriate, without examination, provided, however, that the state or country has established eligibility criteria substantially similar to those established in this State, and the applicant has paid a fee as required by the board and submitted certification from the licensing jurisdiction. A person possessing a license to practice cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty services issued by a licensing authority from another state or a foreign country which has established eligibility criteria with respect to cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty training which are, in the opinion of the board, less stringent than those required in this State may, nevertheless, be eligible for licensure without examination, if he can present satisfactory evidence of prior practical experience of three years working in a licensed shop in the practice in which the applicant is seeking licensure.

24. Section 31 of P.L.1984, c.205 (C.45:5B-31) is amended to read as follows:

C.45:5B-31 Application for license to open shop.

31. a. A person, corporation, firm or partnership intending to open a shop shall:

(1) Make application to the board on forms as it may require demonstrating that the physical premises and the operation of the shop will meet minimum criteria as established by the board;

(2) Permit an inspection of the premises;

(3) Pay a fee as may be required by the board;

(4) Employ a practicing licensee with the required experience pursuant to section 11 of P.L.1984, c.205 (C.45:5B-11).

b. Nothing contained in P.L.1984, c.205 (C.45:5B-1 et seq.) shall be construed to preclude a person, corporation, firm or partnership from obtaining a shop license for a shop which offers only manicuring services as enumerated in subsection l. of section 3 of P.L.1984, c.205 (C.45:5B-3); provided the applicant for a manicuring shop license complies with the requirements of subsection a. of this section. The minimum criteria established by the board by regulation for such a shop shall be appropriate to the practice offered by the shop, without regard to the practices not offered by the shop.

c. Nothing contained in P.L.1984, c.205 (C.45:5B-1 et seq.) shall be construed to preclude a person, corporation, firm or partnership from obtaining a shop license for a shop which offers only skin care specialty services as enumerated in subsection y. of section 3 of P.L.1984, c.205 (C.45:5B-3); provided the applicant for a skin care specialty shop license complies with the requirements of subsection a. of this section. The minimum criteria established by the board by regulation for such a shop shall be appropriate to the practice offered by the shop, without regard to the practices not offered by the shop.

d. Nothing contained in this act shall be construed to preclude a person, corporation, firm or partnership from obtaining a shop license for a shop which offers only beauty culture services as enumerated in subsection d. of section 3 of P.L.1984, c.205 (C.45:5B-3); provided the applicant for a beauty culture shop license complies with the requirements of subsection a. of this section. The minimum criteria established by the board by regulation for such a shop shall be appropriate to the practice offered by the shop, without regard to the practices not offered by the shop.

e. Nothing contained in P.L.1984, c.205 (C.45:5B-1 et seq.) shall be construed to preclude a person, corporation, firm or partnership from obtaining a shop license for a shop which offers only barbering services as enumerated in subsection b. of section 3 of P.L.1984, c.205 (C.45:5B-3); provided the applicant for a barber shop license complies with the requirements of subsection a. of this section. The minimum criteria established by the board by regulation for such a shop shall be appropriate to the practice offered by the shop, without regard to the practices not offered by the shop.

25. Section 34 of P.L.1984, c.205 (C.45:5B-34) is amended to read as follows:

C.45:5B-34 Biennial license renewal.

34. All practicing licenses and teachers' licenses issued shall be renewable on a biennial basis on a date determined by the board.

26. Section 35 of P.L.1984, c.205 (C.45:5B-35) is amended to read as follows:

C.45:5B-35 Renewal of shop, school license.

35. Shop and school licenses shall be renewed within 90 days following expiration. All shop licenses and school licenses issued shall be renewable on a biennial basis on a date determined by the board. Applicants for renewal of school licenses shall provide satisfactory evidence that a bond required pursuant to section 32 of this act has been secured and shall remain valid through the next licensing period. No shop or school license may be restored after 90 days and an application for initial licensure shall be submitted.

27. Section 4 of P.L.1987, c.92 (C.45:5B-35.1) is amended to read as follows:

C.45:5B-35.1 Prior licenses valid.

4. The provisions of P.L.1984, c.205 (C.45:5B-1 et seq.) shall not affect the validity of any license issued by the Board of Beauty Culture Control or the Board of Barber Examiners prior to the effective date of P.L.1984, c.205 (C.45:5B-1 et seq.), however, a person holding a license issued by either board is subject to the provisions of P.L.1984, c.205 (C.45:5B-1 et seq.), as amended by P.L.2009, c.162.

28. Section 36 of P.L.1984, c.205 (C.45:5B-36) is amended to read as follows:

C.45:5B-36 Notification of change of location, ownership of shop, school.

36. A shop or school owner shall notify the board prior to initiating a change of location, a change of ownership, or such other change as the board may determine pursuant to regulation. The shop or school shall submit to the board an initial application for licensure. If a change of ownership results from the death or disability of a principal shareholder in a corporation, or partner in a partnership which holds a shop or school license, the new owner shall notify the board within six months after the change has been effected. For purposes of this section, a change of ownership shall be deemed to have occurred if more than 50% of the outstanding stock or other financial interest is transferred.

29. Section 38 of P.L.1984, c.205 (C.45:5B-38) is amended to read as follows:

C.45:5B-38 Construction of act relative to right of State Board of Education to establish, operate, approve courses.

38. Nothing in this act shall be construed to limit in any way the right of the State Board of Education to establish, operate and approve courses in cosmetology and hairstyling, beauty culture, barbering, manicuring and skin care specialty, to employ teachers, to determine the standards for teaching and the qualifications of teachers, to determine courses of study, to determine the standards for the admission, progress, certification and graduation of students, to determine any and all standards and rules as to location, supplies, equipment and anything whatsoever pertaining to the establishment, operation and maintenance of a course in cosmetology and hairstyling, beauty culture, barbering, manicuring and skin care specialty operated by a public school. Nothing in this act shall be interpreted to give any person or agency other than the State Board of Education the right to prescribe any requirement of any kind whatsoever for courses of cosmetology and hairstyling, beauty culture, barbering, manicuring and skin care specialty in public schools or for teachers or pupils in school courses.

Repealer.

30. The following sections are repealed:
Section 18 of P.L.1984, c.205 (C.45:5B-18);
Section 19 of P.L.1984, c.205 (C.45:5B-19);
Section 6 of P.L.1987, c.92 (C.45:5B-21.1);
Section 24 of P.L.1984, c.205 (C.45:5B-24);
Section 29 of P.L.1984, c.205 (C.45:5B-29); and
Section 30 of P.L.1984, c.205 (C.45:5B-30).

31. This act shall take effect upon the adoption by the New Jersey State Board of Cosmetology and Hairstyling of regulations to effectuate the purposes of this act.

Approved November 20, 2009.

CHAPTER 163

AN ACT prohibiting sale of novelty lighters and supplementing Title 2A of the New Jersey Statutes.

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

C.2A:65C-1 Sale of novelty lighter prohibited.

1. a. A person shall not sell, or offer to sell, a novelty lighter.

b. For the purposes of this section, "novelty lighter" means a mechanical or electrical device typically used for lighting cigarettes, cigars, or pipes, that is designed to resemble any cartoon character, animal, musical instrument, toy, gun, watch, vehicle, food, or beverage or similar articles, or that plays musical notes, or has flashing lights, or has other entertaining features.

A novelty lighter may operate on any fuel, including butane, isobutene, or liquid fuel.

Nothing in this section shall be construed to include the following in the definition of "novelty lighter":

(1) any lighter manufactured prior to January 1, 1980;

(2) any lighter incapable of being fueled or lacking a device necessary to produce combustion or a flame;

(3) any mechanical or electrical device primarily used to ignite fuel for fireplaces or for charcoal or gas grills; or

(4) standard lighters that are printed or decorated with logos, labels, decals, or artwork, or heat shrinkable sleeves.

C.2A:65C-2 Confiscation authorized.

2. A law enforcement officer or fire official may confiscate a novelty lighter that is sold or offered for sale in violation of section 1 of P.L.2009, c.163 (C.2A:65C-1).

C.2A:65C-3 Civil liability.

3. A person who violates the provisions of section 1 of P.L.2009, c.163 (C.2A:65C-1) shall, in addition to any other legal or equitable relief, be liable for a civil penalty of not more than $1,000 for the first offense and not more than $2,000 for the second and each subsequent offense.

C.2A:65C-4 Reasonable costs of successful action.

4. The enforcing agency shall be entitled, if successful in the matter, to the reasonable costs of the action, including, but not limited to, investigative and legal costs, as may be filed with and approved by the court.

C.2A:65C-5 Powers of Attorney General.

5. To accomplish the objectives and to carry out the duties prescribed by this act, the Attorney General shall have all of the powers granted to him under:

a. section 3 of P.L.1960, c.39 (C.56:8-3);
b. section 4 of P.L.1960, c.39 (C.56:8-4);
c. section 5 of P.L.1960, c.39 (C.56:8-5);
d. section 6 of P.L.1960, c.39 (C.56:8-6); and
e. section 8 of P.L.1960, c.39 (C.56:8-8).

6. This act shall take effect on the first day of the seventh month following enactment.

Approved November 20, 2009.

CHAPTER 164

AN ACT concerning municipal recycling coordinators, and amending P.L.1987, c.102.

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

1. Section 6 of P.L.1987, c.102 (C.13:1E-99.16) is amended to read as follows:

C.13:1E-99.16 Municipal recycling system.

6. Each municipality in this State shall, by January 13, 2012, designate one or more persons as the municipal certified recycling coordinator. For the purposes of this section, "municipal certified recycling coordinator" means a person who shall have completed the requirements of a course of instruction in various aspects of recycling program management, as determined and administered by the department.

Each municipality shall establish and implement a municipal recycling program in accordance with the following requirements:

a. Each municipality shall provide for a collection system for the recycling of the recyclable materials designated in the district recycling plan as may be necessary to achieve the designated recovery targets set forth in the plan in those instances where a recycling collection system is not otherwise provided for by the generator or by the county, interlocal service agreement or joint service program, or other private or public recycling program operator.

b. The governing body of each municipality shall adopt an ordinance which requires persons generating municipal solid waste within its municipal boundaries to source separate from the municipal solid waste stream, in addition to leaves, the specified recyclable materials for which markets have been secured and, unless recycling is otherwise provided for by the generator, place these specified recyclable materials for collection in the manner provided by the ordinance.

c. The governing body of each municipality shall, at least once every 36 months, conduct a review and make necessary revisions to the master plan and development regulations adopted pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.), which revisions shall reflect changes in federal, State, county and municipal laws, policies and objectives concerning the collection, disposition and recycling of designated recyclable materials.

The revised master plan shall include provisions for the collection, disposition and recycling of recyclable materials designated in the municipal recycling ordinance adopted pursuant to subsection b. of this section, and for the collection, disposition and recycling of designated recyclable materials within any development proposal for the construction of 50 or more units of single-family residential housing or 25 or more units of multi-family residential housing and any commercial or industrial development proposal for the utilization of 1,000 square feet or more of land.

d. The governing body of a municipality may exempt persons occupying commercial and institutional premises within its municipal boundaries from the source separation requirements of the ordinance adopted pursuant to subsection b. of this section if those persons have otherwise provided for the recycling of the recyclable materials designated in the district recycling plan from solid waste generated at those premises. To be eligible for an exemption pursuant to this subsection, a commercial or institutional solid waste generator annually shall provide written documentation to the municipality of the total number of tons recycled.

e. The governing body of each municipality shall, on or before July 1 of each year, submit a recycling tonnage report to the New Jersey Office of Recycling in accordance with rules and regulations adopted by the department therefor.

f. The governing body of each municipality shall, at least once every six months, notify all persons occupying residential, commercial, and institutional premises within its municipal boundaries of local recycling opportunities, and the source separation requirements of the ordinance. In order to fulfill the notification requirements of this subsection, the governing body of a municipality may, in its discretion, place an advertisement in a

newspaper circulating in the municipality, post a notice in public places where public notices are customarily posted, include a notice with other official notifications periodically mailed to residential taxpayers, or any combination thereof, as the municipality deems necessary and appropriate.

The governing body of a municipality that adopts a recycling ordinance pursuant to subsection b. of this section may limit the collection of designated recyclable materials to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

2. This act shall take effect immediately.

Approved November 20, 2009.

CHAPTER 165

AN ACT concerning the prescribing of controlled dangerous substances, and amending P.L.1997, c.249.

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

1. Section 1 of P.L.1997, c. 249 (C.45:9-22.19) is amended to read as follows:

C.45:9-22.19 Schedule II controlled dangerous substance, prescription quantities, conditions.

1. a. A physician licensed pursuant to chapter 9 of Title 45 of the Revised Statutes may prescribe a Schedule II controlled dangerous substance for the use of a patient in any quantity which does not exceed a 30-day supply, as defined by regulations adopted by the State Board of Medical Examiners in consultation with the Department of Health and Senior Services. The physician shall document the diagnosis and the medical need for the prescription in the patient's medical record, in accordance with guidelines established by the State Board of Medical Examiners.

b. A physician may issue multiple prescriptions authorizing the patient to receive a total of up to a 90-day supply of a Schedule II controlled dangerous substance, provided that the following conditions are met:

(1) each separate prescription is issued for a legitimate medical purpose by the physician acting in the usual course of professional practice;

(2) the physician provides written instructions on each prescription, other than the first prescription if it is to be filled immediately, indicating the earliest date on which a pharmacy may fill each prescription;

(3) the physician determines that providing the patient with multiple prescriptions in this manner does not create an undue risk of diversion or abuse; and

(4) the physician complies with all other applicable State and federal laws and regulations.

2. The State Board of Medical Examiners in consultation with 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.

3. This act shall take effect on the first day of the month next following the date of enactment by 90 days, but the State Board of Medical Examiners may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved November 20, 2009.

CHAPTER 166

AN ACT concerning public contracts and amending P.L.1971, c.198.

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

1. 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).

"Contracting unit" shall not include a duly incorporated nonprofit entity that has entered into a contract for management and operation services with a municipal hospital authority established pursuant to P.L.2006, c.46 (C.30:9-23.15 et al.).

(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, pursuant to P.L.1971, c.198 (C.40A:11-1 et seq.) and who possesses a qualified purchasing agent certificate.

(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.

(41) "Qualified purchasing agent certificate" means a certificate granted by the director pursuant to section 9 of P.L.1971, c.198 (C.40A:11-9).

2. Section 3 of P.L.1971, c.198 (C.40A:11-3) is amended to read as follows:

C.40A:11-3 Bid threshold; period of contracts.

3. a. When the cost or price of any contract awarded by the contracting agent in the aggregate does not exceed in a contract year the total sum of $17,500, the contract may be awarded by a purchasing agent or other employee so designated by the governing body when so authorized by ordinance or resolution, as appropriate to the contracting unit, without public advertising for bids, except that the governing body of any contracting unit may adopt an ordinance or resolution to set a lower threshold for the receipt of public bids or the solicitation of competitive quotations. If a purchasing agent has been appointed, the governing body of the contracting unit may establish that the bid threshold may be up to $25,000 or the threshold amount adjusted by the Governor pursuant to subsection c. of this section. Such authorization may be granted for each contract or by a general delegation of the power to negotiate and award such contracts pursuant to this section.

b. Any contract made pursuant to this section may be awarded for a period of 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) may be awarded for a period not exceeding 12 consecutive months. The Division of Local Government Services shall adopt and promulgate rules and regulations concerning the methods of accounting for all contracts that do not coincide with the contracting unit's fiscal year.

c. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of every fifth year beginning in the fifth year after the year in which P.L.1999, c.440 takes effect, adjust the threshold amount, in direct proportion to the rise or fall of the index rate as that term is defined in section 2 of P.L.1971, c.198 (C.40A:11-2), and shall round the adjustment to the nearest $1,000. The Governor shall, no later than June 1 of every fifth year, notify each governing body of the adjustment. The adjustment shall become effective on July 1 of the year in which it is made.

3. Section 9 of P.L.1971, c.198 (C.40A:11-9) is amended to read as follows:

C.40A:11-9 Designation of contracting unit's purchasing agent, authority, responsibility, accountability; qualifications.

9. a. The governing body of any contracting unit may by ordinance, in the case of a municipality, by ordinance or resolution, as the case may be, in the case of a county, or by resolution in all other cases, designate an individual to serve as the contracting unit's purchasing agent. The individual designated as the purchasing agent pursuant to this subsection shall be assigned the authority, responsibility, and accountability for the purchasing activity for the contracting unit, to prepare public advertising for bids and to receive bids for the provision or performance of goods or services on behalf of the contracting unit and to award contracts permitted pursuant to subsection a. of section 3 of P.L.1971, c.198 (C.40A:11-3) in the name of the contracting unit, and conduct any activities as may be necessary or appropriate to the purchasing function of the contracting unit as its contracting agent. The individual designated to serve as the purchasing agent of a contracting unit pursuant to this subsection shall possess a qualified purchasing agent certificate pursuant to this section. The individual designated as the purchasing agent pursuant to this subsection may be a part-time or full-time employee of the contracting unit, an independent contractor, or an individual employed by another contracting unit through a shared services agreement.

b. The Director of the Division of Local Government Services, after consultation with the Commissioner of Education, shall establish criteria to qualify individuals who have completed appropriate training and possess such purchasing experience as deemed necessary to serve as a purchasing agent, and, when determined to be necessary by the director, have passed an examination administered by the director pursuant to this section. The criteria established by the director shall include, but are not limited to, the following:

(1) is a citizen of the United States;

(2) is of good moral character;

(3) is a high school graduate or equivalent;

(4) has at least two years of higher education, and two years of full time governmental experience performing duties relative to those of public procurement provided, however, that additional years of experience may be substituted for years of higher education, on a one to one basis;

(5) has successfully received certificates indicating satisfactory completion of a series of training courses in public procurement as determined by the director and provided by either the Division of Local Government Services, or, with the approval of the director, by a county college or Rutgers, The State University of New Jersey, all under the supervision of instructors who meet criteria established by the director;

(6) has submitted completed application forms, including proof of education and experience, as set forth in this subsection, accompanied by a fee in the amount of $150 payable to the State Treasurer, to the Director of the Division of Local Government Services at least 30 days prior to the administration of a State examination;

(7) has successfully passed a State examination for a qualified purchasing agent certificate. The director shall hold examinations semi-annually or at such times as the director may deem appropriate. An individual shall be eligible to take the State examination for a qualified purchasing agent certificate without having taken the courses required pursuant to paragraph (5) of this subsection if the individual has been certified by the division as a certified municipal finance officer, a certified county finance officer, or a certified county purchasing officer.

The director shall issue a qualified purchasing agent certificate to an individual who passes the examination upon payment to the director of a fee of $25 which shall be payable to the State Treasurer.

c. The criteria established by the director to authorize purchasing agents, pursuant to subsection b. of this section, shall include, but are not limited to, completion of a course in green product purchasing, as established by the director pursuant to regulation. Any person qualified pursuant to subsection b. of this section prior to the establishment of the course in green product purchasing, shall in order to continue to be qualified, take and successfully complete the course within four years from the date the course is established. For the purposes of this subsection and section 2 of P.L.2007, c.332 (C.40A:11-9.1), "green product" means any commodity or service that has a lesser or reduced negative effect on human health and the environment when compared with competing commodities or services. Items considered in this comparison may include, but are not limited to: raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, disposal, energy efficiency, recycled content resource use, transportation, and durability.

d. (1) Renewal of the qualified purchasing agent certification shall be required every three years, subject to the applicant's fulfillment of continuing education requirements, the submission of an application for renewal, and the payment of a renewal fee, all as determined by the director.

(2) In the event that an individual holding a qualified purchasing agent certificate allows the certificate to lapse by failing to renew the certificate, the individual shall be required to apply to take the qualifying examination required pursuant to subsection b. of this section and pay a fee as determined by the director, except that when an individual applies within six

months of the expiration of the certificate, the application may be made in the same manner as renewal.

e. (1) An individual who obtained a qualified purchasing agent certificate prior to enactment of P.L.2009, c.166 (C.40A:11-9a et al.) shall be exempt from taking the State qualifying examination, but shall adhere to all requirements for renewal pursuant to subsection d. of this section. If such a qualified purchasing agent certificate expires due to the failure of the holder to renew the certificate as prescribed in subsection d. of this section, that individual shall be required to pass the qualifying examination as provided pursuant to subsection b. of this section in order to be issued a new qualified purchasing agent certificate.

(2) An individual who has been certified by the Department of Education as a school business administrator and has performed duties relative to public procurement for at least three years shall be exempt from taking the courses required pursuant to paragraph (5) of subsection b. of this section and the State qualifying examination, and upon application to the director and the payment of the fee imposed pursuant to subsection b. of this section, shall be issued a qualified purchasing agent certificate.

f. Those persons who have been performing the duties of a purchasing agent for a contracting unit pursuant to P.L.1971, c.198 (C.40A:11-1 et seq.), or school board pursuant to N.J.S.18A:18A-1 et seq. for at least three continuous years, prior to the first day of the sixth month following the promulgation of rules and regulations to effectuate the purposes of P.L.2009, c.166 (C.40A:11-9a et al.), and did not possess a qualified purchasing agent certificate at that time, may take the State qualifying examination, if not otherwise exempt under subsection e. of this section, without the courses required in subsection b. of this section.

g. Following the appointment of a purchasing agent for a contracting unit pursuant to subsection a. of this section, if the person appointed no longer performs such duties, the governing body or chief executive officer, as appropriate to the form of government, may appoint, for a period not to exceed one year commencing from the date of the vacancy, a person who does not possess a qualified purchasing agent certificate to serve as a temporary purchasing agent. Any person so appointed may, with the approval of the director, be reappointed as a temporary purchasing agent for a maximum of one additional year following the end of the first temporary appointment. No contracting unit shall employ a temporary purchasing agent for more than two consecutive years.

h. The director may revoke or suspend a qualified purchasing agent certificate for dishonest practices or willful or intentional failure, neglect, or re-

fusal to comply with the laws relating to procurement, or for other good cause. The governing body, together with the chief executive officer of any contracting unit, or a board of education, may request the director to review the behavior or practices of a person holding a qualified purchasing agent certificate. Prior to taking any adverse action against a person, the director or the director's designee shall convene a hearing, upon due notice, affording the person an opportunity to be heard. If the qualified purchasing agent certificate held by a person serving as a purchasing agent is revoked, the director shall order that person to no longer perform the duties of purchasing agent, and the person shall not be eligible to serve as a purchasing agent or to make application for recertification for a period of five years from the date of revocation.

i. The director may adopt and promulgate rules and regulations to effectuate the purposes of this act. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, any such regulations shall be effective immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 365 days and may thereafter be amended, adopted or readopted by the director in accordance with the requirements of P.L.1968, c.410. In order to better manage the workload of implementing the provisions of this act, the director may establish a transition process for administering an examination for individuals serving as purchasing agents on the effective date of this act, issuing and renewing qualified purchasing agent certificates to eligible individuals, prescribing a schedule by which such certificates will be issued and renewed, and such other matters as the director determines to be necessary to the implementation of this act.

C.40A:11-9a Current purchasing agent, lower bid threshold.

4. An individual who is the duly authorized purchasing agent of a contracting unit and does not possess a qualified purchasing agent certificate on the date of enactment of P.L.2009, c.166 may continue to be referred to as the purchasing agent, but the bid threshold for that contracting unit shall be set at $17,500 until such time as that individual obtains a qualified purchasing agent certificate. A contracting unit exercising this authority shall file a letter to this effect with the director.

5. Section 1 of P.L.1971, c.413 (C.40A:9-140.1) is amended to read as follows:

C.40A:9-140.1 Definitions.

1. As used in this act:

a. "Director" means the Director of the Division of Local Government Services.

b. "Municipal finance officer" means a municipal director of finance, assistant director of finance, fiscal officer, municipal comptroller, assistant comptroller, municipal treasurer, assistant municipal treasurer or deputy treasurer who is not a member of the governing body of a municipality.

c. "Local unit" means a municipality or a utility owned by a single municipality or owned jointly by one or more municipalities, which together do not comprise a county.

d. "Chief financial officer" means the official appointed pursuant to section 5 of P.L.1988, c.110 (C.40A:9-140.10) to be responsible for the proper financial administration of the municipality under the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.); the "Local Bond Law," (N.J.S.40A:2-1 et seq.); the "Local Budget Law," (N.J.S.40A:4-1 et seq.); the "Local Fiscal Affairs Law," (N.J.S.40A:5-1 et seq.); and the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) in those municipalities that have not appointed a purchasing agent pursuant to that law; and such other statutes, and such rules and regulations promulgated by the Director of the Division of Local Government Services, the Local Finance Board, or any other State agency, as may pertain to the financial administration of the municipality.

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

Bid threshold.

a. When the cost or price of any contract awarded by the purchasing agent in the aggregate, does not exceed in a contract year the total sum of $17,500, the contract may be awarded by a purchasing agent when so authorized by resolution of the board of education without public advertising for bids and bidding therefor, except that the board of education may adopt a resolution to set a lower threshold for the receipt of public bids or the solicitation of competitive quotations. If the purchasing agent possesses a qualified purchasing agent certificate pursuant to subsection b. of section 9 of P.L.1971, c.198 (C.40A:11-9) the board of education may establish that the bid threshold may be up to $25,000. Such authorization may be granted for each contract or by a general delegation of the power to negotiate and award such contracts pursuant to this section.

b. Commencing in the fifth year after the year in which P.L.1999, c.440 takes effect, and every five years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount and the higher threshold amount which the board of education is permitted to establish as set forth in subsection a. of this section or the

threshold amount resulting from any adjustment under this subsection, in direct proportion to the rise or fall of the index rate as that term is defined in N.J.S.18A:18A-2, and shall round the adjustment to the nearest $1,000. The Governor shall notify all local school districts of the adjustment no later than June 1 of every fifth year. The adjustment shall become effective on July 1 of the year in which it is made.

Any contract made pursuant to this section may be awarded for a period of 24 consecutive months, except that contracts for professional services pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 may be awarded for a period not exceeding 12 consecutive months.

7. This act shall take effect on the first day of the thirteenth month next following enactment, but the Director of the Division of Local Government Services in the Department of Community Affairs may take such anticipatory action in advance thereof as shall be necessary for the implementation of this act.

Approved December 17, 2009.

CHAPTER 167

AN ACT establishing a "Silver Alert System" and supplementing Title 52 of the Revised Statutes.

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

C.52:17B-194.4 "Silver Alert System" established.

1. a. The Attorney General shall establish a "Silver Alert System" which shall provide a Statewide system for the rapid dissemination of information regarding a missing person who is believed to be suffering from dementia or other cognitive impairment. The program shall be a voluntary, cooperative effort between State and local law enforcement agencies and the media, including but not limited to print, radio, and television media outlets.

b. The Attorney General shall notify the media serving the State of New Jersey of the establishment of the Silver Alert System, and invite their voluntary participation.

c. The Missing Persons Investigative Best Practices Protocol Unidentified Deceased Persons Investigative Guidelines, promulgated by the Missing Persons and Child Exploitation Unit in the Division of State Police, shall

be revised to incorporate procedures for issuing an alert regarding missing persons believed to be suffering from dementia or other cognitive impairment. The guidelines and procedures shall ensure that specific health information about the missing person is not made public through the alert or otherwise.

C.52:17B-194.5 Activation of Silver Alert; requirements.

2. A Silver Alert authorized under this section may be activated in accordance with the following requirements, which shall be incorporated into the guidelines required by subsection c. of section 1 of P.L.2009, c.167 (C.52:17B-194.4).

a. The law enforcement agency receiving the missing persons report shall be the lead law enforcement agency.

b. The Missing Persons and Child Exploitation Unit in the Division of State Police, upon request, shall assist the lead law enforcement agency in the investigation of a Silver Alert.

c. Each of the following criteria shall be met before a Silver Alert may be issued:

(1) the person believed to be missing is believed to be suffering from dementia or other cognitive impairment regardless of age;

(2) a missing person's report has been submitted to the local law enforcement agency where the person went missing;

(3) the person believed to be missing may be in danger of death or serious bodily injury;

(4) there is sufficient information available to indicate that a Silver Alert would assist in locating the missing person; and

(5) sufficient information is available to disseminate to the public that could assist in locating the person.

C.52:17B-194.6 Use of overhead permanent changeable message signs to provide information on certain missing persons.

3. a. The Missing Persons and Child Exploitation Unit in the Division of State Police, in consultation with the Department of Transportation, shall develop a procedure for the use of overhead permanent changeable message signs to provide information on a missing person meeting the criteria set forth in section 2 of P.L.2009, c.167 (C.52:17B-194.5) when information is available that would enable motorists to assist in the recovery of the missing person.

b. The Missing Persons and Child Exploitation Unit and the Department of Transportation shall develop guidelines for the content, length, and

frequency of any message to be placed on the overhead permanent changeable message sign.

c. The procedure and guidelines required in subsections a. and b. of this section shall provide at a minimum that:

(1) overhead permanent changeable message signs may be activated only if accurate motor vehicle information is available and it is confirmed that the person was driving the motor vehicle at the time of the disappearance; and

(2) the lead law enforcement agency, upon determining that a Silver Alert is warranted, shall contact the Watch Operations Unit in the New Jersey State Police Regional Operations Intelligence Center, which shall contact the Department of Transportation for activation of highway signs.

d. The participating media may voluntarily agree, upon notice of the issuance of a Silver Alert, to inform the public of a person believed to be missing within their service regions. The notice shall be provided through the lead law enforcement agency.

e. The alerts shall terminate upon notice from the lead law enforcement agency.

f. The alerts shall include a description of the missing person and such other information as the lead law enforcement agency may deem pertinent and appropriate. The lead law enforcement agency shall, in a timely manner, update the media with new information regarding the missing person when appropriate.

g. The alerts also shall provide information concerning how those members of the public who have information relating to the missing person may contact the lead law enforcement agency or the Missing Persons and Child Exploitation Unit in the Division of State Police.

C.52:17B-194.7 Public education campaign relative to Silver Alert System.

4. The Attorney General, with the assistance of the participating media, shall develop and undertake a public education campaign to inform the public about the Silver Alert System.

C.52:17B-194.8 Guidelines.

5. The Attorney General may adopt guidelines to effectuate the purposes of this act.

6. This act shall take effect on the first day of the seventh month following enactment.

Approved December 22, 2009.

CHAPTER 168

AN ACT concerning handgun sales and purchases, and amending N.J.S.2C:58-2 and N.J.S.2C:58-3.

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

1. 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 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 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.

(7) A dealer shall not knowingly deliver more than one handgun to any person within any 30-day period. This limitation shall not apply to:

(a) a federal, State, or local law enforcement officer or agency purchasing handguns for use by officers in the actual performance of their law enforcement duties;

(b) a collector of handguns as curios or relics as defined in Title 18, United States Code, section 921 (a) (13) who has in his possession a valid Collector of Curios and Relics License issued by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives; or

(c) transfers of handguns among licensed retail dealers, registered wholesale dealers and registered manufacturers.

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.

2. N.J.S.2C:58-3 is amended to read as follows:

Purchase of firearms.

2C:58-3. a. Permit to purchase a handgun. No person shall sell, give, transfer, assign or otherwise dispose of, nor receive, purchase, or otherwise acquire a handgun unless the purchaser, assignee, donee, receiver or holder is licensed as a dealer under this chapter or has first secured a permit to purchase a handgun as provided by this section.

b. Firearms purchaser identification card. No person shall sell, give, transfer, assign or otherwise dispose of nor receive, purchase or otherwise acquire an antique cannon or a rifle or shotgun, other than an antique rifle or shotgun, unless the purchaser, assignee, donee, receiver or holder is licensed as a dealer under this chapter or possesses a valid firearms purchaser identification card, and first exhibits said card to the seller, donor, transferor or assignor, and unless the purchaser, assignee, donee, receiver or holder signs a written certification, on a form prescribed by the superintendent, which shall indicate that he presently complies with the requirements of subsection c. of this section and shall contain his name, address and firearms purchaser identification card number or dealer's registration number. The said certification shall be retained by the seller, as provided in paragraph (4) of subsection a. of N.J.S.2C:58-2, or, in the case of a person who is not a dealer, it may be filed with the chief of police of the municipality in which he resides or with the superintendent.

c. Who may obtain. No person of good character and good repute in the community in which he lives, and who is not subject to any of the disabilities set forth in this section or other sections of this chapter, shall be denied a permit to purchase a handgun or a firearms purchaser identifica-

tion card, except as hereinafter set forth. No handgun purchase permit or firearms purchaser identification card shall be issued:

(1) To any person who has been convicted of any crime, or a disorderly persons offense involving an act of domestic violence as defined in section 3 of P.L.1991, c.261 (C.2C:25-19), whether or not armed with or possessing a weapon at the time of such offense;

(2) To any drug dependent person as defined in section 2 of P.L.1970, c.226 (C.24:21-2), to any person who is confined for a mental disorder to a hospital, mental institution or sanitarium, or to any person who is presently an habitual drunkard;

(3) To any person who suffers from a physical defect or disease which would make it unsafe for him to handle firearms, to any person who has ever been confined for a mental disorder, or to any alcoholic unless any of the foregoing persons produces a certificate of a medical doctor or psychiatrist licensed in New Jersey, or other satisfactory proof, that he is no longer suffering from that particular disability in such a manner that would interfere with or handicap him in the handling of firearms; to any person who knowingly falsifies any information on the application form for a handgun purchase permit or firearms purchaser identification card;

(4) To any person under the age of 18 years for a firearms purchaser identification card and to any person under the age of 21 years for a permit to purchase a handgun;

(5) To any person where the issuance would not be in the interest of the public health, safety or welfare;

(6) To any person who is subject to a restraining order issued pursuant to the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.) prohibiting the person from possessing any firearm;

(7) To any person who as a juvenile was adjudicated delinquent for an offense which, if committed by an adult, would constitute a crime and the offense involved the unlawful use or possession of a weapon, explosive or destructive device or is enumerated in subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2); or

(8) To any person whose firearm is seized pursuant to the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.) and whose firearm has not been returned.

d. Issuance. The chief of police of an organized full-time police department of the municipality where the applicant resides or the superintendent, in all other cases, shall upon application, issue to any person qualified under the provisions of subsection c. of this section a permit to purchase a handgun or a firearms purchaser identification card.

Any person aggrieved by the denial of a permit or identification card may request a hearing in the Superior Court of the county in which he resides if he is a resident of New Jersey or in the Superior Court of the county in which his application was filed if he is a nonresident. The request for a hearing shall be made in writing within 30 days of the denial of the application for a permit or identification card. The applicant shall serve a copy of his request for a hearing upon the chief of police of the municipality in which he resides, if he is a resident of New Jersey, and upon the superintendent in all cases. The hearing shall be held and a record made thereof within 30 days of the receipt of the application for such hearing by the judge of the Superior Court. No formal pleading and no filing fee shall be required as a preliminary to such hearing. Appeals from the results of such hearing shall be in accordance with law.

e. Applications. Applications for permits to purchase a handgun and for firearms purchaser identification cards shall be in the form prescribed by the superintendent and shall set forth the name, residence, place of business, age, date of birth, occupation, sex and physical description, including distinguishing physical characteristics, if any, of the applicant, and shall state whether the applicant is a citizen, whether he is an alcoholic, habitual drunkard, drug dependent person as defined in section 2 of P.L.1970, c.226 (C.24:21-2), whether he has ever been confined or committed to a mental institution or hospital for treatment or observation of a mental or psychiatric condition on a temporary, interim or permanent basis, giving the name and location of the institution or hospital and the dates of such confinement or commitment, whether he has been attended, treated or observed by any doctor or psychiatrist or at any hospital or mental institution on an inpatient or outpatient basis for any mental or psychiatric condition, giving the name and location of the doctor, psychiatrist, hospital or institution and the dates of such occurrence, whether he presently or ever has been a member of any organization which advocates or approves the commission of acts of force and violence to overthrow the Government of the United States or of this State, or which seeks to deny others their rights under the Constitution of either the United States or the State of New Jersey, whether he has ever been convicted of a crime or disorderly persons offense, whether the person is subject to a restraining order issued pursuant to the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.) prohibiting the person from possessing any firearm, and such other information as the superintendent shall deem necessary for the proper enforcement of this chapter. For the purpose of complying with this subsection, the applicant shall waive any statutory or other right of confidentiality relating to institu-

tional confinement. The application shall be signed by the applicant and shall contain as references the names and addresses of two reputable citizens personally acquainted with him.

Application blanks shall be obtainable from the superintendent, from any other officer authorized to grant such permit or identification card, and from licensed retail dealers.

The chief police officer or the superintendent shall obtain the fingerprints of the applicant and shall have them compared with any and all records of fingerprints in the municipality and county in which the applicant resides and also the records of the State Bureau of Identification and the Federal Bureau of Investigation, provided that an applicant for a handgun purchase permit who possesses a valid firearms purchaser identification card, or who has previously obtained a handgun purchase permit from the same licensing authority for which he was previously fingerprinted, and who provides other reasonably satisfactory proof of his identity, need not be fingerprinted again; however, the chief police officer or the superintendent shall proceed to investigate the application to determine whether or not the applicant has become subject to any of the disabilities set forth in this chapter.

f. Granting of permit or identification card; fee; term; renewal; revocation. The application for the permit to purchase a handgun together with a fee of $2, or the application for the firearms purchaser identification card together with a fee of $5, shall be delivered or forwarded to the licensing authority who shall investigate the same and, unless good cause for the denial thereof appears, shall grant the permit or the identification card, or both, if application has been made therefor, within 30 days from the date of receipt of the application for residents of this State and within 45 days for nonresident applicants. A permit to purchase a handgun shall be valid for a period of 90 days from the date of issuance and may be renewed by the issuing authority for good cause for an additional 90 days. A firearms purchaser identification card shall be valid until such time as the holder becomes subject to any of the disabilities set forth in subsection c. of this section, whereupon the card shall be void and shall be returned within five days by the holder to the superintendent, who shall then advise the licensing authority. Failure of the holder to return the firearms purchaser identification card to the superintendent within the said five days shall be an offense under subsection a. of N.J.S.2C:39-10. Any firearms purchaser identification card may be revoked by the Superior Court of the county wherein the card was issued, after hearing upon notice, upon a finding that the holder thereof no longer qualifies for the issuance of such permit. The county prosecutor of any county, the chief police officer of any municipal-

ity or any citizen may apply to such court at any time for the revocation of such card.

There shall be no conditions or requirements added to the form or content of the application, or required by the licensing authority for the issuance of a permit or identification card, other than those that are specifically set forth in this chapter.

g. Disposition of fees. All fees for permits shall be paid to the State Treasury if the permit is issued by the superintendent, to the municipality if issued by the chief of police, and to the county treasurer if issued by the judge of the Superior Court.

h. Form of permit; quadruplicate; disposition of copies. The permit shall be in the form prescribed by the superintendent and shall be issued to the applicant in quadruplicate. Prior to the time he receives the handgun from the seller, the applicant shall deliver to the seller the permit in quadruplicate and the seller shall complete all of the information required on the form. Within five days of the date of the sale, the seller shall forward the original copy to the superintendent and the second copy to the chief of police of the municipality in which the purchaser resides, except that in a municipality having no chief of police, such copy shall be forwarded to the superintendent. The third copy shall then be returned to the purchaser with the pistol or revolver and the fourth copy shall be kept by the seller as a permanent record.

i. Restriction on number of firearms person may purchase. Only one handgun shall be purchased or delivered on each permit and no more than one handgun shall be purchased within any 30-day period, but this limitation shall not apply to:

(1) a federal, State or local law enforcement officer or agency purchasing handguns for use by officers in the actual performance of their law enforcement duties;

(2) a collector of handguns as curios or relics as defined in Title 18, United States Code, section 921 (a) (13) who has in his possession a valid Collector of Curios and Relics License issued by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives;

(3) transfers of handguns among licensed retail dealers, registered wholesale dealers and registered manufacturers; or

(4) transfers of handguns from any person to a licensed retail dealer or a registered wholesale dealer or registered manufacturer.

The provisions of this subsection shall not be construed 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.

A person shall not be restricted as to the number of rifles or shotguns he may purchase, provided he possesses a valid firearms purchaser identification card and provided further that he signs the certification required in subsection b. of this section for each transaction.

j. Firearms passing to heirs or legatees. Notwithstanding any other provision of this section concerning the transfer, receipt or acquisition of a firearm, a permit to purchase or a firearms purchaser identification card shall not be required for the passing of a firearm upon the death of an owner thereof to his heir or legatee, whether the same be by testamentary bequest or by the laws of intestacy. The person who shall so receive, or acquire said firearm shall, however, be subject to all other provisions of this chapter. If the heir or legatee of such firearm does not qualify to possess or carry it, he may retain ownership of the firearm for the purpose of sale for a period not exceeding 180 days, or for such further limited period as may be approved by the chief law enforcement officer of the municipality in which the heir or legatee resides or the superintendent, provided that such firearm is in the custody of the chief law enforcement officer of the municipality or the superintendent during such period.

k. Sawed-off shotguns. Nothing in this section shall be construed to authorize the purchase or possession of any sawed-off shotgun.

l. Nothing in this section and in N.J.S.2C:58-2 shall apply to the sale or purchase of a visual distress signalling device approved by the United States Coast Guard, solely for possession on a private or commercial aircraft or any boat; provided, however, that no person under the age of 18 years shall purchase nor shall any person sell to a person under the age of 18 years such a visual distress signalling device.

3. This act shall take effect immediately; provided however, the Superintendent of State Police may take any anticipatory administrative action prior to the effective date necessary for its timely implementation.

Approved January 3, 2010.

CHAPTER 169

AN ACT concerning corrupting or influencing a jury and amending N.J.S.2C:29-8.

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

1. N.J.S.2C:29-8 is amended to read as follows:

Corrupting or influencing a jury.

2C:29-8. Corrupting or Influencing a Jury.

Any person who, directly or indirectly, corrupts, influences or attempts to corrupt or influence a jury or juror to be more favorable to the one side than to the other by promises, persuasions, entreaties, threats, letters, money, entertainment or other sinister means; or any person who employs any unfair or fraudulent practice, art or contrivance to obtain a verdict, or attempts to instruct a jury or juror beforehand at any place or time, or in any manner or way, except in open court at the trial of the cause, by the strength of the evidence, the arguments of the parties or their counsel, or the opinion or charge of the court is guilty of a crime.

a. Corrupting or influencing a jury is a crime of the first degree if the conduct occurs in connection with an official proceeding involving any of the following crimes, as enumerated in subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), and the actor employs force or threat of force:

(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 section 1 of P.L.1996, c.14 (C.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;

(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;

(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; or

(18) N.J.S.2C:41-2, racketeering, when it is a crime of the first degree.

b. Corrupting or influencing a jury is a crime of the second degree if the actor employs force or threat of force and the conduct occurs in connection with an action which does not involve any of the crimes enumerated in subsection a. of this section.

c. Otherwise, corrupting or influencing a jury is a crime of the third degree, provided, however, that the presumption of nonimprisonment set forth in subsection e. of 2C:44-1 for persons who have not previously been convicted of an offense shall not apply.

2. This act shall take effect immediately.

Approved January 9, 2010.

CHAPTER 170

AN ACT concerning the rental of residential property and amending P.L.1993, c.127.

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

1. Section 1 of P.L.1993, c.127 (C.40:48-2.12n) is amended to read as follows:

C.40:48-2.12n Findings, determinations, declarations.

1. The Legislature finds, determines and declares:

a. Many of the municipalities in this State, and the residents thereof, have experienced disturbances, damage and public expense resulting from carelessly granted and inadequately supervised rentals to irresponsible tenants by inept or indifferent landlords.

b. To preserve the peace and tranquility of those communities it is necessary and desirable that those communities have adequate means to curb and discourage those occasional excesses arising from irresponsible rentals.

c. Accordingly, it is the purpose of this legislation to enable municipal governing bodies to take effective action to assure that excesses, when they occur, shall not be repeated, and that landlords be held to sufficient standards of responsibility.

2. Section 2 of P.L.1993, c.127 (C.40:48-2.12o) is amended to read as follows:

C.40:48-2.12o Definitions.

2. As used in this act:

"Hearing officer" means a person designated pursuant to subsection b. of section 3 of P.L.1993, c.127 (C.40:48-2.12p) to hear and determine proceedings under P.L.1993, c.127 (C.40:48-2.12n et seq.).

"Landlord" means the person or persons who own or purport to own a building in which there is rented or offered for rent housing space for living or dwelling under either a written or oral lease which building contains no more than four dwelling units. In the case of a mobile home park, "landlord" shall mean the owner of an individual dwelling unit within the mobile home park.

"Substantiated complaint" means a complaint which may form the basis for proceedings in accordance with subsection a. of section 4 of P.L.1993, c.127 (C.40:48-2.12q).

3. Section 3 of P.L.1993, c.127 (C.40:48-2.12p) is amended to read as follows:

C.40:48-2.12p Ordinance holding landlords to standards of responsibility.

3. a. The governing body of any municipality may enact an ordinance holding landlords to standards of responsibility in the selection of tenants and supervision of the rental premises, requiring that under certain circumstances, as hereinafter in P.L.1993, c.127 (C.40:48-2.12n et seq.) described, such landlords may be required to post adequate bond against the consequences of disorderly behavior of their tenants, and in the case of subsequent violations forfeit such bond, in whole or part, in compensation for the consequences of such behavior.

b. To assure impartiality in the administration of such an ordinance, the municipal governing body shall make provision for the hearings and decisions held and made thereunder to be conducted and decided by a licensed attorney of this State who shall not be an owner or lessee of any real property within the municipality, nor hold any interest in the assets of or profits arising from the ownership or lease of such property.

4. Section 4 of P.L.1993, c.127 (C.40:48-2.12q) is amended to read as follows:

C.40:48-2.12q Provisions of ordinance on rentals.

4. An ordinance adopted under authority of this section shall provide:

a. If in any twelve-month period a specified number, which shall not be less than two, of complaints, on separate occasions, of disorderly, indecent, tumultuous or riotous conduct upon or in proximity to any rental premises, and attributable to the acts or incitements of any of the tenants of those premises, have been substantiated by prosecution and conviction in any court of competent jurisdiction, the municipal governing body or any officer or employee of the municipality designated by the governing body for the purpose, may institute proceedings to require the landlord of those premises to post a bond against the consequences of future incidents of the same character.

b. (1) In the event a tenant is convicted of any of the conduct described in subsection a. of this section, the governing body, or the officer or employee designated pursuant to subsection a. of this section, shall cause notice advising that the conduct specified has occurred to be served on the landlord, in person or by registered mail, at the address appearing on the tax records of the municipality.

(2) The governing body or person designated pursuant to subsection a. of this section shall cause to be served upon the landlord, in person or by registered mail to the address appearing on the tax records of the municipality, notice advising of the institution of such proceedings, together with particulars of the substantiated complaints upon which those proceedings are based, and of the time and place at which a hearing will be held in the matter, which shall be in the municipal building, municipal court or other public place within the municipality, and which shall be no sooner than 30 days from the date upon which the notice is served or mailed.

c. At the hearing convened pursuant to subsection b. of this section, the hearing officer shall give full hearing to both the complaint of the municipality and to any evidence in contradiction or mitigation that the landlord, if present or represented and offering such evidence, may present. At the conclusion of the hearing the hearing officer shall determine whether the landlord shall be required to post a bond in accordance with the terms of the ordinance.

d. Any bond required to be posted shall be in accordance with the judgment of the hearing officer, in light of the nature and extent of the offenses indicated in the substantiated complaints upon which the proceedings are based, to be adequate in the case of subsequent offenses to make reparation for (1) damages likely to be caused to public or private property and damages consequent upon disruption of affected residents' rights of fair

use and quiet possession of their premises, (2) securing the payment of fines and penalties likely to be levied for such offenses, and (3) compensating the municipality for the costs of repressing and prosecuting such incidents of disorderly behavior; but no such bond shall be in an amount less than $500 or more than $5,000. The municipality may enforce the bond thus required by action in the Superior Court, and shall be entitled to an injunction prohibiting the landlord from making or renewing any lease of the affected premises for residential purposes until that bond or equivalent security, in satisfactory form and amount, has been deposited with the municipality.

e. A bond or other security deposited in compliance with subsection d. of this section shall remain in force for a period specified pursuant to the ordinance, which shall be not less than two or more than four years. Upon the lapse of the specified period the landlord shall be entitled to the discharge thereof, unless prior thereto further proceedings leading to a forfeiture or partial forfeiture of the bond or other security shall have been had under section 5 of P.L.1993, c.127 (C.40:48-2.12r), in which case the security shall be renewed, in an amount and for a period that shall be specified by the hearing officer.

5. Section 5 of P.L.1993, c.127 (C.40:48-2.12r) is amended to read as follows:

C.40:48-2.12r Complaints, proceedings against landlord, recovery from tenant.

5. a. If during the period for which a landlord is required to give security pursuant to section 4 of P.L.1993, c.127 (C.40:48-2.12q) a substantiated complaint is recorded against the property in question, the governing body or its designee may institute proceedings against the landlord for the forfeiture or partial forfeiture of the security, for an extension as provided in subsection e. of section 4 of P.L.1993, c.127 (C.40:48-2.12q), of the period for which such security is required, or for an increase in the amount of security required, or for any or all of those purposes.

b. Any forfeiture or partial forfeiture of security shall be determined by the hearing officer solely in accordance with the amount deemed necessary to provide for the compensatory purposes set forth in subsection d. of section 4 of P.L.1993, c.127 (C.40:48-2.12q). Any decision by the hearing officer to increase the amount or extend the period of the required security shall be determined in light of the same factors set forth in subsection d. of section 4 of P.L.1993, c.127 (C.40:48-2.12q), and shall be taken only to the extent that the nature of the substantiated complaint or complaints out of

which proceedings arise under this section indicates the appropriateness of such change in order to carry out the purposes of this act effectually. The decision of the hearing officer in such circumstances shall be enforceable in the same manner as provided in subsection d. of section 4 of P.L.1993, c.127 (C.40:48-2.12q).

c. A landlord may recover from a tenant any amounts of security actually forfeited as described in subsection b. of this section.

6. This act shall take effect immediately.

Approved January 11, 2010.

CHAPTER 171

AN ACT concerning the coastal region, and supplementing Title 13 of the Revised Statutes.

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

C.13:19-45 Notification by DEP to coastal municipalities relative to certain settlement discussions.

1. Whenever the Department of Environmental Protection enters into discussions in order to reach a settlement agreement with an owner of property containing dunes or other environmentally sensitive areas located in a coastal municipality, the department shall provide notice, in writing, to the governing body of the coastal municipality in which the property is located. The notice required pursuant to this section shall state the location of the property, including the address and the lot and block number of the property, and a description of the nature of the settlement discussions, and shall offer the governing body of the coastal municipality the opportunity to participate in the settlement discussions.

As used in this section, "coastal municipality" means any municipality located within the coastal area as defined in section 4 of P.L.1973, c.185 (C.13:19-4).

2. This act shall take effect immediately.

Approved January 11, 2010.

CHAPTER 172

AN ACT allowing voluntary contributions through gross income tax returns to a "New Jersey Lung Cancer Research Fund," supplementing chapter 9 of Title 54A of the New Jersey Statutes and P.L.1983, c.6 (C.52:9U-1 et seq.)

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

C.54A:9-25.27 "New Jersey Lung Cancer Research Fund."

1. a. There is established in the Department of the Treasury a special fund to be known as the "New Jersey Lung Cancer Research Fund."

b. The Legislature shall annually appropriate all monies deposited in the "New Jersey Lung Cancer Research Fund" established pursuant to this section to the New Jersey State Commission on Cancer Research, established pursuant to section 4 of P.L.1983, c.6 (C.52:9U-4), for lung cancer research projects. As used in this section, "lung cancer research project" means a scientific research project which is approved by the commission and which focuses on the causes, prevention, education, screening, treatment or cure of lung cancer and may include, but is not limited to, basic, clinical, and epidemiologic research.

c. A taxpayer shall have the opportunity to indicate on the taxpayer's New Jersey gross income tax return that a portion of the taxpayer's tax refund or an enclosed contribution shall be deposited in the "New Jersey Lung Cancer Research Fund".

d. Any costs incurred by the Division of Taxation for collection or administration attributable to this section may be deducted from receipts collected pursuant to this section, as determined by the Director of the Division of Budget and Accounting. The State Treasurer shall deposit net contributions collected pursuant to this section into the "New Jersey Lung Cancer Research Fund."

C.52:9U-6.3 Grants from "New Jersey Lung Cancer Research Fund."

2. The New Jersey State Commission on Cancer Research shall solicit, receive, evaluate and approve applications of qualified research institutions for grants from the "New Jersey Lung Cancer Research Fund," established pursuant to section 1 of P.L.2009, c.172 (C.54A:9-25.27), to conduct research relating to the causes, prevention, education, screening, treatment and cure of lung cancer. As used in this section, "qualified research institution" may include academic medical institutions, State or local

government agencies, public or private organizations within New Jersey, and any other institution approved by the commission, which is conducting a lung cancer research project.

3. This act shall take effect immediately and section 1 shall apply to taxable years commencing on or after January 1 following enactment.

Approved January 11, 2010.

CHAPTER 173

AN ACT concerning certain debt adjustment activities, and amending P.L.1979, c.16 and N.J.S.2C:21-19.

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

1. Section 1 of P.L.1979, c.16 (C.17:16G-1) is amended to read as follows:

C.17:16G-1 Definitions.

1. As used in this act:

a. "Nonprofit social service agency" or "nonprofit consumer credit counseling agency" means any corporation duly organized under Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes, no part of the assets, income or profit of which is distributable to, or enures to the benefit of its members, directors or officers, except to the extent permitted under this act, and which is engaged in debt adjustment.

b. "Credit counseling" means any guidance or educational program or advice offered by a nonprofit social service agency or nonprofit consumer credit counseling agency for the purpose of fostering the responsible use of credit and debt management.

c. (1) "Debt adjuster" means a person who either (a) acts or offers to act for a consideration as an intermediary between a debtor and his creditors for the purpose of settling, compounding, or otherwise altering the terms of payment of any debts of the debtor, or (b) who, to that end, receives money or other property from the debtor, or on behalf of the debtor, for payment to, or distribution among, the creditors of the debtor.

(2) The following persons shall not be deemed debt adjusters: (a) an attorney-at-law of this State who is not principally engaged as a debt adjuster; (b) a person who is a regular, full-time employee of a debtor, and who acts as an adjuster of his employer's debts; (c) a person acting pursuant to any order or judgment of court, or pursuant to authority conferred by any law of this State or the United States; (d) a person who is a creditor of the debtor, or an agent of one or more creditors of the debtor, and whose services in adjusting the debtor's debts are rendered without cost to the debtor; (e) a person who, at the request of a debtor, arranges for or makes a loan to the debtor, and who, at the authorization of the debtor, acts as an adjuster of the debtor's debts in the disbursement of the proceeds of the loan, without compensation for the services rendered in adjusting those debts; or (f) a person who is: (i) certified by the United States Secretary of Housing and Urban Development as a housing counseling organization or agency pursuant to section 106 of Pub.L.90-448 (12 U.S.C. s.1701x); (ii) participating in a counseling program approved by the New Jersey Housing and Mortgage Finance Agency; and (iii) not holding or disbursing the debtor's funds.

d. "Debtor" means an individual or two or more individuals who are jointly and severally, or jointly or severally indebted.

2. N.J.S.2C:21-19 is amended to read as follows:

Wrongful credit practices and related offenses.

2C:21-19. Wrongful Credit Practices and Related Offenses.

a. Criminal usury. A person is guilty of criminal usury when not being authorized or permitted by law to do so, he:

(1) Loans or agrees to loan, directly or indirectly, any money or other property at a rate exceeding the maximum rate permitted by law; or

(2) Takes, agrees to take, or receives any money or other property as interest on the loan or on the forbearance of any money or other interest in excess of the maximum rate permitted by law.

For the purposes of this section and notwithstanding any law of this State which permits as a maximum interest rate a rate or rates agreed to by the parties of the transaction, any loan or forbearance with an interest rate which exceeds 30% per annum shall not be a rate authorized or permitted by law, except if the loan or forbearance is made to a corporation, limited liability company or limited liability partnership any rate not in excess of 50% per annum shall be a rate authorized or permitted by law.

Criminal usury is a crime of the second degree if the rate of interest on any loan made to any person exceeds 50% per annum or the equivalent rate

for a longer or shorter period. It is a crime of the third degree if the interest rate on any loan made to any person except a corporation, limited liability company or limited liability partnership does not exceed 50% per annum but the amount of the loan or forbearance exceeds $1,000.00. Otherwise, making a loan to any person in violation of subsections a.(1) and a.(2) of this section is a disorderly persons offense.

b. Business of criminal usury. Any person who knowingly engages in the business of making loans or forbearances in violation of subsection a. of this section is guilty of a crime of the second degree and, notwithstanding the provisions of N.J.S. 2C:43-3, shall be subject to a fine of not more than $250,000.00 and any other appropriate disposition authorized by N.J.S. 2C:43-2b.

c. Possession of usurious loan records. A person is guilty of a crime of the third degree when, with knowledge of the nature thereof, he possesses any writing, paper instrument or article used to record criminally usurious transactions prohibited by subsection a. of this section.

d. Unlawful collection practices. A person is guilty of a disorderly persons offense when, with purpose to enforce a claim or judgment for money or property, he sends, mails or delivers to another person a notice, document or other instrument which has no judicial or official sanction and which in its format or appearance simulates a summons, complaint, court order or process or an insignia, seal or printed form of a federal, State or local government or an instrumentality thereof, or is otherwise calculated to induce a belief that such notice, document or instrument has a judicial or official sanction.

e. Making a false statement of credit terms. A person is guilty of a disorderly persons offense when he understates or fails to state the interest rate, or makes a false or inaccurate or incomplete statement of any other credit terms.

f. Debt adjusters. Any person who shall act or offer to act as a debt adjuster without a license as required by P.L.1979, c.16 (C.17:16G-1 et seq.), unless exempt from licensure pursuant to that act, shall be guilty of a crime of the fourth degree.

3. This act shall take effect immediately.

Approved January 11, 2010.

CHAPTER 174

AN ACT concerning the certification of emergency medical technicians and supplementing Title 26 of the Revised Statutes.

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

C.26:2K-63 Certification as EMT valid for five years.

1. Certification of a person as an emergency medical technician by the Commissioner of Health and Senior Services, when that person meets the requirements therefor as prescribed by regulation of the commissioner, shall be valid for a period of five years.

C.26:2K-64 Rules, regulations.

2. 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.

3. This act shall take effect on the first day of the seventh month after enactment , shall expire five years after the effective date, and shall apply to persons certified as emergency medical technicians on or after the effective date, but the Commissioner of Health and Senior Services may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 11, 2010.

CHAPTER 175

AN ACT concerning soil contamination on school property, and supplementing Title 13 of the Revised Statutes.

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

C.58:10B-24.6 Definitions relative to procedures concerning soil contamination on school property.

1. As used in this act:

"Charter school" means a school established pursuant to P.L.1995, c.426 (C.18A:36A-1 et seq.).

"Contamination" means any discharged hazardous substance as defined pursuant to section 3 of P.L.1976, c.141 (C.58:10-23.11b), 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).

"Licensed site remediation professional" means an individual who is licensed by the Site Remediation Professional Licensing Board pursuant to section 7 of P.L.2009, c.60 (C.58:10C-7) or the Department of Environmental Protection pursuant to section 12 of P.L.2009, c.60 (C.58:10C-12).

"School" means any public or private school as defined in N.J.S.18A:1-1.

"School property" means any area inside and outside of the school buildings controlled, managed, leased, 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.

C.58:10B-24.7 Provision of notice to parent, guardian, staff.

2. a. Within 10 business days after the discovery of soil contamination on school property that has been found by the Department of Environmental Protection or a licensed site remediation professional to exceed the direct contact soil remediation standards for residential use adopted by the department pursuant to section 35 of P.L.1993, c.139 (C.58:10B-12), 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 soil contamination that includes: (1) a description of the soil contamination and the conditions under which a student or staff member may be exposed to the contamination; (2) a description and timetable of the steps that have been taken and will be taken to ensure that there is no contact by any student or staff member with the soil contamination; and (3) a description and timetable of the steps that have been taken and will be taken to remediate the soil contamination.

b. 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 a. of this section by: (1) written notice sent home with the student and provided to the staff member; (2) telephone call; (3) direct contact; or (4) electronic mail.

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, shall post a copy of the notice required pursuant to subsection a. of this section in

a conspicuous location near the site of the soil contamination to notify any other users of the school grounds of the existence of the contamination.

3. This act shall take effect on the 180th day following the date of enactment.

Approved January 11, 2010.

CHAPTER 176

AN ACT concerning certain corporate notices, amending N.J.S.14A:1-8 and supplementing chapter 1 of Title 14A of the New Jersey Statutes.

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

1. N.J.S.14A:1-8 is amended to read as follows:

Notices.

14A:1-8. In computing the period of time for the giving of any notice required or permitted by this act, or by a certificate of incorporation or by-laws or any resolution of directors or shareholders, the day on which the notice is given shall be excluded, and the day on which the matter noticed is to occur shall be included. If notice is given by mail, the notice shall be deemed to be given when deposited in the mail addressed to the person to whom it is directed at his last address as it appears on the records of the corporation, with postage prepaid thereon. Any notice required or permitted to be given under this act by electronic transmission as defined in section 2 of P.L.2009, c.176 (C.14A:1-8.1), mail or by certified mail, return receipt requested, may be given by personal delivery to the person to whom it is directed.

C.14A:1-8.1 Provision of certain notices by electronic transmission.

2. (1) Any notice required or permitted pursuant to the provisions of N.J.S.14A:1-1 et seq., or by a certificate of incorporation or by-laws or any resolution of directors or shareholders, may be provided by electronic transmission as follows:

(a) Any notice to shareholders given by the corporation pursuant to any provision of N.J.S.14A:1-1 et seq., or by a certificate of incorporation

or by-laws or any resolution of directors or shareholders, shall be effective if given by a form of electronic transmission consented to by the shareholder to whom the notice is given.

(i) Any consent given pursuant to paragraph (a) of this subsection shall be revocable by the shareholder by written notice, and not electronic transmission, to the corporation.

(ii) Any consent given pursuant to paragraph (a) of this subsection shall be deemed revoked if: (A) the corporation is unable to deliver by electronic transmission two consecutive notices given by the corporation in accordance with the shareholder's consent; and (B) that inability becomes known to the secretary or an assistant secretary of the corporation or to the transfer agent, or other person responsible for the giving of notice following the second missed delivery; provided, however, the inadvertent failure to treat that inability as a revocation shall not invalidate any meeting or other action.

(b) Any notice to shareholders given by the corporation pursuant to any provision of N.J.S.14A:1-1 et seq., or by a certificate of incorporation or by-laws or any resolution of directors or shareholders, shall be deemed given:

(i) if by facsimile telecommunication, when directed to a number at which the shareholder has consented to receive notice;

(ii) if by electronic mail, when directed to an electronic mail address at which the shareholder has consented to receive notice;

(iii)if by a posting on an electronic network together with separate notice to the shareholder of that specific posting, upon the later of (A) that posting; or (B) the giving of the separate notice; or

(iv)if by any other form of electronic transmission, when directed to the shareholder.

(c) An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence that the notice has been given.

(d) For purposes of this section, "electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and reviewed by a recipient, and that may be directly reproduced in paper form by that recipient through an automated process.

(2) This section shall not apply to notices required or permitted pursuant to N.J.S.14A:6-5, N.J.S.14A:7-3, N.J.S.14A:12-10, N.J.S.14A:12-12 or N.J.S.14A:14-15.

3. This act shall take effect immediately.

Approved January 11, 2010.

CHAPTER 177

AN ACT concerning expedited corporate filings and amending P.L.1982, c.150.

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

1. Section 4 of P.L.1982, c.150 (C.52:16A-38) is amended to read as follows:

C.52:16A-38 Expedited over the counter corporate service.

4. a. The Division of Commercial Recording shall provide for and establish an expedited over the counter corporate service. The processing of requests and information and documents shall be a priority same day service, with options for one hour service and two hour service effected in a fast and efficient manner.

b. The Division of Commercial Recording shall provide expedited over the counter corporate service for the following requests:

(1) Any information contained in the annual report of a corporation;

(2) A certificate of standing;

(3) A certified or uncertified copy of any document filed with the Division of Commercial Recording;

(4) A certificate as to the existence or nonexistence of any facts on record with the Division of Commercial Recording;

(5) The availability of a corporate name under N.J.S.14A:2-2;

(6) Filing a certificate of incorporation;

(7) Whether or not a corporation's certificate of incorporation or authority has been voided or revoked;

(8) The name and address of the registered agent of a corporation;

(9) The date of incorporation of a domestic corporation or the date of qualification of a foreign corporation;

(10) The name and address of a corporation which has filed an alternate name certificate pursuant to N.J.S.14A:2-2.1;

(11) A financing statement filing (UCC-1) pursuant to N.J.S.12A:9-501 et seq.;

(12) A change of record filing (UCC-3) pursuant to N.J.S.12A:9-501 et seq.;

(13) A request for information or copies of filed financing statements (UCC-11) pursuant to N.J.S.12A:9-501 et seq.;

(14) Any other information contained in the documents filed with the Division of Commercial Recording, which in the discretion of the Secretary of State is readily available;

(15) Filing a certificate of merger;

(16) Filing a certificate of amendment; and

(17) Any other filing which the Secretary of State agrees to accept.

c. The processing of expedited over the counter corporate service requests shall include one hour and two hour service options and shall include a fee schedule, established by regulation by the State Treasurer, commensurate with the various services available pursuant to subsection b. of this section and the various time frames provided by regulation.

2. Section 6 of P.L.1982, c.150 (C.52:16A-40) is amended to read as follows:

C.52:16A-40 Additional fees.

6. The State Treasurer shall charge a 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.

3. Section 7 of P.L.1982, c.150 (C.52:16A-41) is amended to read as follows:

C.52:16A-41 Rules, 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, including one hour and two hour service options, 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.

4. This act shall take effect immediately.

Approved January 11, 2010.

CHAPTER 178

AN ACT concerning school security drills, supplementing Title 18A of the New Jersey Statutes and chapter 9 of Appendix A, and amending N.J.S.18A:41-1.

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

C.18A:41-6 "School security drill" defined.

1. As used in this act:

"School security drill" means an exercise, other than a fire drill, to practice procedures that respond to an emergency situation including, but not limited to, a non-fire evacuation, lockdown, or active shooter situation and that is similar in duration to a fire drill.

C.18A:41-7 Provision of training on school safety, security.

2. A local board of education and chief school administrator of a nonpublic school shall ensure that all full-time teaching staff members in the district or nonpublic school are provided with training on school safety and security that includes instruction on school security drills. The training shall use the drill guide and training materials prepared pursuant to section 3 of P.L.2009, c.178 (C.App.A:9-86). Each teaching staff member shall be provided with the training within one year of the effective date of this act or within 60 days of the commencement of that staff member's employment, whichever date is later.

C.App.A:9-86 Development, dissemination of building security drill guide, training materials.

3. a. The Director of the Office of Homeland Security and Preparedness shall, in consultation with the Commissioner of Education, the Director of the Division of Fire Safety in the Department of Community Affairs, the Director of the State Office of Emergency Management in the Division of State Police in the Department of Law and Public Safety, and the Attorney General, develop and disseminate to each school district and nonpublic

school a building security drill guide and training materials that educate school employees on proper evacuation and lockdown procedures in a variety of emergency situations on school grounds including, but not limited to, bomb threats and active shooter situations.

b. The drill guide and training materials shall be updated at regular intervals in order to ensure that they incorporate the most current information available on school security.

4. N.J.S.18A:41-1 is amended to read as follows:

Fire, school security drills.

18A:41-1. Every principal of a school of two or more rooms, or of a school of one room, when located above the first story of a building, shall have at least one fire drill and one school security drill each month within the school hours, including any summer months during which the school is open for instructional programs, and shall require all teachers of all schools, whether occupying buildings of one or more stories, to keep all doors and exits of their respective rooms and buildings unlocked during the school hours, except during an emergency lockdown or an emergency lockdown drill. Where school buildings have been provided with fire escapes, they shall be used by a part or all of the pupils performing every fire drill.

5. This act shall take effect on the first day of the tenth month after enactment.

Approved January 11, 2010.

CHAPTER 179

AN ACT concerning the membership of the board of the New Jersey Transit Corporation, amending P.L.1979, c.150.

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

1. Section 4 of P.L.1979, c.150 (C.27:25-4) is amended to read as follows:

C.27:25-4 New Jersey Transit Corporation established; board; powers.

4. a. There is hereby established in the Executive Branch of the State Government the New Jersey Transit Corporation, a body corporate and poli-

tic with corporate succession. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the corporation is hereby allocated within the Department of Transportation, but, notwithstanding said allocation, the corporation shall be independent of any supervision or control by the department or by any body or officer thereof. 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.

b. The corporation shall be governed by a board which shall consist of eight members.

Seven of the members shall be voting members and shall consist of: the Commissioner of Transportation and the State Treasurer, who shall be members ex officio, another member of the Executive Branch to be selected by the Governor who shall also serve ex officio, and four other public members who shall be appointed by the Governor, with the advice and consent of the Senate, for four year staggered terms and until their successors are appointed and qualified. No more than two of the public members shall be members of the same political party. At least one public member shall be a regular public transportation rider. Each public member may be removed from office by the Governor for cause. A vacancy in the membership of the board occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only. The first appointments shall be for one, two, three and four years respectively, and thereafter for terms of four years as stated. The board shall annually designate a vice chairman and secretary. The secretary need not be a member.

There shall also be one non-voting member of the board, who shall not be considered in determining a quorum. The non-voting member shall be appointed by the Governor upon the recommendation of the labor organization representing the plurality of the employees of the corporation. The non-voting member shall be appointed for a term of four years, provided, however, that if at any time during the term of appointment the non-voting member ceases to be affiliated with the labor organization representing the plurality of the employees of the corporation, then such labor organization may, thereupon or at any time thereafter during such term, recommend a new member to the Governor for appointment to serve the remainder of the term. If the local bargaining unit decertifies its existing union affiliation and certifies a new union, the union which represents the plurality of the employees may recommend a new member to the Governor for appointment to serve the remainder of the term. The chairman of the board may, at the chairman's

discretion, exclude such non-voting member from attending any portion of a board meeting or any other meeting held for the purpose of discussing negotiations with labor organizations, pending litigation involving the labor organization, the investigation, evaluation, or discipline of an employee of the corporation, or matters concerning private entities engaged in the provision of motorbus regular route service, paratransit service, or motorbus charter service that would otherwise not be considered public information. The non-voting member may be removed by the Governor for cause.

c. Board members other than those serving ex officio shall serve without compensation, but members shall be reimbursed for actual expenses necessarily incurred in the performance of their duties.

d. The Commissioner of Transportation shall serve as chairman of the board. He shall chair board meetings and shall have responsibility for the scheduling and convening of all meetings of the board. In his absence, the vice chairman shall chair the board meeting. Each ex officio member of the board may designate two employees of his department or agency, one of whom may represent him at meetings of the board. A designee may lawfully vote and otherwise act on behalf of the member for whom he constitutes the designee. Any such designation shall be in writing delivered to the board and shall continue in effect until revoked or amended by writing delivered to the board.

e. The powers of the corporation shall be vested in the voting members of the board thereof and four voting members of the board shall constitute a quorum at any meeting thereof. Actions may be taken and motions and resolutions adopted by the board at any meeting thereof by the affirmative vote of at least four members. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

f. A true copy of the minutes of every meeting of the board shall be delivered forthwith, by and under the certification of the secretary thereof, to the Governor. No action taken at such meeting by the board shall have force or effect until approved by the Governor or until 10 days after such copy of the minutes shall have been delivered. If, in said 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the board or any member thereof at such meeting, such action shall be null and of no effect. The Governor may approve all or part of the action taken at such meeting prior to the expiration of the said 10-day period.

g. The board meetings shall be subject to the provisions of the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

2. This act shall take effect immediately.

Approved January 11, 2010.

CHAPTER 180

AN ACT concerning extension of certain local government financial agreements with urban renewal entities and amending P.L.1991, c.431.

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

Repealer.

1. Section 20 of P.L.1991, c.431 is amended to read as follows:

20. a. The following are repealed:
P.L.1961, c.40 (C.40:55C-40 et al.)
P.L.1983, c.139 (C.40:55C-41.1)
P.L.1986, c.86 (C.40:55C-41.2 et al.)
P.L.1967, c.114 (C.40:55C-44.1 et al.)
P.L.1978, c.93 (C.40:55C-46.1 et al.)
P.L.1981, c.506 (C.40:55C-52.1)
P.L.1985, c.138 (C.40:55C-58.2)
P.L.1965, c.95 (C.40:55C-77 et al.)
P.L.1944, c.169 (C.55:14D-1 et al.)
P.L.1950, c.107 (C.55:14D-6.1)
P.L.1946, c.52 (C.55:14E-1 et al.)
P.L.1950, c.111 (C.55:14E-7.1)
P.L.1949, c.185 (C.55:14E-20 et al.)
P.L.1965, c.92 (C.55:14I-1 et al.)
P.L.1949, c.184 (C.55:16-1 et al.)
P.L.1950, c.21 (C.55:16-5.1)
P.L.1950, c.112 (C.55:16-8.1)
P.L.1967, c.112 (C.55:16-9.1 et al.)
P.L.1962, c.249 (C.55:16-18.1)
P.L.1950, c.69 (C.55:16-22).

b. An urban renewal entity organized and operating under a law repealed by P.L.1991, c.431 (C.40A:20-1 et seq.) shall not be affected by that repeal. Any financial agreement entered into and any tax exemption granted or extended, shall remain binding upon the urban renewal entity

and the municipality, subject to modification by mutual written consent, as if the law under which it was entered into, or granted or extended, had not been repealed by P.L.1991, c.431 (C.40A:20-1 et seq.). The provisions of section 18 of P.L.1991, c.431 (C.40A:20-18) shall apply, however, to the urban renewal entity during the period of the financial agreement, or tax exemption, remaining on and after the effective date of P.L.1991, c.431 (C.40A:20-1 et seq.). Any redevelopment project undertaken by an urban renewal entity, or financial agreement or tax exemption entered into by an urban renewal entity with a municipality, on or after the effective date of P.L.1991, c.431 (C.40A:20-1 et seq.) shall be pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.); provided, however, that any financial agreement entered into after August 14, 1986 and before April 17, 1992 (the effective date of P.L.1991, c.431 (C.40A:20-1 et seq.)) remaining in force as of the effective date of P.L.2009, c.180 may be extended by the municipality and the urban renewal entity, by mutual written consent, to a term of not more than 30 years from the completion of the entire project, or to a term of not more than 35 years from the initial execution of the financial agreement between the municipality and the urban renewal entity. The extension of the agreement shall be evidenced by a new financial agreement between the municipality and the urban renewal entity which shall be in conformity with P.L.1991, c.431 (C.40A:20-1 et seq.) and shall have a term of not more than 15 years from the date of termination of the initial financial agreement.

2. This act shall take effect immediately.

Approved January 11, 2010.

CHAPTER 181

AN ACT concerning reporting by health care service firms and supplementing P.L.1968, c.413 (C.30:4D-1 et seq.).

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

C.30:4D-7j Annual cost report to receive reimbursement from Medicaid for personal care assistant services.

1. As a condition of receiving reimbursement from the State Medicaid program, pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), for personal care

assistant services, as described in N.J.A.C.10:60-3.3, which are provided to Medicaid recipients, a health care service firm, as defined in N.J.A.C.13:45B-13.2, shall file an annual cost report with the Division of Disability Services in the Department of Human Services.

The Division of Disability Services shall develop the form of the annual cost report, which shall include information on costs and revenues. The cost report shall be filed on an annual basis, beginning January 1, 2010, in a form and manner specified by the division.

2. This act shall take effect on the 90th day after enactment, but the Commissioner of Human Services may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 11, 2010.

CHAPTER 182

AN ACT concerning electronic smoking devices and amending P.L.2005, c.383, P.L.2000, c.87, and P.L.1999, c.90.

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

1. Section 2 of P.L.2005, c.383 (C.26:3D-56) is amended to read as follows:

C.26:3D-56 Findings, declarations relative to smoking, use of electronic smoking devices in indoor public places, workplaces.

2. The Legislature finds and declares that:

a. Tobacco is the leading cause of preventable disease and death in the State and the nation;

b. Tobacco smoke constitutes a substantial health hazard to the nonsmoking majority of the public;

c. Electronic smoking devices have not been approved as to safety and efficacy by the federal Food and Drug Administration, and their use may pose a health risk to persons exposed to their smoke or vapor because of a known irritant contained therein and other substances that may, upon evaluation by that agency, be identified as potentially toxic to those inhaling the smoke or vapor;

d. The separation of smoking and nonsmoking areas in indoor public places and workplaces does not eliminate the hazard to nonsmokers if these areas share a common ventilation system; and

e. Therefore, subject to certain specified exceptions, it is clearly in the public interest to prohibit the smoking of tobacco products and the use of electronic smoking devices in all enclosed indoor places of public access and workplaces.

2. Section 3 of P.L.2005, c.383 (C.26:3D-57) is amended to read as follows:

C.26:3D-57 Definitions relative to smoking, use of electronic smoking devices in indoor public places, workplaces.

3. As used in this act:

"Bar" means a business establishment or any portion of a nonprofit entity, which is devoted to the selling and serving of alcoholic beverages for consumption by the public, guests, patrons or members on the premises and in which the serving of food, if served at all, is only incidental to the sale or consumption of such beverages.

"Cigar bar" means any bar, or area within a bar, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere; except that a cigar bar that is in an area within a bar shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the bar so that air from the smoking area is not recirculated to the nonsmoking areas and smoke is not backstreamed into the nonsmoking areas.

"Cigar lounge" means any establishment, or area within an establishment, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere; except that a cigar lounge that is in an area within an establishment shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the establishment so that air from the smoking area is not recirculated to the nonsmoking areas and smoke is not backstreamed into the nonsmoking areas.

"Electronic smoking device" means an electronic device that can be used to deliver nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo, or pipe.

"Indoor public place" means a structurally enclosed place of business, commerce or other service-related activity, whether publicly or privately

owned or operated on a for-profit or nonprofit basis, which is generally accessible to the public, including, but not limited to: a commercial or other office building; office or building owned, leased or rented by the State or by a county or municipal government; public and nonpublic elementary or secondary school building; board of education building; theater or concert hall; public library; museum or art gallery; bar; restaurant or other establishment where the principal business is the sale of food for consumption on the premises, including the bar area of the establishment; garage or parking facility; any public conveyance operated on land or water, or in the air, and passenger waiting rooms and platform areas in any stations or terminals thereof; health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.); patient waiting room of the office of a health care provider licensed pursuant to Title 45 of the Revised Statutes; child care center licensed pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.); race track facility; facility used for the holding of sporting events; ambulatory recreational facility; shopping mall or retail store; hotel, motel or other lodging establishment; apartment building lobby or other public area in an otherwise private building; or a passenger elevator in a building other than a single-family dwelling.

"Person having control of an indoor public place or workplace" means the owner or operator of a commercial or other office building or other indoor public place from whom a workplace or space within the building or indoor public place is leased.

"Smoking" means the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or any other matter that can be smoked, or the inhaling or exhaling of smoke or vapor from an electronic smoking device.

"Tobacco retail establishment" means an establishment in which at least 51% of retail business is the sale of tobacco products and accessories, and in which the sale of other products is merely incidental.

"Workplace" means a structurally enclosed location or portion thereof at which a person performs any type of service or labor.

3. Section 1 of P.L.2000, c.87 (C.2A:170-51.4) is amended to read as follows:

C.2A:170-51.4 Sale, distribution of tobacco, electronic smoking device to persons under age 19; prohibited; civil penalties.

1. a. No person, either directly or indirectly by an agent or employee, or by a vending machine owned by the person or located in the person's

establishment, shall sell, offer for sale, distribute for commercial purpose at no cost or minimal cost or with coupons or rebate offers, give or furnish, to a person under 19 years of age:

(1) any cigarettes made of tobacco or of any other matter or substance which can be smoked, or any cigarette paper or tobacco in any form, including smokeless tobacco; or

(2) any electronic smoking device that can be used to deliver nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo, or pipe, or any cartridge or other component of the device or related product.

b. The establishment of all of the following shall constitute a defense to any prosecution brought pursuant to subsection a. of this section:

(1) that the purchaser of the tobacco product or electronic smoking device or the recipient of the promotional sample falsely represented, by producing either a driver's license or non-driver identification card issued by the New Jersey Motor Vehicle Commission, a similar card issued pursuant to the laws of another state or the federal government of Canada, or a photographic identification card issued by a county clerk, that the purchaser or recipient was of legal age to make the purchase or receive the sample;

(2) that the appearance of the purchaser of the tobacco product or electronic smoking device or the recipient of the promotional sample was such that an ordinary prudent person would believe the purchaser or recipient to be of legal age to make the purchase or receive the sample; and

(3) that the sale or distribution of the tobacco product or electronic smoking device was made in good faith, relying upon the production of the identification set forth in paragraph (1) of this subsection, the appearance of the purchaser or recipient, and in the reasonable belief that the purchaser or recipient was of legal age to make the purchase or receive the sample.

c. A person who violates the provisions of subsection a. of this section, including an employee of a retail dealer licensee under P.L.1948, c.65 (C.54:40A-1 et seq.) who actually sells or otherwise provides a tobacco product to a person under 19 years of age, shall be liable to a civil penalty of not less than $250 for the first violation, not less than $500 for the second violation, and $1,000 for the third and each subsequent violation. The civil penalty shall be collected pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding before the municipal court having jurisdiction. An official authorized by statute or ordinance to enforce the State or local health codes or a law enforcement officer having enforcement authority in that municipality may issue a summons for a violation of the provisions of subsection a. of this

section, and may serve and execute all process with respect to the enforcement of this section consistent with the Rules of Court. A penalty recovered under the provisions of this subsection shall be recovered by and in the name of the State by the local health agency. The penalty shall be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.

d. In addition to the provisions of subsection c. of this section, upon the recommendation of the municipality, following a hearing by the municipality, the Division of Taxation in the Department of the Treasury may suspend or, after a second or subsequent violation of the provisions of subsection a. of this section, revoke the license issued under section 202 of P.L.1948, c. 65 (C.54:40A-4) of a retail dealer. The licensee shall be subject to administrative charges, based on a schedule issued by the Director of the Division of Taxation, which may provide for a monetary penalty in lieu of a suspension.

e. A penalty imposed pursuant to this section shall be in addition to any penalty that may be imposed pursuant to section 3 of P.L.1999, c. 90 (C.2C:33-13.1).

4. Section 3 of P.L.1999, c.90 (C.2C:33-13.1) is amended to read as follows:

C.2C:33-13.1 Sale of cigarettes, electronic smoking devices to persons under age 19, petty disorderly persons offense.

3. a. A person who sells or gives to a person under 19 years of age any cigarettes made of tobacco or of any other matter or substance which can be smoked, or any cigarette paper or tobacco in any form, including smokeless tobacco, or any electronic smoking device that can be used to deliver nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo, or pipe, or any cartridge or other component of the device or related product, including an employee of a retail dealer licensee under P.L.1948, c.65 (C.54:40A-1 et seq.) who actually sells or otherwise provides a tobacco product or electronic smoking device to a person under 19 years of age, shall be punished by a fine as provided for a petty disorderly persons offense. A person who has been previously punished under this section and who commits another offense under it may be punishable by a fine of twice that provided for a petty disorderly persons offense.

b. The establishment of all of the following shall constitute a defense to any prosecution brought pursuant to subsection a. of this section:

(1) that the purchaser or recipient of the tobacco product or electronic smoking device falsely represented, by producing either a driver's license or non-driver identification card issued by the New Jersey Motor Vehicle Commission, a similar card issued pursuant to the laws of another state or the federal government of Canada, or a photographic identification card issued by a county clerk, that the purchaser or recipient was of legal age to purchase or receive the tobacco product or electronic smoking device;

(2) that the appearance of the purchaser or recipient of the tobacco product or electronic smoking device was such that an ordinary prudent person would believe the purchaser or recipient to be of legal age to purchase or receive the tobacco product or electronic smoking device; and

(3) that the sale or distribution of the tobacco product or electronic smoking device was made in good faith, relying upon the production of the identification set forth in paragraph (1) of this subsection, the appearance of the purchaser or recipient, and in the reasonable belief that the purchaser or recipient was of legal age to purchase or receive the tobacco product or electronic smoking device.

c. A penalty imposed pursuant to this section shall be in addition to any penalty that may be imposed pursuant to section 1 of P.L.2000, c.87 (C.2A:170-51.4).

5. Sections 1 and 2 of this act shall take effect on the 180th day after enactment, but the Commissioner of Health and Senior Services may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of those sections. Sections 3 and 4 of this act shall take effect on the 60th day after enactment.

Approved January 11, 2010.

CHAPTER 183

AN ACT concerning compliance with the federal NICS Improvement Amendments Act of 2007, Pub.L. 110-180, and amending P.L.1953, c.268 and P.L.1965, c.59.

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

1. Section 1 of P.L.1953, c.268 (C.30:4-80.8) is amended to read as follows:

C.30:4-80.8 Application for relief.

1. Any person who has been, or shall be, committed to any institution or facility providing mental health services, or has been determined to be a danger to himself, others, or property, or determined to be an incapacitated individual as defined in N.J.S.3B:1-2, by order of any court or by voluntary commitment and who was, or shall be, discharged from such institution or facility as recovered, or whose illness upon discharge, or subsequent to discharge or determination, is substantially improved or in substantial remission, may apply to the court by which such commitment was made, or to the Superior Court by verified petition setting forth the facts and praying for the relief provided for in this act.

2. Section 2 of P.L.1953, c.268 (C.30:4-80.9) is amended to read as follows:

C.30:4-80.9 Hearing; order.

2. Upon reading and filing such petition, the court shall by order fix a time, not less than 10 nor more than 30 days thereafter, for the hearing of such matter, a copy of which order shall be served by the petitioner upon the county adjuster of the county and upon the medical director of the institution or facility to which such person was committed or upon the party or parties who applied for the determination that the person be found to be a danger to himself, others, or property, or determined to be an incapacitated individual as defined in N.J.S.3B:1-2, and at the time so appointed, or to which it may be adjourned, the court shall hear evidence as to: the circumstances of why the commitment or determination was imposed upon the petitioner, the petitioner's mental health record and criminal history, and the petitioner's reputation in the community. If the court finds that the petitioner will not likely act in a manner dangerous to the public safety and finds that the grant of relief is not contrary to the public interest, the court shall grant such relief for which the petitioner has applied and, an order directing the clerk of the court to expunge such commitment from the records of the court.

3. Section 3 of P.L.1953, c.268 (C.30:4-80.10) is amended to read as follows:

C.30:4-80.10 Inapplicability of act, exception.

3. This act shall not apply to any case in which the defendant was found not guilty of a crime because of insanity or from a determination that the defendant was incompetent to stand trial, except for the purpose of applying to the court pursuant to the NICS Improvement Amendments Act of 2007, Pub. L. 110-180, for relief from a federal firearms disability to possess a firearm imposed under 18 U.S.C. ss. 922(d)(4) and (g)(4).

4. Section 11 of P.L.1965, c.59 (C.30:4-24.3) is amended to read as follows:

C.30:4-24.3 Confidentiality; exceptions.

11. All certificates, applications, records, and reports made pursuant to the provisions of Title 30 of the Revised Statutes and directly or indirectly identifying any individual presently or formerly receiving services in a noncorrectional institution under Title 30 of the Revised Statutes, or for whom services in a noncorrectional institution shall be sought under this act shall be kept confidential and shall not be disclosed by any person, except insofar as:

a. the individual identified or his legal guardian, if any, or, if he is a minor, his parent or legal guardian, shall consent; or

b. disclosure may be necessary to carry out any of the provisions of this act or of article 9 of chapter 82 of Title 2A of the New Jersey Statutes; or

c. a court may direct, upon its determination that disclosure is necessary for the conduct of proceedings before it and that failure to make such disclosure would be contrary to the public interest; or

d. disclosure may be necessary to conduct an investigation into the financial ability to pay of any person receiving services or his chargeable relatives pursuant to the provisions of R.S.30:1-12.

e. disclosure is needed to comply with the data reporting provisions of the NICS Improvement Amendments Act of 2007, Pub. L. 110-180, and the Brady Handgun Violence Prevention Act of 1993, Pub. L. 103-159.

Nothing in this section shall preclude disclosure, upon proper inquiry, of information as to a patient's current medical condition to any relative or friend or to the patient's personal physician or attorney if it appears that the information is to be used directly or indirectly for the benefit of the patient.

Nothing in this section shall preclude the professional staff of a community agency under contract with the Division of Mental Health Services in the Department of Human Services, or of a screening service, short-term care or psychiatric facility as those facilities are defined in section 2 of

P.L.1987, c.116 (C.30:4-27.2) from disclosing information that is relevant to a patient's current treatment to the staff of another such agency.

5. This act shall take effect immediately.

Approved January 11, 2010.

CHAPTER 184

AN ACT concerning access to telecommunications information and amending P.L.1968, c.409 and P.L.1993, c.29.

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

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

C.2A:156A-2 Definitions.

2. As used in this act:

a. "Wire communication" means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable or other like connection between the point of origin and the point of reception, including the use of such connection in a switching station, furnished or operated by any person engaged in providing or operating such facilities for the transmission of intrastate, interstate or foreign communication. "Wire communication" includes any electronic storage of such communication, and the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;

b. "Oral communication" means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation, but does not include any electronic communication;

c. "Intercept" means the aural or other acquisition of the contents of any wire, electronic or oral communication through the use of any electronic, mechanical, or other device;

d. "Electronic, mechanical or other device" means any device or apparatus, including an induction coil, that can be used to intercept a wire, electronic or oral communication other than:

(1) Any telephone or telegraph instrument, equipment or facility, or any component thereof, furnished to the subscriber or user by a provider of wire or electronic communication service in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business; or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business; or being used by a provider of wire or electronic communication service in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties; or

(2) A hearing aid or similar device being used to correct subnormal hearing to not better than normal;

e. "Person" means that term as defined in R.S.1:1-2 and includes any officer or employee of the State or of a political subdivision thereof;

f. "Investigative or law enforcement officer" means any officer of the State of New Jersey or of a political subdivision thereof who is empowered by law to conduct investigations of, or to make arrests for, any offense enumerated in section 8 of P.L.1968, c.409 (C.2A:156A-8) and any attorney authorized by law to prosecute or participate in the prosecution of any such offense;

g. "Contents," when used with respect to any wire, electronic or oral communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication, except that for purposes of sections 22, 23, 24 and 26 of P.L.1993, c.29 (C.2A:156A-28, C.2A:156A-29, C.2A:156A-30, and C.2A:156A-32) contents, when used with respect to any wire, electronic, or oral communication means any information concerning the substance, purport or meaning of that communication;

h. "Court of competent jurisdiction" means the Superior Court;

i. "Judge," when referring to a judge authorized to receive applications for, and to enter, orders authorizing interceptions of wire, electronic or oral communications, means one of the several judges of the Superior Court to be designated from time to time by the Chief Justice of the Supreme Court to receive applications for, and to enter, orders authorizing interceptions of wire, electronic or oral communications pursuant to this act;

j. "Communication common carrier" means any person engaged as a common carrier for hire, in intrastate, interstate or foreign communication by wire or radio or in intrastate, interstate or foreign radio transmission of energy; but a person engaged in radio broadcasting shall not, while so engaged, be deemed a common carrier;

k. "Aggrieved person" means a person who was a party to any intercepted wire, electronic or oral communication or a person against whom the interception was directed;

l. "In-progress trace" means the determination of the origin of a telephonic communication to a known telephone during the communication;

m. "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric or photo-optical system that affects interstate, intrastate or foreign commerce, but does not include:

(1) Any wire or oral communication;

(2) Any communication made through a tone-only paging device; or

(3) Any communication from a tracking device;

n. "User" means any person or entity who:

(1) Uses an electronic communication service; and

(2) Is duly authorized by the provider of such service to engage in such use;

o. "Electronic communication system" means any wire, radio, electromagnetic, photo-optical or photoelectronic facilities for the transmission of electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications;

p. "Electronic communication service" means any service which provides to the users thereof the ability to send or receive wire or electronic communications;

q. "Electronic storage" means:

(1) Any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and

(2) Any storage of such communication by an electronic communication service for purpose of backup protection of the communication;

r. "Readily accessible to the general public" means, with respect to a radio communication, that such communication is not:

(1) Scrambled or encrypted;

(2) Transmitted using modulation techniques whose essential parameters have been withheld from the public with the intention of preserving the privacy of such communication;

(3) Carried on a subcarrier or other signal subsidiary to a radio transmission;

(4) Transmitted over a communication system provided by a common carrier, unless the communication is a tone-only paging system communication; or

(4) local and long distance telephone connection records or records of session times and durations;

(5) length of service, including start date, and types of services utilized; and

(6) means and source of payment for such service, including any credit card or bank account number,

of a subscriber to or customer of such service when the law enforcement agency obtains a grand jury or trial subpoena or when the State Commission of Investigation issues a subpoena.

g. Upon the request of a law enforcement agency, a provider of wire or electronic communication service or a remote computing service shall take all necessary steps to preserve, for a period of 90 days, records and other evidence in its possession pending the issuance of a court order or other legal process. The preservation period shall be extended for an additional 90 days upon the request of the law enforcement agency.

3. This act shall take effect immediately.

Approved January 12, 2010.

CHAPTER 185

AN ACT concerning debt service aid for certain county vocational school districts and amending P.L.2000, c.72.

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

1. Section 5 of P.L.2000, c.72 (C.18A:7G-5) is amended to read as follows:

C.18A:7G-5 Undertaking and financing of school facilities in certain districts.

5. a. The development authority shall undertake and the financing authority shall finance the school facilities projects of SDA districts.

b. In the case of a district other than an SDA district, State support for the project shall be determined pursuant to section 9 or section 15 of P.L.2000, c.72 (C.18A:7G-9 or C.18A:7G-15), as applicable.

c. Notwithstanding any provision of N.J.S.18A:18A-16 to the contrary, the procedures for obtaining approval of a school facilities project

shall be as set forth in this act; provided that any district whose school facilities project is not constructed by the development authority shall also be required to comply with the provisions of N.J.S.18A:18A-16.

d. (1) Any district seeking to initiate a school facilities project shall apply to the commissioner for approval of the project. The application may include, but not be limited to: a description of the school facilities project; a schematic drawing of the project or, at the option of the district, preliminary plans and specifications; a delineation and description of each of the functional components of the project; educational specifications detailing the programmatic needs of each proposed space; the number of unhoused students to be housed in the project; the area allowances per FTE student as calculated pursuant to section 8 of P.L.2000, c.72 (C.18A:7G-8); and the estimated cost to complete the project as determined by the district.

(2) In the case of an SDA district school facilities project, based upon its educational priority ranking and the Statewide strategic plan established pursuant to subsection m. of this section, the commissioner may authorize the development authority to undertake preconstruction activities which may include, but need not be limited to, site identification, investigation, and acquisition, feasibility studies, land-related design work, design work, site remediation, demolition, and acquisition of temporary facilities. Upon receipt of the authorization, the development authority may initiate the preconstruction activities required to prepare the application for commissioner approval of the school facilities project.

e. The commissioner shall review each proposed school facilities project to determine whether it is consistent with the district's long-range facilities plan and whether it complies with the facilities efficiency standards and the area allowances per FTE student derived from those standards; and in the case of an SDA district the commissioner shall also review the project's educational priority ranking and the Statewide strategic plan developed pursuant to paragraphs (2) and (3) of subsection m. of this section; and in the case of a district other than an SDA district the commissioner shall also review the project's priority pursuant to paragraph (4) of subsection m. of this section. The commissioner shall make a decision on a district's application within 90 days from the date he determines that the application is fully and accurately completed and that all information necessary for a decision has been filed by the district, or from the date of the last revision made by the district. If the commissioner is not able to make a decision within 90 days, he shall notify the district in writing explaining the reason for the delay and indicating the date on which a decision on the project will be made, provided that the date shall not be later than 60 days from the expiration of the

c.72 (C.18A:7G-3) plus 0.25, or 100% for any nonconforming spaces approved by the commissioner pursuant to this paragraph.

h. Upon approval of a school facilities project and determination of the preliminary eligible costs:

(1) In the case of a district other than an SDA district, the commissioner shall notify the district whether the school facilities project is approved and, if so approved, the preliminary eligible costs and the excess costs, if any. Following the determination of preliminary eligible costs and the notification of project approval, the district may appeal to the commissioner for an increase in those costs if the detailed plans and specifications completed by a design professional for the school facilities project indicate that the cost of constructing that portion of the project which is consistent with the facilities efficiency standards and does not exceed the area allowances per FTE student exceeds the preliminary eligible costs as determined by the commissioner for the project by 10% or more. The district shall file its appeal within 30 days of the preparation of the plans and specifications. If the district chooses not to file an appeal, then the final eligible costs shall equal the preliminary eligible costs.

The appeal shall outline the reasons why the preliminary eligible costs calculated for the project are inadequate and estimate the amount of the adjustment which needs to be made to the preliminary eligible costs. The commissioner shall forward the appeal information to the development authority for its review and recommendation. If the additional costs are the result of factors that are within the control of the district or are the result of design factors that are not required to meet the facilities efficiency standards, the development authority shall recommend to the commissioner that the preliminary eligible costs be accepted as the final eligible costs. If the development authority determines the additional costs are not within the control of the district or are the result of design factors required to meet the facilities efficiency standards, the development authority shall recommend to the commissioner a final eligible cost based on its experience for districts with similar characteristics, provided that, notwithstanding anything to the contrary, the commissioner shall not approve an adjustment to the preliminary eligible costs which exceeds 10% of the preliminary eligible costs. The commissioner shall make a determination on the appeal within 30 days of its receipt. If the commissioner does not approve an adjustment to the school facilities project's preliminary eligible costs, the commissioner shall issue his findings in writing on the reasons for the denial and on why the preliminary eligible costs as originally calculated are sufficient.

(2) In the case of an SDA district, the commissioner shall promptly prepare and submit to the development authority a preliminary project report which shall consist, at a minimum, of the following information: a complete description of the school facilities project; the actual location of the project; the total square footage of the project together with a breakdown of total square footage by functional component; the preliminary eligible costs of the project; the project's priority ranking determined pursuant to subsection m. of this section; any other factors to be considered by the development authority in undertaking the project; and the name and address of the person from the district to contact in regard to the project.

i. Upon receipt by the development authority of the preliminary project report, the development authority, upon consultation with the district, shall prepare detailed plans and specifications and schedules which contain the development authority's estimated cost and schedule to complete the school facilities project. The development authority shall transmit to the commissioner its recommendations in regard to the project which shall, at a minimum, contain the detailed plans and specifications; whether the school facilities project can be completed within the preliminary eligible costs; and any other factors which the development authority determines should be considered by the commissioner.

(1) In the event that the development authority determines that the school facilities project can be completed within the preliminary eligible costs: the final eligible costs shall be deemed to equal the preliminary eligible costs; the commissioner shall be deemed to have given final approval to the project; and the preliminary project report shall be deemed to be the final project report delivered to the development authority pursuant to subsection j. of this section.

(2) In the event that the development authority determines that the school facilities project cannot be completed within the preliminary eligible costs, prior to the submission of its recommendations to the commissioner, the development authority shall, in consultation with the district and the commissioner, determine whether changes can be made in the project which will result in a reduction in costs while at the same time meeting the facilities efficiency standards approved by the commissioner.

(a) If the development authority determines that changes in the school facilities project are possible so that the project can be accomplished within the scope of the preliminary eligible costs while still meeting the facilities efficiency standards, the development authority shall so advise the commissioner, whereupon the commissioner shall: calculate the final eligible costs to equal the preliminary eligible costs; give final approval to the project

with the changes noted; and issue a final project report to the development authority pursuant to subsection j. of this section.

(b) If the development authority determines that it is not possible to make changes in the school facilities project so that it can be completed within the preliminary eligible costs either because the additional costs are the result of factors outside the control of the district or the additional costs are required to meet the facilities efficiency standards, the development authority shall recommend to the commissioner that the preliminary eligible costs be increased accordingly, whereupon the commissioner shall: calculate the final eligible costs to equal the sum of the preliminary eligible costs plus the increase recommended by the development authority; give final approval to the project; and issue a final project report to the development authority pursuant to subsection j. of this section.

(c) If the additional costs are the result of factors that are within the control of the district or are the result of design factors that are not required to meet the facilities efficiency standards or approved pursuant to paragraph (1) of subsection g. of this section, the development authority shall recommend to the commissioner that the preliminary eligible costs be accepted, whereupon the commissioner shall: calculate the final eligible costs to equal the preliminary eligible costs and specify the excess costs which are to be borne by the district; give final approval to the school facilities project; and issue a final project report to the development authority pursuant to subsection j. of this section; provided that the commissioner may approve final eligible costs which are in excess of the preliminary eligible costs if, in his judgment, the action is necessary to meet the educational needs of the district.

(d) For a school facilities project undertaken by the development authority, the development authority shall be responsible for any costs of construction, but only from the proceeds of bonds issued by the financing authority pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.), which exceed the amount originally projected by the development authority and approved for financing by the development authority, provided that the excess is the result of an underestimate of labor or materials costs by the development authority. After receipt by the development authority of the final project report, the district shall be responsible only for the costs associated with changes, if any, made at the request of the district to the scope of the school facilities project.

j. The development authority shall not commence the construction of a school facilities project unless the commissioner transmits to the development authority a final project report and the district complies with the

approval requirements for the local share, if any, pursuant to section 11 of P.L.2000, c.72 (C.18A:7G-11). The final project report shall contain all of the information contained in the preliminary project report and, in addition, shall contain: the final eligible costs; the excess costs, if any; the total costs which equals the final eligible costs plus excess costs, if any; the State share; and the local share.

k. For the SDA districts, the State share shall be 100% of the final eligible costs. Except as otherwise provided pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9) , for all other districts, the State share shall be an amount equal to the district aid percentage; except that the State share shall not be less than 40% of the final eligible costs.

If any district which is included in district factor group A or B, other than an SDA district, is having difficulty financing the local share of a school facilities project, the district may apply to the commissioner to receive 100% State support for the project and the commissioner may request the approval of the Legislature to increase the State share of the project to 100%.

l. The local share for school facilities projects constructed by the authority or a redevelopment entity shall equal the final eligible costs plus any excess costs less the State share.

m. (1) Within 90 days of the effective date of P.L.2007, c.137 (C.52:18A-235 et al.), the commissioner shall develop an educational facilities needs assessment for each SDA district. The assessment shall be updated periodically by the commissioner in accordance with the schedule the commissioner deems appropriate for the district; except that each assessment shall at a minimum be updated within five years of the development of the district's most recent prior educational facilities needs assessment. The assessment shall be transmitted to the development authority to be used to initiate the planning activities required prior to the establishment of the educational priority ranking of school facilities projects pursuant to paragraph (2) of this subsection.

(2) Following the approval of an SDA district's long-range facilities plan or of an amendment to that plan, but prior to authorization of preconstruction activities for a school facilities project included in the plan or amendment, the commissioner shall establish, in consultation with the SDA district, an educational priority ranking of all school facilities projects in the SDA district based upon the commissioner's determination of critical need in accordance with priority project categories developed by the commissioner. The priority project categories shall include, but not be limited to, health and safety, overcrowding in the early childhood, elementary, middle, and high

school grade levels, spaces necessary to provide in-district programs and services for current disabled students who are being served in out-of-district placements or in-district programs and services for the projected disabled student population, rehabilitation, and educational adequacy.

(3) Upon the commissioner's determination of the educational priority ranking of school facilities projects in SDA districts pursuant to paragraph (2) of this subsection, the development authority, in consultation with the commissioner, the SDA districts, and the governing bodies of the municipalities in which the SDA districts are situate, shall establish a Statewide strategic plan to be used in the sequencing of SDA district school facilities projects based upon the projects' educational priority rankings and issues which impact the development authority's ability to complete the projects including, but not limited to, the construction schedule and other appropriate factors. The development authority shall revise the Statewide strategic plan and the sequencing of SDA district school facilities projects in accordance with that plan no less than once every five years.

Any amendment to an SDA district's long-range facilities plan that is submitted to the commissioner in the period between the five-year updates of the long-range facilities plan shall be considered by the development authority, in consultation with the commissioner, for incorporation into the Statewide strategic plan. In making a determination on whether or not to amend the Statewide strategic plan, the development authority shall consider the cost of the amendment, the impact of the amendment upon the school development plans for other districts, and other appropriate factors.

(4) In the case of a district other than an SDA district, the commissioner shall establish a priority process for the financing of school facilities projects based upon the commissioner's determination of critical need in accordance with priority project categories developed by the commissioner. The priority project categories shall include, but not be limited to, health and safety, overcrowding in the elementary, middle, and high school grade levels, spaces necessary to provide in-district programs and services for current disabled students who are being served in out-of-district placements or in-district programs and services for the projected disabled student population, and full-day kindergarten facilities in the case of school districts required to provide full-day preschool pursuant to section 12 of P.L.2007, c.260 (C.18A:7F-54).

n. The provisions of the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., shall be applicable to any school facilities project constructed by a district but shall not be applicable to projects constructed

by the development authority or a redevelopment entity pursuant to the provisions of this act.

o. In the case of a school facilities project of a district other than an SDA district, any proceeds of school bonds issued by the district for the purpose of funding the project which remain unspent upon completion of the project shall be used by the district to reduce the outstanding principal amount of the school bonds.

p. Upon completion by the development authority of a school facilities project, if the cost of construction and completion of the project is less than the total costs, the district shall be entitled to receive a portion of the local share based on a pro rata share of the difference based on the ratio of the State share to the local share.

q. The development authority shall determine the cause of any costs of construction which exceed the amount originally projected by the development authority and approved for financing by the financing authority.

r. (Deleted by amendment, P.L.2007, c.137).

s. (Deleted by amendment, P.L.2007, c.137).

2. Section 9 of P.L.2000, c.72 (C.18A:7G-9) is amended to read as follows:

C.18A:7G-9 Distribution of State debt service aid.

9. a. State debt service aid for capital investment in school facilities for a district other than an SDA district which elects not to finance the project under section 15 of P.L.2000, c.72 (C.18A:7G-15), shall be distributed upon a determination of preliminary eligible costs by the commissioner, according to the following formula:

Aid is the sum of A for each issuance of school bonds issued for a school facilities project approved by the commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.)

where

$A = B \times AC/P \times DAP \times M$, with $AC/P = 1$

whenever AC/P would otherwise yield a number greater than one,

and where:

B is the district's debt service for the individual issuance for the fiscal year;

AC is the preliminary eligible costs determined pursuant to section 7 of P.L.2000, c.72 (C.18A:7G-7);

P is the principal of the individual issuance plus any other funding sources approved for the school facilities project;

DAP is the district's district aid percentage as defined pursuant to section 3 of P.L.2000, c.72 (C.18A:7G-3) and where DAP shall not be less than 40%; and

M is a factor representing the degree to which a district has fulfilled maintenance requirements for a school facilities project determined pursuant to subsection b. of this section.

For county special services school districts, DAP shall be that of the county vocational school district in the same county.

Notwithstanding the provisions of this subsection to the contrary, DAP for a county vocational school district school facilities project that is approved by the commissioner following the effective date of P.L.2009, c.185 shall equal the greater of the district's district aid percentage as defined pursuant to section 3 of P.L.2000, c.72 (C.18A:7G-3) or the percentage of the students in the county vocational school district's resident enrollment who reside in SDA districts; except that DAP shall not be less than 40% or greater than 90%.

b. The maintenance factor (M) shall be 1.0 except when one of the following conditions applies, in which case the maintenance factor shall be as specified:

(1) Effective ten years from the date of the enactment of P.L.2000, c.72 (C.18A:7G-1 et al.), the maintenance factor for aid for reconstruction, remodeling, alteration, modernization, renovation or repair, or for an addition to a school facility, shall be zero for all school facilities projects for which the district fails to demonstrate over the ten years preceding issuance a net investment in maintenance of the related school facility of at least 2% of the replacement cost of the school facility, determined pursuant to subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7) using the area cost allowance of the year ten years preceding the year in which the school bonds are issued.

(2) For new construction, additions, and school facilities aided under subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7) supported by financing issued for projects approved by the commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), beginning in the fourth year after occupancy of the school facility, the maintenance factor shall be reduced according to the following schedule for all school facilities projects for which the district fails to demonstrate in the prior fiscal year an investment in maintenance of the related school facility of at least two-tenths of 1% of the replacement cost of the school facility, determined pursuant to subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7).

Maintenance Percentage	Maintenance Factor (M)
.199% - .151%	75%
.150% - .100%	50%
Less than .100%	Zero

(3) Within one year of the enactment of P.L.2000, c.72 (C.18A:7G-1 et al.), the commissioner shall promulgate rules requiring districts to develop a long-range maintenance plan and specifying the expenditures that qualify as an appropriate investment in maintenance for the purposes of this subsection.

c. Any district which obtained approval from the commissioner since September 1, 1998 and prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) of the educational specifications for a school facilities project or obtained approval from the Department of Community Affairs or the appropriately licensed municipal code official since September 1, 1998 of the final construction plans and specifications, and the district has issued debt, may elect to have the final eligible costs of the project determined pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) and to receive debt service aid under this section or under section 10 of P.L.2000, c.72 (C.18A:7G-10).

Any district which received approval from the commissioner for a school facilities project at any time prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), and has not issued debt, other than short term notes, may submit an application pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) to have the final eligible costs of the project determined pursuant to that section and to have the New Jersey Economic Development Authority construct the project; or, at its discretion, the district may choose to receive debt service aid under this section or under section 10 of P.L.2000, c.72 (C.18A:7G-10) or to receive a grant under section 15 of P.L.2000, c.72 (C.18A:7G-15).

For the purposes of this subsection, the "issuance of debt" shall include lease purchase agreements in excess of five years.

d. For school bonds issued for a school facilities project after the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) and prior to the effective date of P.L.2008, c.39 (C.18A:7G-14.1 et al.), State debt service aid shall be calculated in accordance with the provisions of this section as the same read before the effective date of P.L.2008, c.39 (C.18A:7G-14.1 et al.).

3. This act shall take effect immediately.

Approved January 12, 2010.

CHAPTER 186

AN ACT concerning handgun sales and purchases, amending N.J.S.2C:58-2, N.J.S.2C:58-3 and N.J.S.2C:39-10 and supplementing Title 2C of the New Jersey Statutes.

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

1. N.J.S.2C:58-2 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 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 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.

(7) A dealer shall not knowingly deliver more than one handgun to any person within any 30-day period. This limitation shall not apply to:

(a) a federal, State, or local law enforcement officer or agency purchasing handguns for use by officers in the actual performance of their law enforcement duties;

(b) a collector of handguns as curios or relics as defined in Title 18, United States Code, section 921 (a) (13) who has in his possession a valid Collector of Curios and Relics License issued by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives;

(c) transfers of handguns among licensed retail dealers, registered wholesale dealers and registered manufacturers;

(d) any transaction where the person has purchased a handgun from a licensed retail dealer and has returned that handgun to the dealer in exchange for another handgun within 30 days of the original transaction, provided the retail dealer reports the exchange transaction to the superintendent; or

(e) any transaction where the superintendent issues an exemption from the prohibition in this subsection pursuant to the provisions of section 4 of P.L.2009, c.186 (C.2C:58-3.4).

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.

2. N.J.S.2C:58-3 is amended to read as follows:

Purchase of firearms.

2C:58-3. a. Permit to purchase a handgun. No person shall sell, give, transfer, assign or otherwise dispose of, nor receive, purchase, or otherwise acquire a handgun unless the purchaser, assignee, donee, receiver or holder is licensed as a dealer under this chapter or has first secured a permit to purchase a handgun as provided by this section.

b. Firearms purchaser identification card. No person shall sell, give, transfer, assign or otherwise dispose of nor receive, purchase or otherwise acquire an antique cannon or a rifle or shotgun, other than an antique rifle or shotgun, unless the purchaser, assignee, donee, receiver or holder is licensed as a dealer under this chapter or possesses a valid firearms purchaser identification card, and first exhibits said card to the seller, donor, transferor or assignor, and unless the purchaser, assignee, donee, receiver or holder signs a written certification, on a form prescribed by the superintendent, which shall indicate that he presently complies with the requirements of subsection c. of this section and shall contain his name, address and firearms purchaser identification card number or dealer's registration number. The said certification shall be retained by the seller, as provided in paragraph (4) of subsection a. of N.J.S.2C:58-2, or, in the case of a person who

is not a dealer, it may be filed with the chief of police of the municipality in which he resides or with the superintendent.

c. Who may obtain. No person of good character and good repute in the community in which he lives, and who is not subject to any of the disabilities set forth in this section or other sections of this chapter, shall be denied a permit to purchase a handgun or a firearms purchaser identification card, except as hereinafter set forth. No handgun purchase permit or firearms purchaser identification card shall be issued:

(1) To any person who has been convicted of any crime, or a disorderly persons offense involving an act of domestic violence as defined in section 3 of P.L.1991, c.261 (C.2C:25-19), whether or not armed with or possessing a weapon at the time of such offense;

(2) To any drug dependent person as defined in section 2 of P.L.1970, c.226 (C.24:21-2), to any person who is confined for a mental disorder to a hospital, mental institution or sanitarium, or to any person who is presently an habitual drunkard;

(3) To any person who suffers from a physical defect or disease which would make it unsafe for him to handle firearms, to any person who has ever been confined for a mental disorder, or to any alcoholic unless any of the foregoing persons produces a certificate of a medical doctor or psychiatrist licensed in New Jersey, or other satisfactory proof, that he is no longer suffering from that particular disability in such a manner that would interfere with or handicap him in the handling of firearms; to any person who knowingly falsifies any information on the application form for a handgun purchase permit or firearms purchaser identification card;

(4) To any person under the age of 18 years for a firearms purchaser identification card and to any person under the age of 21 years for a permit to purchase a handgun;

(5) To any person where the issuance would not be in the interest of the public health, safety or welfare;

(6) To any person who is subject to a restraining order issued pursuant to the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.) prohibiting the person from possessing any firearm;

(7) To any person who as a juvenile was adjudicated delinquent for an offense which, if committed by an adult, would constitute a crime and the offense involved the unlawful use or possession of a weapon, explosive or destructive device or is enumerated in subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2); or

(8) To any person whose firearm is seized pursuant to the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.) and whose firearm has not been returned.

d. Issuance. The chief of police of an organized full-time police department of the municipality where the applicant resides or the superintendent, in all other cases, shall upon application, issue to any person qualified under the provisions of subsection c. of this section a permit to purchase a handgun or a firearms purchaser identification card.

Any person aggrieved by the denial of a permit or identification card may request a hearing in the Superior Court of the county in which he resides if he is a resident of New Jersey or in the Superior Court of the county in which his application was filed if he is a nonresident. The request for a hearing shall be made in writing within 30 days of the denial of the application for a permit or identification card. The applicant shall serve a copy of his request for a hearing upon the chief of police of the municipality in which he resides, if he is a resident of New Jersey, and upon the superintendent in all cases. The hearing shall be held and a record made thereof within 30 days of the receipt of the application for such hearing by the judge of the Superior Court. No formal pleading and no filing fee shall be required as a preliminary to such hearing. Appeals from the results of such hearing shall be in accordance with law.

e. Applications. Applications for permits to purchase a handgun and for firearms purchaser identification cards shall be in the form prescribed by the superintendent and shall set forth the name, residence, place of business, age, date of birth, occupation, sex and physical description, including distinguishing physical characteristics, if any, of the applicant, and shall state whether the applicant is a citizen, whether he is an alcoholic, habitual drunkard, drug dependent person as defined in section 2 of P.L.1970, c.226 (C.24:21-2), whether he has ever been confined or committed to a mental institution or hospital for treatment or observation of a mental or psychiatric condition on a temporary, interim or permanent basis, giving the name and location of the institution or hospital and the dates of such confinement or commitment, whether he has been attended, treated or observed by any doctor or psychiatrist or at any hospital or mental institution on an inpatient or outpatient basis for any mental or psychiatric condition, giving the name and location of the doctor, psychiatrist, hospital or institution and the dates of such occurrence, whether he presently or ever has been a member of any organization which advocates or approves the commission of acts of force and violence to overthrow the Government of the United States or of this State, or which seeks to deny others their rights under the Constitution of

either the United States or the State of New Jersey, whether he has ever been convicted of a crime or disorderly persons offense, whether the person is subject to a restraining order issued pursuant to the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.) prohibiting the person from possessing any firearm, and such other information as the superintendent shall deem necessary for the proper enforcement of this chapter. For the purpose of complying with this subsection, the applicant shall waive any statutory or other right of confidentiality relating to institutional confinement. The application shall be signed by the applicant and shall contain as references the names and addresses of two reputable citizens personally acquainted with him.

Application blanks shall be obtainable from the superintendent, from any other officer authorized to grant such permit or identification card, and from licensed retail dealers.

The chief police officer or the superintendent shall obtain the fingerprints of the applicant and shall have them compared with any and all records of fingerprints in the municipality and county in which the applicant resides and also the records of the State Bureau of Identification and the Federal Bureau of Investigation, provided that an applicant for a handgun purchase permit who possesses a valid firearms purchaser identification card, or who has previously obtained a handgun purchase permit from the same licensing authority for which he was previously fingerprinted, and who provides other reasonably satisfactory proof of his identity, need not be fingerprinted again; however, the chief police officer or the superintendent shall proceed to investigate the application to determine whether or not the applicant has become subject to any of the disabilities set forth in this chapter.

f. Granting of permit or identification card; fee; term; renewal; revocation. The application for the permit to purchase a handgun together with a fee of $2, or the application for the firearms purchaser identification card together with a fee of $5, shall be delivered or forwarded to the licensing authority who shall investigate the same and, unless good cause for the denial thereof appears, shall grant the permit or the identification card, or both, if application has been made therefor, within 30 days from the date of receipt of the application for residents of this State and within 45 days for nonresident applicants. A permit to purchase a handgun shall be valid for a period of 90 days from the date of issuance and may be renewed by the issuing authority for good cause for an additional 90 days. A firearms purchaser identification card shall be valid until such time as the holder becomes subject to any of the disabilities set forth in subsection c. of this section, whereupon the card shall be void and shall be returned within five days by the

holder to the superintendent, who shall then advise the licensing authority. Failure of the holder to return the firearms purchaser identification card to the superintendent within the said five days shall be an offense under subsection a. of N.J.S.2C:39-10. Any firearms purchaser identification card may be revoked by the Superior Court of the county wherein the card was issued, after hearing upon notice, upon a finding that the holder thereof no longer qualifies for the issuance of such permit. The county prosecutor of any county, the chief police officer of any municipality or any citizen may apply to such court at any time for the revocation of such card.

There shall be no conditions or requirements added to the form or content of the application, or required by the licensing authority for the issuance of a permit or identification card, other than those that are specifically set forth in this chapter.

g. Disposition of fees. All fees for permits shall be paid to the State Treasury if the permit is issued by the superintendent, to the municipality if issued by the chief of police, and to the county treasurer if issued by the judge of the Superior Court.

h. Form of permit; quadruplicate; disposition of copies. The permit shall be in the form prescribed by the superintendent and shall be issued to the applicant in quadruplicate. Prior to the time he receives the handgun from the seller, the applicant shall deliver to the seller the permit in quadruplicate and the seller shall complete all of the information required on the form. Within five days of the date of the sale, the seller shall forward the original copy to the superintendent and the second copy to the chief of police of the municipality in which the purchaser resides, except that in a municipality having no chief of police, such copy shall be forwarded to the superintendent. The third copy shall then be returned to the purchaser with the pistol or revolver and the fourth copy shall be kept by the seller as a permanent record.

i. Restriction on number of firearms person may purchase. Only one handgun shall be purchased or delivered on each permit and no more than one handgun shall be purchased within any 30-day period, but this limitation shall not apply to:

(1) a federal, State or local law enforcement officer or agency purchasing handguns for use by officers in the actual performance of their law enforcement duties;

(2) a collector of handguns as curios or relics as defined in Title 18, United States Code, section 921 (a) (13) who has in his possession a valid Collector of Curios and Relics License issued by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives;

(3) transfers of handguns among licensed retail dealers, registered wholesale dealers and registered manufacturers

(4) transfers of handguns from any person to a licensed retail dealer or a registered wholesale dealer or registered manufacturer.

(5) any transaction where the person has purchased a handgun from a licensed retail dealer and has returned that handgun to the dealer in exchange for another handgun within 30 days of the original transaction, provided the retail dealer reports the exchange transaction to the superintendent; or

(6) any transaction where the superintendent issues an exemption from the prohibition in this subsection pursuant to the provisions of section 4 of P.L.2009, c.186 (C.2C:58-3.4).

The provisions of this subsection shall not be construed 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.

A person shall not be restricted as to the number of rifles or shotguns he may purchase, provided he possesses a valid firearms purchaser identification card and provided further that he signs the certification required in subsection b. of this section for each transaction.

j. Firearms passing to heirs or legatees. Notwithstanding any other provision of this section concerning the transfer, receipt or acquisition of a firearm, a permit to purchase or a firearms purchaser identification card shall not be required for the passing of a firearm upon the death of an owner thereof to his heir or legatee, whether the same be by testamentary bequest or by the laws of intestacy. The person who shall so receive, or acquire said firearm shall, however, be subject to all other provisions of this chapter. If the heir or legatee of such firearm does not qualify to possess or carry it, he may retain ownership of the firearm for the purpose of sale for a period not exceeding 180 days, or for such further limited period as may be approved by the chief law enforcement officer of the municipality in which the heir or legatee resides or the superintendent, provided that such firearm is in the custody of the chief law enforcement officer of the municipality or the superintendent during such period.

k. Sawed-off shotguns. Nothing in this section shall be construed to authorize the purchase or possession of any sawed-off shotgun.

l. Nothing in this section and in N.J.S.2C:58-2 shall apply to the sale or purchase of a visual distress signalling device approved by the United States Coast Guard, solely for possession on a private or commercial aircraft or any boat; provided, however, that no person under the age of 18

years shall purchase nor shall any person sell to a person under the age of 18 years such a visual distress signalling device.

3. N.J.S.2C:39-10 is amended to read as follows:

Violation of the regulatory provisions relating to firearms; false representation in applications.

2C:39-10. Violation of the regulatory provisions relating to firearms; false representation in applications.

a. (1) Except as otherwise provided in paragraph (2) of this subsection, any person who knowingly violates the regulatory provisions relating to manufacturing or wholesaling of firearms (section 2C:58-1), retailing of firearms (section 2C:58-2), permits to purchase certain firearms (section 2C:58-3), permits to carry certain firearms (section 2C:58-4), licenses to procure machine guns or assault firearms (section 2C:58-5), or incendiary or tracer ammunition (section 2C:58-10), except acts which are punishable under section 2C:39-5 or section 2C:39-9, is guilty of a crime of the fourth degree.

(2) A licensed dealer who knowingly violates the provisions of subparagraph (d) of paragraph (5) of subsection a. of N.J.S.2C:58-2 is a disorderly person.

b. Any person who knowingly violates the regulatory provisions relating to notifying the authorities of possessing certain items of explosives (section 2C:58-7), or of certain wounds (section 2C:58-8) is a disorderly person.

c. Any person who gives or causes to be given any false information, or signs a fictitious name or address, in applying for a firearms purchaser identification card, a permit to purchase a handgun, a permit to carry a handgun, a permit to possess a machine gun, a permit to possess an assault firearm, or in completing the certificate or any other instrument required by law in purchasing or otherwise acquiring delivery of any rifle, shotgun, handgun, machine gun, or assault firearm or any other firearm, is guilty of a crime of the third degree.

d. Any person who gives or causes to be given any false information in registering an assault firearm pursuant to section 11 of P.L.1990, c.32 (C.2C:58-12) or in certifying that an assault firearm was rendered inoperable pursuant to section 12 of P.L.1990, c.32 (C.2C:58-13) commits a crime of the fourth degree.

e. Any person who knowingly sells, gives, transfers, assigns or otherwise disposes of a firearm to a person who is under the age of 18 years,

except as permitted in section 14 of P.L.1979, c.179 (C.2C:58-6.1), is guilty of a crime of the third degree. Notwithstanding any other provision of law to the contrary, the sentence imposed for a conviction under this subsection shall include a mandatory minimum three-year term of imprisonment, during which the defendant shall be ineligible for parole.

f. Unless the recipient is authorized to possess the handgun in connection with the performance of official duties under the provisions of N.J.S.2C:39-6, any person who knowingly sells, gives, transfers, assigns or otherwise disposes of a handgun to a person who is under the age of 21 years, except as permitted in section 14 of P.L.1979, c.179 (C.2C:58-6.1), is guilty of a crime of the third degree.

g. Any person who knowingly gives or causes to be given any false information or knowingly engages in any other fraudulent conduct in applying for an exemption to purchase more than one handgun in a 30-day period in violation of the provisions of section 4 of P.L.2009, c.186 (C.2C:58-3.4) shall be guilty of a crime of the third degree. The presumption of nonimprisonment set forth in N.J.S.2C:44-1 shall not apply to persons convicted under the provisions of this subsection.

C.2C:58-3.4 Exemption on restriction of purchase of handguns.

4. a. The superintendent may grant an exemption from the restriction on the purchase of handguns set forth in subsection i. of N.J.S.2C:58-3 if the applicant demonstrates to the satisfaction of the superintendent that the applicant's request meets one of the following conditions:

(1) The application is to purchase multiple handguns from a person who obtained the handguns through inheritance or intestacy;

(2) The applicant is a collector of handguns and has a need to purchase or otherwise receive multiple handguns in the same transaction or within a 30-day period in furtherance of the applicant's collecting activities. As used in this paragraph, "need" shall include, but not be limited to, situations where there is a reasonable likelihood that the additional handguns sought to be purchased would not be readily available after the 30-day period, that it would not be feasible or practical to purchase the handguns separately, or that prohibiting the purchase of more than one handgun within a 30-day period would have a materially adverse impact on the applicant's ability to enhance his collection. As used in this paragraph, "collector" shall include any person who devotes time and attention to acquiring firearms for the enhancement of the person's collection: as curios; for inheritance; for historical, investment, training and competitive, recreational, educational, scientific, or defensive purposes; or any or other lawful related purpose. If an applicant is a member

of an organized gun club; firearms competitors organization; firearms collectors organization; or any other organization dedicated to the acquisition, preservation, or use of firearms for historical, investment, training and competitive, recreational, educational, scientific, or defensive purposes, or any other lawful related purpose, such membership shall be considered in determining whether the applicant qualifies as a collector; or

(3) The applicant participates in sanctioned handgun shooting competitions and needs to purchase or otherwise receive multiple handguns in a single transaction or within a 30-day period, and the need is related to the applicant's competitive shooting activities, including use in or training for sanctioned competitions.

b. The applicant shall certify, on a form prescribed by the superintendent, the specific exemption sought and the particular handguns to be purchased. This form shall be submitted to the superintendent at the same time as the permit to purchase a handgun, along with any pertinent documentation supporting the need for an exemption. If the information concerning the particular handguns to be purchased is not available when the form is submitted, that information shall be provided to the superintendent as soon as practicable thereafter. The superintendent shall consider the veracity, accuracy, and completeness of the information provided in determining whether the applicant meets the requirements for an exemption pursuant to this section. In considering whether an applicant qualifies as a collector under paragraph (2) of subsection a. of this section, the superintendent shall not consider the number of guns in the applicant's collection. In considering an exemption sought under paragraph (2) of subsection a. of this section, the superintendent shall not consider the merit or validity of the applicant's collecting activities.

The superintendent shall not grant an exemption if he finds a reasonable likelihood that the public safety would be endangered by granting the exemption, including but not limited to instances where the applicant may be purchasing a handgun to give, sell or distribute to a person who would not qualify to purchase or otherwise acquire a handgun under the provisions of this chapter.

The exemptions set forth in this section shall not be construed and are not intended to authorize multiple handgun purchases where the sole justification set forth by the applicant is that the seller offers a discount for the purchase of more than one handgun.

c. Any person aggrieved by the denial of a request for an exemption pursuant to this paragraph may request a hearing in the Superior Court. The request for a hearing shall be made within 30 days of the denial of the

application for an exemption. The applicant shall serve a copy of his request for a hearing upon the superintendent. The hearing shall be held and a record made thereof within 30 days of the receipt for the application for such a hearing by the judge of the Superior Court. The judge shall grant the request for the exemption if the judge finds that the denial of the applicant's request was an abuse of discretion, arbitrary or capricious, or a misapplication of the requirements for an exemption as a matter of law.

d. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the superintendent may adopt, immediately upon filing with the Office of Administrative Law, such temporary regulations as the superintendent deems necessary to implement the provisions of P.L.2009, c.186 (C.2C:58-3.4 et al.). The regulations so adopted shall be effective for a period not to exceed 270 days from the date of the filing, but in no case shall those regulations be in effect one year after the effective date of P.L.2009, c.186 (C.2C:58-3.4 et al.). The regulations may thereafter be amended, adopted or readopted by the superintendent as the superintendent deems necessary in accordance with the requirements of the "Administrative Procedure Act."

5. This act shall take effect immediately; provided however, the Superintendent of State Police may take any anticipatory administrative action prior to the effective date necessary for its timely implementation.

Approved January 12, 2010.

CHAPTER 187

AN ACT concerning certain price adjustments in local public contracts and amending P.L.1971, c.198.

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

1. Section 16 of P.L.1971, c.198 (C.40A:11-16) is amended to read as follows:

C.40A:11-16 Separate plans, specifications for work on public building; contracts.

16. a. In the preparation of plans and specifications for the construction, alteration or repair of any public building by any contracting unit,

when the entire cost of the work will exceed the bid threshold, the architect, engineer or other person preparing the plans and specifications may prepare separate plans and specifications for

(1) The plumbing and gas fitting and all kindred work;

(2) Steam power plants, steam and hot water heating and ventilating apparatus and all kindred work;

(3) Electrical work;

(4) Structural steel and ornamental iron work; and

(5) All other work required for the completion of the project.

The contracting agent shall advertise for and receive, in the manner provided by law, either (a) separate bids for each of said branches of work, or (b) bids for all the work, goods and services required to complete the building to be included in a single overall contract, or (c) both. In the case of a single bid under (b) or (c), there shall be set forth in the bid the name or names of all subcontractors to whom the bidder will subcontract the furnishing of plumbing and gas fitting, and all kindred work, and of the steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, structural steel and ornamental iron work, each of which subcontractors shall be qualified in accordance with P.L.1971, c.198 (C.40A:11-1 et seq.). The contracting unit shall require evidence of performance security to be submitted simultaneously with the list of the subcontractors. Evidence of performance security may be supplied by the bidder on behalf of himself and any or all subcontractors, or by each respective subcontractor, or by any combination thereof which results in evidence of performance security equaling, but in no event exceeding, the total amount bid.

b. Whenever a bid sets forth more than one subcontractor for any of the specialty trade categories (1) through (4) specified in subsection a. of this section, the bidder shall submit to the contracting unit a certificate signed by the bidder listing each subcontractor named in the bid for that category. The certificate shall set forth the scope of work, goods and services for which the subcontractor has submitted a price quote and which the bidder has agreed to award to each subcontractor should the bidder be awarded the contract. The certificate shall be submitted to the contracting unit simultaneously with the list of the subcontractors. The certificate may take the form of a single certificate listing all subcontractors or, alternatively, a separate certificate may be submitted for each subcontractor. If a bidder does not submit a certificate or certificates to the contracting unit, the contracting unit shall award the contract to the next lowest responsible bidder.

c. Contracts shall be awarded to the lowest responsible bidder. In the event that a contract is advertised for both separate bids for each branch of work and for bids for all work, goods, and services, said contract shall be awarded in the following manner: If the sum total of the amounts bid by the lowest responsible bidder for each branch is less than the amount bid by the lowest responsible bidder for all the work, goods and services, the contracting unit shall award separate contracts for each of such branches to the lowest responsible bidder therefor, but if the sum total of the amounts bid by the lowest responsible bidder for each branch is not less than the amount bid by the lowest responsible bidder for all the work, goods and services, the contracting unit shall award a single overall contract to the lowest responsible bidder for all of such work, goods and services. In every case in which a contract is awarded for a single overall contract, all payments required to be made under such contract for work, goods and services supplied by a subcontractor shall, upon the certification of the contractor of the amount due to the subcontractor, be paid directly to the subcontractor.

d. Any bid specification prepared pursuant to this section that includes the use of 1,000 or more tons of hot mix asphalt, shall include a pay item for any asphalt price adjustment reflecting changes in the cost of asphalt cement. Any bid specification prepared pursuant to this section that includes the use of less than 1,000 tons of hot mix asphalt, shall include a pay item for an asphalt price adjustment for any quantity of hot mix asphalt exceeding 1,000 tons that may be used in the work in the event that performance of the work, including change orders, requires more than 1,000 tons of hot mix asphalt.

The asphalt price adjustment shall be calculated in accordance with the formula and relevant instructions published in the most recent edition of the New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction as revised by the "Standard Inputs" periodically issued by the department. All invoices for payment shall be accompanied by the calculation of any asphalt price adjustment and a showing of the current month's Asphalt Price Index, the Basic Asphalt Price Index.

e. (1) Every bid specification prepared pursuant to this section may be eligible for a fuel price adjustment. Fuel that is eligible for a fuel price adjustment shall be the sum of the quantities of the eligible pay items in the contract times the fuel usage factors as determined by the Department of Transportation. The types of fuel furnished shall be at the option of the contractor.

(2) The fuel requirement for items not determined by the Department of Transportation to be eligible, and for pay items in the bid specifications

calling for less than 500 gallons of fuel, shall not be eligible for a fuel price adjustment. If more than one pay item has the same nomenclature but with different thicknesses, depths, or types, each individual pay item must require 500 gallons or more of fuel to be eligible for a fuel price adjustment. If more than one pay item has the exact same nomenclature, similar pay items shall be combined and this combination must require 500 gallons ore more of fuel to be eligible for the fuel price adjustment.

(3) Fuel price adjustments shall not be made in those months for which the monthly fuel price index has changed by less than five percent from the basic fuel price.

f. As used in subsections d. and e. of this section:

"Asphalt Price Index" means the Asphalt Price Index as determined and published by the New Jersey Department of Transportation.

"Basic Asphalt Price Index" means the Basic Asphalt Price Index as published by the New Jersey Department of Transportation in its "Standard Specifications for Road and Bridge Construction," as revised by the "Standard Inputs" periodically issued by the New Jersey Department of Transportation.

"Fuel Price Index" means the Fuel Price Index as determined and published by the New Jersey Department of Transportation.

"Pay Item" means a specifically described item of work for which the bidder provides a per unit or lump sum price in a bid specification as determined and published by the New Jersey Department of Transportation.

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

Approved January 12, 2010.

CHAPTER 188

AN ACT concerning expungement of criminal and juvenile delinquency records and amending N.J.S.2C:52-2, P.L.1980, c.163, and N.J.S.2C:52-14.

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

1. N.J.S.2C:52-2 is amended to read as follows:

Indictable offenses.

2C:52-2. Indictable Offenses.

a. In all cases, except as herein provided, wherein a person has been convicted of a crime under the laws of this State and who has not been convicted of any prior or subsequent crime, whether within this State or any other jurisdiction, and has not been adjudged a disorderly person or petty disorderly person on more than two occasions may, after the expiration of a period of 10 years from the date of his conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later, present a duly verified petition as provided in section 2C:52-7 to the Superior Court in the county in which the conviction was entered praying that such conviction and all records and information pertaining thereto be expunged.

Notwithstanding the provisions of the preceding paragraph, a petition may be filed and presented, and the court may grant an expungement pursuant to this section, although less than 10 years has expired in accordance with the requirements of the preceding paragraph where the court finds:

(1) less than 10 years has expired from the satisfaction of a fine, but the 10-year time requirement is otherwise satisfied, and the court finds that the person substantially complied with any payment plan ordered pursuant to N.J.S.2C:46-1 et seq., or could not do so due to compelling circumstances affecting his ability to satisfy the fine; or

(2) at least five years has expired from the date of his conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later; the person has not been convicted of a crime, disorderly persons offense, or petty disorderly persons offense since the time of the conviction; and the court finds in its discretion that expungement is in the public interest, giving due consideration to the nature of the offense, and the applicant's character and conduct since conviction.

In determining whether compelling circumstances exist for the purposes of paragraph (1) of this subsection, a court may consider the amount of the fine or fines imposed, the person's age at the time of the offense, the person's financial condition and other relevant circumstances regarding the person's ability to pay.

Although subsequent convictions for no more than two disorderly or petty disorderly offenses shall not be an absolute bar to relief, the nature of those conviction or convictions and the circumstances surrounding them shall be considered by the court and may be a basis for denial of relief if they or either of them constitute a continuation of the type of unlawful activity embodied in the criminal conviction for which expungement is sought.

b. Records of conviction pursuant to statutes repealed by this Code for the crimes of murder, manslaughter, treason, anarchy, kidnapping, rape, forcible sodomy, arson, perjury, false swearing, robbery, embracery, or a conspiracy or any attempt to commit any of the foregoing, or aiding, assisting or concealing persons accused of the foregoing crimes, shall not be expunged.

Records of conviction for the following crimes specified in the New Jersey Code of Criminal Justice shall not be subject to expungement: Section 2C:11-1 et seq. (Criminal Homicide), except death by auto as specified in section 2C:11-5; section 2C:13-1 (Kidnapping); section 2C:13-6 (Luring or Enticing); section 1 of P.L.2005, c.77 (C.2C:13-8) (Human Trafficking); section 2C:14-2 (Aggravated Sexual Assault); section 2C:14-3a (Aggravated Criminal Sexual Contact); if the victim is a minor, section 2C:14-3b (Criminal Sexual Contact); if the victim is a minor and the offender is not the parent of the victim, section 2C:13-2 (Criminal Restraint) or section 2C:13-3 (False Imprisonment); section 2C:15-1 (Robbery); section 2C:17-1 (Arson and Related Offenses); section 2C:24-4a. (Endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child); section 2C:24-4b(4) (Endangering the welfare of a child); section 2C:24-4b. (3) (Causing or permitting a child to engage in a prohibited sexual act); section 2C:24-4b.(5)(a) (Selling or manufacturing child pornography); section 2C:28-1 (Perjury); section 2C:28-2 (False Swearing); section 2C:34-1b.(4) (Knowingly promoting the prostitution of the actor's child); section 2 of P.L.2002, c.26 (C.2C:38-2) (Terrorism); subsection a. of section 3 of P.L.2002, c.26 (C.2C:38-3) (Producing or Possessing Chemical Weapons, Biological Agents or Nuclear or Radiological Devices); and conspiracies or attempts to commit such crimes.

Records of conviction for any crime committed by a person holding any public office, position or employment, elective or appointive, under the government of this State or any agency or political subdivision thereof and any conspiracy or attempt to commit such a crime shall not be subject to expungement if the crime involved or touched such office, position or employment.

c. In the case of conviction for the sale or distribution of a controlled dangerous substance or possession thereof with intent to sell, expungement shall be denied except where the crimes involve:

(1) Marijuana, where the total quantity sold, distributed or possessed with intent to sell was 25 grams or less;

(2) Hashish, where the total quantity sold, distributed or possessed with intent to sell was five grams or less; or

(3) Any controlled dangerous substance provided that the conviction is of the third or fourth degree, where the court finds that expungement is consistent with the public interest, giving due consideration to the nature of the offense and the petitioner's character and conduct since conviction.

d. In the case of a State licensed physician or podiatrist convicted of an offense involving drugs or alcohol or pursuant to section 14 or 15 of P.L.1989, c.300 (C.2C:21-20 or 2C:21-4.1), the court shall notify the State Board of Medical Examiners upon receipt of a petition for expungement of the conviction and records and information pertaining thereto.

2. Section 1 of P.L.1980, c.163 (C.2C:52-4.1) is amended to read as follows:

C.2C:52-4.1 Juvenile delinquent; expungement of adjudications and charges.

1. a. Any person adjudged a juvenile delinquent may have such adjudication expunged as follows:

(1) Pursuant to N.J.S.2C:52-2, if the act committed by the juvenile would have constituted a crime if committed by an adult;

(2) Pursuant to N.J.S.2C:52-3, if the act committed by the juvenile would have constituted a disorderly or petty disorderly persons offense if committed by an adult; or

(3) Pursuant to N.J.S.2C:52-4, if the act committed by the juvenile would have constituted an ordinance violation if committed by an adult.

For purposes of expungement, any act which resulted in a juvenile being adjudged a delinquent shall be classified as if that act had been committed by an adult.

b. Additionally, any person who has been adjudged a juvenile delinquent may have his entire record of delinquency adjudications expunged if:

(1) Five years have elapsed since the final discharge of the person from legal custody or supervision or 5 years have elapsed after the entry of any other court order not involving custody or supervision, except that periods of post-incarceration supervision pursuant to section 25 of P.L.1982, c.77 (C.2A:4A-44), shall not be considered in calculating the five-year period for purposes of this paragraph;

(2) He has not been convicted of a crime, or a disorderly or petty disorderly persons offense, or adjudged a delinquent, or in need of supervision, during the 5 years prior to the filing of the petition, and no proceeding or complaint is pending seeking such a conviction or adjudication, except that periods of post-incarceration supervision pursuant to section 25 of

P.L.1982, c.77 (C.2A:4A-44), shall not be considered in calculating the five-year period for purposes of this paragraph;

(3) He was never adjudged a juvenile delinquent on the basis of an act which if committed by an adult would constitute a crime not subject to expungement under N.J.S.2C:52-2;

(4) He has never had an adult conviction expunged; and

(5) He has never had adult criminal charges dismissed following completion of a supervisory treatment or other diversion program.

c. Any person who has been charged with an act of delinquency and against whom proceedings were dismissed may have the filing of those charges expunged pursuant to the provisions of N.J.S.2C:52-6.

3. N.J.S.2C:52-14 is amended to read as follows:

Grounds for denial of relief.

2C:52-14. A petition for expungement filed pursuant to this chapter shall be denied when:

a. Any statutory prerequisite, including any provision of this chapter, is not fulfilled or there is any other statutory basis for denying relief.

b. The need for the availability of the records outweighs the desirability of having a person freed from any disabilities as otherwise provided in this chapter. An application may be denied under this subsection only following objection of a party given notice pursuant to 2C:52-10 and the burden of asserting such grounds shall be on the objector, except that in regard to expungement sought for third or fourth degree drug offenses pursuant to paragraph (3) of subsection c. of N.J.S.2C:52-2, the court shall consider whether this factor applies regardless of whether any party objects on this basis.

c. In connection with a petition under section 2C:52-6, the acquittal, discharge or dismissal of charges resulted from a plea bargaining agreement involving the conviction of other charges. This bar, however, shall not apply once the conviction is itself expunged.

d. The arrest or conviction sought to be expunged is, at the time of hearing, the subject matter of civil litigation between the petitioner or his legal representative and the State, any governmental entity thereof or any State agency and the representatives or employees of any such body.

e. A person has had a previous criminal conviction expunged regardless of the lapse of time between the prior expungement, or sealing under prior law, and the present petition. This provision shall not apply:

(1) When the person is seeking the expungement of a municipal ordinance violation or,

(2) When the person is seeking the expungement of records pursuant to section 2C:52-6.

f. The person seeking the relief of expungement of a conviction for a disorderly persons, petty disorderly persons, or criminal offense has prior to or subsequent to said conviction been granted the dismissal of criminal charges following completion of a supervisory treatment or other diversion program.

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

Approved January 12, 2010.

CHAPTER 189

AN ACT requiring a State tax expenditure report be included in the Governor's annual budget message and supplementing Title 52 of the Revised Statutes.

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

C.52:27B-20a State tax expenditure report included in Governor's budget message.

1. a. In addition to the requirements of section 11 of article 3 of P.L.1944, c.112 (C.52:27B-20), and any other provisions of law, the Governor's budget message transmitted annually to the Legislature shall include a State tax expenditure report setting forth estimates of the tax expenditures under existing State law for the last completed fiscal year, the current fiscal year and the fiscal year to which the budget message applies. The tax expenditures report shall take into account projected economic factors, and any changes in State tax expenditures as may be enacted or reasonably expected to be enacted for any fiscal year.

b. The State tax expenditures report shall:

(1) list each State tax expenditure,

(2) identify the statutory authority for each State tax expenditure, and the year in which it was enacted or the tax year or tax period in which it became effective,

(3) describe the objective of each State tax expenditure,

(4) detail in columnar enumeration for each State tax expenditure an estimate of the amount of State revenue loss for the last completed fiscal year, the current fiscal year and the fiscal year to which the budget message applies,

(5) determine whether each State tax expenditure has been effective in achieving the purpose for which the tax expenditure was enacted and currently serves, including an analysis of the persons, including corporations, individuals or other entities, benefited by the expenditure,

(6) the effect of each State tax expenditure on the fairness and equity of the distribution of the tax burden, and

(7) the public and private costs of administering the State tax expenditures.

c. As used in this section:

"State tax expenditure" means those revenue losses attributable to provisions of State tax law which establish special tax treatment, including but not limited to tax law definition, deduction, exclusion, exemption, deferral, credit, preferential tax rate or other special tax provision resulting in a reduced tax liability for certain persons, individuals, types of income, transactions or property from the liability which would be presumed to exist without the State tax expenditure.

d. The Division of Taxation in the Department of the Treasury shall advise and assist the Governor in the preparation of the State tax expenditure report.

2. This act shall take effect immediately and apply to budget messages transmitted on and after enactment.

Approved January 12, 2010.

CHAPTER 190

AN ACT concerning the validity and replacement of certain absentee ballots and amending P.L.1953, c.211.

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

1. Section 27 of P.L.1953, c.211 (C.19:57-27) is amended to read as follows:

C.19:57-27 Ballots not to be invalidated because of omissions, withdrawal of candidates.

27. a. No absentee ballot shall be rejected or declared invalid because it does not contain all of the names of the candidates or all of the public ques-

tions to be voted for or upon in the election district in the election in which it is to be counted, and any absentee ballot shall be counted in determining the result of said election as to any office or public question, if the designation of the office and the name of the candidate for election to said office or the answer to such public question are written thereon so as to indicate the voter's choice, and notwithstanding that such designation, name or question may be or should have been printed or such choice indicated upon such military service ballot in the regular manner.

b. No absentee ballot received from an absentee voter for any election shall be rejected or declared invalid and replaced because of the withdrawal of any candidate occurring after the ballot is received from the voter prior to the date of the election in which the ballot is to be counted.

2. This act shall take effect immediately.

Approved January 12, 2010.

CHAPTER 191

AN ACT concerning certain reforestation plans and amending P.L.1993, c.106.

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

1. Section 3 of P.L.1993, c.106 (C.13:1L-14.3) is amended to read as follows:

C.13:1L-14.3 Nonapplicability of act.

3. The requirements of P.L.1993, c.106 (C.13:1L-14.1 et seq.) shall not apply to activities:

a. that are deemed by the division to constitute standard forestry, wildlife management, or arboricultural practices, or to actively managed existing utility easements; or

b. conducted, or that are caused to be conducted, by the Department of Military and Veterans' Affairs at the Brigadier General William C. Doyle Veterans' Memorial Cemetery.

2. This act shall take effect immediately.

Approved January 12, 2010.

CHAPTER 192

AN ACT concerning distributing, dispensing or possessing controlled dangerous substances on or near school property, supplementing Title 2C of the New Jersey Statutes, and amending P.L.1987, c.101.

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

1. Section 1 of P.L.1987, c.101 (C.2C:35-7) is amended to read as follows:

C.2C:35-7 Distribution on or within 1,000 feet of school property.

1. a. Any person who violates subsection a. of N.J.S.2C:35-5 by distributing, dispensing or possessing with intent to distribute a controlled dangerous substance or controlled substance analog while 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 or a school bus, or while on any school bus, is guilty of a crime of the third degree and shall, except as provided in N.J.S.2C:35-12, be sentenced by the court to a term of imprisonment. Where the violation involves less than one ounce of marijuana, the term of imprisonment shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, or one year, whichever is greater, during which the defendant shall be ineligible for parole. In all other cases, the term of imprisonment shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, or three years, whichever is greater, during which the defendant shall be ineligible for parole. Notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $150,000 may also be imposed upon any conviction for a violation of this section.

b. (1) Notwithstanding the provisions of N.J.S.2C:35-12 or subsection a. of this section, the court may waive or reduce the minimum term of parole ineligibility required under subsection a. of this section or place the defendant on probation pursuant to paragraph (2) of subsection b. of N.J.S.2C:43-2. In making this determination, the court shall consider:

(a) the extent of the defendant's prior criminal record and the seriousness of the offenses for which the defendant has been convicted;

(b) the specific location of the present offense in relation to the school property, including distance from the school and the reasonable likelihood of exposing children to drug-related activities at that location;

(c) whether school was in session at the time of the offense; and

(d) whether children were present at or in the immediate vicinity of the location when the offense took place.

(2) The court shall not waive or reduce the minimum term of parole ineligibility or sentence the defendant to probation if it finds that:

(a) the offense took place while on any school property used for school purposes which is owned by or leased to any elementary or secondary school or school board, or while on any school bus; or

(b) the defendant in the course of committing the offense used or threatened violence or was in possession of a firearm.

If the court at sentencing elects not to impose a minimum term of imprisonment and parole ineligibility pursuant to this subsection, imposes a term of parole ineligibility less than the minimum term prescribed in subsection a. of this section, or places the defendant on probation for a violation of subsection a. of this section, the sentence shall not become final for 10 days in order to permit the prosecution to appeal the court's finding and the sentence imposed. The Attorney General shall develop guidelines to ensure the uniform exercise of discretion in making determinations regarding whether to appeal a decision to waive or reduce the minimum term of parole ineligibility or place the defendant on probation.

Nothing in this subsection shall be construed to establish a basis for overcoming a presumption of imprisonment authorized or required by subsection d. of N.J.S.2C:44-1, or a basis for not imposing a term of imprisonment or term of parole ineligibility authorized or required to be imposed pursuant to subsection f. of N.J.S.2C:43-6 or upon conviction for a crime other than the offense set forth in this subsection.

c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other provisions of law, a conviction arising under this section shall not merge with a conviction for a violation of subsection a. of N.J.S.2C:35-5 (manufacturing, distributing or dispensing) or N.J.S.2C:35-6 (employing a juvenile in a drug distribution scheme).

d. It shall be no defense to a prosecution for a violation of this section that the actor was unaware that the prohibited conduct took place while on or within 1,000 feet of any school property. Nor shall it be a defense to a prosecution under this section, or under any other provision of this title, that no juveniles were present on the school property at the time of the offense or that the school was not in session.

e. It is an affirmative defense to prosecution for a violation of this section that the prohibited conduct took place entirely within a private residence, that no person 17 years of age or younger was present in such private residence at any time during the commission of the offense, and that the prohibited conduct did not involve distributing, dispensing or possessing with the intent to distribute or dispense any controlled dangerous substance or controlled substance analog for profit. The affirmative defense established in this section shall be proved by the defendant by a preponderance of the evidence. Nothing herein shall be construed to establish an affirmative defense with respect to a prosecution for an offense defined in any other section of this chapter.

f. In a prosecution under this section, a map produced or reproduced by any municipal or county engineer for the purpose of 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, or a true copy of such a map, shall, upon proper authentication, be admissible and shall constitute prima facie evidence of the location and boundaries of those areas, provided that the governing body of the municipality or county has adopted a resolution or ordinance approving the map as official finding and record of the location and boundaries of the area or areas on or within 1,000 feet of the school property. Any map approved pursuant to this section may be changed from time to time by the governing body of the municipality or county. The original of every map approved or revised pursuant to this section, or a true copy thereof, shall be filed with the clerk of the municipality or county, and shall be maintained as an official record of the municipality or county. Nothing in this section shall be construed to preclude the prosecution from introducing or relying upon any other evidence or testimony to establish any element of this offense; nor shall this section be construed to preclude the use or admissibility of any map or diagram other than one which has been approved by the governing body of a municipality or county, provided that the map or diagram is otherwise admissible pursuant to the Rules of Evidence.

C.2C:35-7a Review of sentence by court.

2. Notwithstanding any court rule limiting the time period within which a motion to reduce or change a sentence may be filed, any person who, on the effective date of this act, is serving a mandatory minimum sentence as provided by section 1 of P.L.1987, c.101 (C.2C:35-7) and who has not had his sentence suspended or been paroled or discharged may move to have his sentence reviewed by the court. If the court finds that the sentence

under review does not serve the interests of justice, the judge may resentence the defendant pursuant to subsection b. of section 1 of P.L.1987, c.101 (C.2C:35-7). In determining whether the sentence under review serves the interests of justice, the court shall consider all relevant circumstances, including whether the defendant pleaded guilty pursuant to a negotiated agreement, and whether the prosecution has agreed to dismiss one or more charges which, upon conviction, would have subjected the defendant to the presumption of imprisonment under subsection d. of N.J.S.2C:44-1. The determination by the court shall not be subject to appeal.

3. This act shall take effect immediately and also shall apply to any case pending on the date of enactment.

Approved January 12, 2010.

CHAPTER 193

AN ACT concerning post employment restrictions with regard to certain government officers and employees and amending P.L.1981, c.142.

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

1. Section 4 of P.L.1981, c.142 (C.52:13D-17.2) is amended to read as follows:

C.52:13D-17.2 "Person" defined; conflict of interest; violations, penalty.

4. a. As used in this section "person" means:

(1) 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 any full-time member of the Judiciary; any full-time professional employee of the Office of the Governor, or the Legislature; members of the Casino Reinvestment Development Authority; the head of a principal department; the assistant or deputy heads of a principal department, including all assistant and deputy commissioners; the head of any division of a principal department; or

(2) any member of the governing body, or the municipal judge or the municipal attorney of a municipality wherein a casino is located; any member of or attorney for the planning board or zoning board of adjustment of a municipality wherein a casino is located, or any professional planner, or consultant regularly employed or retained by such planning board or zoning board of adjustment.

b. No State officer or employee, nor any person, nor any member of the immediate family of any State officer or employee, or person, nor any partnership, firm or corporation with which any such State officer or employee or person is associated or in which he has an interest, nor any partner, officer, director or employee while he is associated with such partnership, firm, or corporation, shall hold, directly or indirectly, an interest in, or hold employment with, or represent, appear for, or negotiate on behalf of, any holder of, or applicant for, a casino license, or any holding or intermediary company with respect thereto, in connection with any cause, application, or matter, except as provided in section 3 of P.L.2009, c.26 (C.52:13D-17.3), and except that (1) a State officer or employee other than a State officer or employee included in the definition of person, and (2) a member of the immediate family of a State officer or employee, or of a person, may hold employment with the holder of, or applicant for, a casino license if, in the judgment of the State Ethics Commission, the Joint Legislative Committee on Ethical Standards, or the Supreme Court, as appropriate, such employment will not interfere with the responsibilities of the State officer or employee, or person, and will not create a conflict of interest, or reasonable risk of the public perception of a conflict of interest, on the part of the State officer or employee, or person. No special State officer or employee without responsibility for matters affecting casino activity, excluding those serving in the Departments of Education, Health and Senior Services, and Human Services and the Commission on Higher Education, shall hold, directly or indirectly, an interest in, or represent, appear for, or negotiate on behalf of, any holder of, or applicant for, a casino license, or any holding or intermediary company with respect thereto, in connection with any cause, application, or matter. However, a special State officer or employee without responsibility for matters affecting casino activity may hold employment directly with any holder of or applicant for a casino license or any holding or intermediary company thereof and if so employed may hold, directly or indirectly, an interest in, or represent, appear for, or negotiate on behalf of, his employer, except as otherwise prohibited by law.

c. No person or any member of his immediate family, nor any partnership, firm or corporation with which such person is associated or in

which he has an interest, nor any partner, officer, director or employee while he is associated with such partnership, firm or corporation, shall, within two years next subsequent to the termination of the office or employment of such person, hold, directly or indirectly, an interest in, or hold employment with, or represent, appear for or negotiate on behalf of, any holder of, or applicant for, a casino license in connection with any cause, application or matter, or any holding or intermediary company with respect to such holder of, or applicant for, a casino license in connection with any phase of casino development, permitting, licensure or any other matter whatsoever related to casino activity, except as provided in section 3 of P.L.2009, c.26 (C.52:13D-17.3), and except that:

(1) a member of the immediate family of a person may hold employment with the holder of, or applicant for, a casino license if, in the judgment of the State Ethics Commission, the Joint Legislative Committee on Ethical Standards, or the Supreme Court, as appropriate, such employment will not interfere with the responsibilities of the person and will not create a conflict of interest, or reasonable risk of the public perception of a conflict of interest, on the part of the person;

(2) an employee who is terminated as a result of a reduction in the workforce at the agency where employed, other than an employee who held a policy-making management position at any time during the five years prior to termination of employment, may, at any time prior to the end of the two-year period, accept employment with the holder of, or applicant for, a casino license if, in the judgment of the State Ethics Commission, the Joint Legislative Committee on Ethical Standards, or the Supreme Court, as appropriate, such employment will not create a conflict of interest, or reasonable risk of the public perception of a conflict of interest, on the part of the employee. In no case shall the restrictions of this subsection apply to a secretarial or clerical employee. Nothing herein contained shall alter or amend the post-employment restrictions applicable to members and employees of the Casino Control Commission and employees and agents of the Division of Gaming Enforcement pursuant to subsection e. (2) of section 59 and to section 60 of P.L.1977, c.110 (C.5:12-59 and C.5:12-60); and

(3) any partnership, firm or corporation engaged in the practice of law or in providing any other professional services with which any person included in paragraph (1) of subsection a. of this section, or a member of the immediate family of that person, is associated, and any partner, officer, director or employee thereof, other than that person, or immediate family member, may represent, appear for or negotiate on behalf of any holder of, or applicant for, a casino license in connection with any cause, application or

matter or any holding company or intermediary company with respect to such holder of, or applicant for, a casino license in connection with any phase of casino development, permitting, licensure or any other matter whatsoever related to casino activity, and that person or immediate family member shall not be barred from association with such partnership, firm or corporation, if for a period of two years next subsequent to the termination of the person's office or employment, the person or immediate family member (a) is screened from personal participation in any such representation, appearance or negotiation; and (b) is associated with the partnership, firm or corporation in a position which does not entail any equity interest in the partnership, firm or corporation. The exception provided in this paragraph shall not apply to a former Governor, Lieutenant Governor, Attorney General, member of the Legislature, person included in paragraph (2) of subsection a. of this section, or to the members of their immediate families.

d. This section shall not apply to the spouse of a State officer or employee, which State officer or employee is without responsibility for matters affecting casino activity, who becomes the spouse subsequent to the State officer's or employee's appointment or employment as a State officer or employee and who is not individually or directly employed by a holder of, or applicant for, a casino license, or any holding or intermediary company.

e. The Joint Legislative Committee on Ethical Standards and the State Ethics Commission, as appropriate, shall forthwith determine and publish, and periodically update, a list of those positions in State government with responsibility for matters affecting casino activity.

f. No person shall solicit or accept, directly or indirectly, any complimentary service or discount from any casino applicant or licensee which he knows or has reason to know is other than a service or discount that is offered to members of the general public in like circumstance.

g. No person shall influence, or attempt to influence, by use of his official authority, the decision of the commission or the investigation of the division in any application for licensure or in any proceeding to enforce the provisions of this act or the regulations of the commission. Any such attempt shall be promptly reported to the Attorney General; provided, however, that nothing in this section shall be deemed to proscribe a request for information by any person concerning the status of any application for licensure or any proceeding to enforce the provisions of this act or the regulations of the commission.

h. Any person who willfully violates the provisions of this section is a disorderly person and shall be subject to a fine not to exceed $1,000, or imprisonment not to exceed six months, or both.

In addition, for violations of subsection c. of this section occurring after the effective date of P.L.2005, c.382, a civil penalty of not less than $500 nor more than $10,000 shall be imposed upon a former State officer or employee or former special State officer or employee of a State agency in the Executive Branch upon a finding of a violation by the State Ethics Commission, which penalty may be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

2. This act shall take effect immediately.

Approved January 12, 2010.

CHAPTER 194

AN ACT concerning the suspension or revocation of certain licenses for certain repeated violations of laws regarding wages, benefits and taxes, and supplementing Title 34 of the Revised Statutes.

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

C.34:1A-1.11 Definitions relative to suspension, revocation of certain employer licenses.

1. As used in this act:

"Agency" means any agency, department, board or commission of this State, or of any political subdivision of this State, that issues a license for purposes of operating a business in this State.

"Commissioner" means the Commissioner of Labor and Workforce Development.

"License" means any agency permit, certificate, approval, registration, charter or similar form of authorization that is required by law and that is issued by any agency for the purposes of operating a business in this State, and includes, but is not limited to:

(1) A certificate of incorporation pursuant to the "New Jersey Business Corporation Act," N.J.S.14A:1-1 et seq.;

(2) A certificate of authority pursuant to N.J.S.14A:13-1 et seq.;

(3) A statement of qualification or a statement of foreign qualification pursuant to the "Uniform Partnership Act (1996)," P.L.2000, c.161 (C.42:1A-1 et al.);

(4) A certificate of limited partnership or a certificate of authority pursuant to the "Uniform Limited Partnership Law (1976)," P.L.1983, c.489 (C.42:2A-1 et seq.);

(5) A certificate of formation or certified registration pursuant to the "New Jersey Limited Liability Company Act," P.L.1993, c.210 (C.42:2B-1 et seq.); and

(6) Any license, certificate, permit or registration pursuant to R.S.48:16-1 et seq., R.S.48:16-13 et seq.; the "New Jersey Alcoholic Beverage Control Act," R.S.33:1-1 et seq.; section 4 of P.L.2001, c.260 (C.34:8-70); P.L.1971, c.192 (C.34:8A-7 et seq.); section 12 of P.L.1975, c.217 (C.52:27D-130); section 14 of P.L.1981, c.1 (C.56:8-1.1); or "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.).

"State wage, benefit and tax laws" means:

(1) P.L.1965, c.173 (C.34:11-4.1 et seq.);

(2) The "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.);

(3) The "New Jersey State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.);

(4) The workers' compensation law, R.S.34:15-1 et seq.;

(5) The "unemployment compensation law," R.S.43:21-1 et seq.;

(6) The "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.);

(7) P.L.2008, c.17 (C.43:21-39.1 et al.); and

(8) The "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

C.34:1A-1.12 Commissioner's actions relative to employer violations.

2. a. If the commissioner determines that an employer has failed, for one or more of its employees, to maintain and report every record regarding wages, benefits and taxes which the employer is required to maintain and report pursuant to State wage, benefit and tax laws, as defined in section 1 of this act, and has, in connection with that failure to maintain or report the records, failed to pay wages, benefits, taxes or other contributions or assessments as required by those laws, the commissioner shall, as an alternative to, or in addition to, any other actions taken in the enforcement of those laws, notify the employer of the determination and have an audit of the employer and any successor firm of the employer conducted not more than 12 months after the determination.

b. If, in an audit conducted pursuant to subsection a. of this section, the commissioner determines that the employer or any successor firm to the employer has continued in its failure to maintain or report records as re-

quired by those laws and continued in its failure to pay wages, benefits, taxes or other contributions or assessments as required by those laws, the commissioner:

(1) May, after affording the employer or successor firm notice and an opportunity for a hearing in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), issue a written determination directing any appropriate agency to suspend any one or more licenses that are held by the employer or successor firm, for a period of time determined by the commissioner. In determining the length of a suspension, the commissioner shall consider any of the following factors which are relevant:

(a) The number of employees for which the employer or successor firm failed to maintain or report required records and pay required wages, benefits, taxes or other contributions or assessments;

(b) The total amount of wages, benefits, taxes or other contributions or assessments not paid by the employer or successor firm;

(c) Any other harm resulting from the violation;

(d) Whether the employer or successor firm made good faith efforts to comply with any applicable requirements;

(e) The duration of the violation;

(f) The role of the directors, officers or principals of the employer or successor firm in the violation;

(g) Any prior misconduct by the employer or successor firm; and

(h) Any other factors the commissioner considers relevant; and

(2) Shall conduct a subsequent audit or inspection of the employer or any successor firm of the employer not more than 12 months after the date of the commissioner's written determination.

c. If, in the subsequent audit or inspection conducted pursuant to subsection b. of this section, the commissioner determines that the employer or successor firm has continued in its failure to maintain or report records as required pursuant to State wage, benefit and tax laws, as defined in section 1 of this act, and continued in its failure to pay wages, benefits, taxes or other contributions or assessments as required by those laws, the commissioner, after affording the employer or successor firm notice and an opportunity for a hearing in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall issue a written determination directing any appropriate agency to permanently revoke any one or more licenses that are held by the employer or any successor firm to the employer and that are necessary to operate the employer or successor firm.

d. Upon receipt of any written determination of the commissioner directing an agency to suspend or revoke a license pursuant to this section, and notwithstanding any other law, the agency shall immediately suspend or revoke the license.

e. In instances where an employee leasing company has entered into an employee leasing agreement with a client company pursuant to P.L.2001, c.260 (C.34:8-67 et seq.), any written determination by the commissioner directing agencies to suspend an employer license pursuant to subsection b. of this section, or revoke an employer license pursuant to subsection c. of this section, for a failure or continued failure to keep records regarding, and to pay, wages, benefits and taxes pursuant to State wage, benefit and tax laws, shall be for the suspension or revocation of the licenses of the client company and not the licenses of the employee leasing company if the commissioner determines that the failure or continued failure was caused by incomplete, inaccurate, misleading, or false information provided to the employee leasing company by the client company. Nothing in this subsection shall be construed as diminishing or limiting the authority or obligation of the commissioner to rescind the registration of an employee leasing company pursuant to the provisions of section 10 of P.L.2001, c.260 (C.34:8-76).

C.34:1A-1.13 Presumption of successor firm.

3. A rebuttable presumption that an employer has established a successor firm shall arise if the two parties share two or more of the following capacities or characteristics:

a. Performing similar work within the same geographical area;

b. Occupying the same premises;

c. Having the same telephone or fax number;

d. Having the same e-mail address or Internet website;

e. Employing substantially the same work force, administrative employees, or both;

f. Utilizing the same tools, equipment or facilities;

g. Employing or engaging the services of any person or persons involved in the direction or control of the other; or

h. Listing substantially the same work experience.

C.34:1A-1.14 Notification of employer responsibility relative to record maintenance.

4. a. Each employer which is required to maintain and report records regarding wages, benefits, taxes and other contributions and assessments pursuant to State wage, benefit and tax laws, as defined in section 1 of this

act, shall conspicuously post notification, in a place or places accessible to all employees in each of the employer's workplaces, in a form issued by regulation adopted by the commissioner, of the obligation of the employer to maintain and report those records. The employer shall also provide each employee a written copy of the notification not later than 30 days after the form of the notification is issued, or, if the employee is hired after the issuance, at the time of the employee's hiring. In adopting the regulation regarding the notification requirement, the commissioner shall, to the greatest extent practicable, design the notification in a manner which coordinates or consolidates the notification with any other notifications required pursuant to State wage, benefit and tax laws, as defined in section 1 of this act. The notification shall also provide information on how an employee or the employee's authorized representative, may contact, by telephone, mail and e-mail, a representative of the commissioner to provide information to, or file a complaint with, the representative regarding possible violations of the requirements of this act or any State wage, benefit and tax law, as defined in section 1 of this act, or may obtain information about any actual violation, including any audit undertaken pursuant to this act.

b. No employer shall discharge or in any other manner discriminate against an employee because the employee has made an inquiry or complaint to his employer, to the commissioner or to his authorized representative regarding any possible violation by the employer of the provisions of this act or any State wage, benefit and tax laws, as defined in section 1 of this act, or because the employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to this act or those laws, or because the employee has testified or is about to testify in the proceeding.

c. Any employer who violates any provision of this section shall be guilty of a disorderly persons offense and shall, upon conviction, be fined not less than $100 nor more than $1,000. In the case of a discharge or other discriminatory action in violation of this section, the employer shall also be required to offer reinstatement in employment to the discharged employee and to correct any discriminatory action, and to pay to the employee all reasonable legal costs of the action, all wages and benefits lost as a result of the discharge or discriminatory action, plus punitive damages equal to two times the lost wages and benefits, under penalty of contempt proceedings for failure to comply with the requirement.

5. This act shall take effect on the 180th day after the date of enactment, except that the Commissioner of Labor and Workforce Development

shall take any anticipatory administrative action in advance of the effective date as is necessary for the implementation of this act. Concerns suspension and revocation of employer licenses for repeated violations of wage, benefit and tax laws.

Approved January 14, 2010.

CHAPTER 195

AN ACT concerning contributions for family temporary disability leave and amending R.S.43:21-7.

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

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

Contributions.

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

(a) Payment.

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

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

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

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

(2) The "wages" of any individual, with respect to any one employer, as the term is used in this subsection (b) and in subsections (c), (d) and (e) of this section 7, shall include the first $4,800.00 paid during calendar year 1975, for services performed either within or without this State; provided that no contribution shall be required by this State with respect to services performed in another state if such other state imposes contribution liability with respect thereto. If an employer (hereinafter referred to as a successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a 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 and Workforce Development on or before September 1 of the preceding year and shall be, 28 times the Statewide average weekly remuneration paid to workers by employers, as determined under R.S.43:21-3(c), raised to the next higher multiple of $100.00 if not already a multiple thereof, provided that if the amount of wages so determined for a calendar year is less than the amount similarly determined for the preceding year, the greater amount will be used; provided, further, that if the amount of such wages so determined does not equal or exceed the amount of wages as defined in subsection (b) of section 3306 of the 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.

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.

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

if the reserve balance in its account is positive, its assigned rate shall be the highest rate in effect for positive balance accounts for that period, or 5.4%, whichever is higher, and

if the reserve balance in its account is negative, its assigned rate shall be the highest rate in effect for deficit accounts for that period.

(ii) If, following the purchase of a corporation with little or no activity, known as a corporate shell, the resulting employing unit operates a new or different business activity, the employing unit shall be assigned a new employer rate.

(iii)Entities operating under common ownership, management or control, when the operation of the entities is not identifiable, distinguishable and severable, shall be considered a single employer for the purposes of this chapter (R.S.43:21-1 et seq.).

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

(5) (A) Unemployment Trust Fund Reserve Ratio. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 4% but is less than 7% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by 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) (Deleted by amendment, P.L.2003, c.107).

(iv) (Deleted by amendment, P.L.2004, c.45).

(v) (Deleted by amendment, P.L.2008, c.17).

(vi) With respect to experience rating years beginning on or after July 1, 2004, 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]	1.40% and Over A	1.00% to 1.39% B	0.75% to 0.99% C	0.50% to 0.74% D	0.49% 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).

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

(ii) (Deleted by amendment, P.L.2008, c.17).

(iii) With respect to experience rating years beginning on or after July 1, 2004, if the fund reserve ratio, based on the fund balance as of the prior March 31, is less than 0.50%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

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

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

(H) On and after January 1, 1998 until December 31, 2000 and on or after January 1, 2002 until June 30, 2006, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor, as set out below, computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%:

From January 1, 1998 until December 31, 1998, a factor of 12%;
From January 1, 1999 until December 31, 1999, a factor of 10%;
From January 1, 2000 until December 31, 2000, a factor of 7%;
From January 1, 2002 until March 31, 2002, a factor of 36%;
From April 1, 2002 until June 30, 2002, a factor of 85%;
From July 1, 2002 until June 30, 2003, a factor of 15%;
From July 1, 2003 until June 30, 2004, a factor of 15%;
From July 1, 2004 until June 30, 2005, a factor of 7%;
From July 1, 2005 until December 31, 2005, a factor of 16%; and
From January 1, 2006 until June 30, 2006, a factor of 34%.

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

(I) (Deleted by amendment, P.L.2008, c.17).

(J) On or after July 1, 2001, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by 0.0175%, except that, during any experience rating year starting on or after July 1, 2001, in which the fund reserve ratio is equal to or greater than 3.5%, there shall be no decrease pursuant to this subparagraph (J) in the contribution of any employer who has a deficit reserve ratio of negative 35.00% or under. The amount of the reduction in the employer contributions stipulated by this subparagraph (J) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraphs (G) and (H) of this paragraph (5), except that the rate of

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

(K) With respect to experience rating years beginning on or after July 1, 2009, if the fund reserve ratio, based on the fund balance as of the prior March 31, is:

(1) Equal to or greater than 5.00% but less than 7.5%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be reduced by a factor of 25% computed to the nearest multiple of 1/10% if not already a multiple thereof except that there shall be no decrease pursuant to this subparagraph (K) in the contribution of any employer who has a deficit reserve ratio of 35.00% or under.

(2) Equal to or greater than 7.5% but less than 10.0%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be reduced by a factor of 50% computed to the nearest multiple of 1/10% if not already a multiple thereof except that there shall be no decrease pursuant to this subparagraph (K) in the contribution of any employer who has a deficit reserve ratio of 35.00% or under.

(6) Additional contributions.

Notwithstanding any other provision of law, any employer who has been assigned a contribution rate pursuant to subsection (c) of this section for the year commencing July 1, 1948, and for any year commencing July 1 thereafter, may voluntarily make payment of additional contributions, and upon such payment shall receive a recomputation of the experience rate applicable to such employer, including in the calculation the additional contribution so made, except that, following a transfer as described under R.S.43:21-7(c)(7)(D), neither the predecessor nor successor in interest shall be eligible to make a voluntary payment of additional contributions during the year the transfer occurs and the next full calendar year. Any such additional contribution shall be made during the 30-day period following the 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, liable for a penalty of 5% thereof or $5.00, whichever is greater, not to exceed $50.00. Any adjustment under this subsection shall be made only in the form of credits against accrued or future contributions.

(7) Transfers.

(A) Upon the transfer of the organization, trade or business, or substantially all the assets of an employer to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, the controller shall transfer the employment experience of the predecessor employer to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer, pursuant to regulation, if it is determined that the employment experience of the predecessor employer with respect to the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. The successor in interest may, within four months of the date of such transfer of the organization, trade, assets or business, or thereafter upon good cause shown, request a reconsideration of the transfer of employment experience of the predecessor employer. The request for reconsideration shall demonstrate, to the satisfaction of the controller, that the employment experience of the predecessor is not indicative of the future employment experience of the successor.

(B) An employer who transfers part of his or its organization, trade, assets or business to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, may jointly make application with such successor in interest for transfer of that portion of the employment experience of the predecessor employer relating to the portion of the organization, trade, assets or business transferred to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer. The transfer of employment experience may be allowed pursuant to regulation only if it is found that the employment experience of the predecessor employer with respect to the portion of the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. Credit shall be given to the successor in interest only for the years during which contributions were paid by the predecessor employer with respect to that part of the organization, trade, assets or business transferred.

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

(D) If an employer transfers in whole or in part his or its organization, trade, assets or business to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise and both the employer and successor in interest are at the time of the transfer under common ownership, management or control, then the employment experience attributable to the transferred business shall also be transferred to and combined with the employment experience of the successor in interest. The transfer of the employment experience is mandatory and not subject to appeal or protest.

(E) The transfer of part of an employer's employment experience to a successor in interest shall become effective as of the first day of the calendar quarter following the acquisition by the successor in interest. As of the effective date, the successor in interest shall have its employer rate recalculated by merging its existing employment experience, if any, with the employment experience acquired. If the successor in interest is not an employer as of the date of acquisition, it shall be assigned the new employer rate until the effective date of the transfer of employment experience.

(F) Upon the transfer in whole or in part of the organization, trade, assets or business to a successor in interest, the employment experience shall not be transferred if the successor in interest is not an employer at the time of the acquisition and the controller finds that the successor in interest acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions.

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

(1) (A) For periods after January 1, 1975, each worker shall contribute to the fund 1% of his wages with respect to his employment with an employer, which occurs on and after January 1, 1975, after such employer has satisfied the condition set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer; provided, however, that such contributions shall be at the rate of 1/2 of 1% of wages paid with respect to employment while the worker is in the employ of the State of New Jersey, or any gov-

ernmental entity or instrumentality which is an employer as defined under R.S.43:21-19(h)(5), or is covered by an approved private plan under the "Temporary Disability Benefits Law" or while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31).

(B) Effective January 1, 1978 there shall be no contributions by workers in the employ of any governmental or nongovernmental employer electing or required to make payments in lieu of contributions unless the employer is covered by the State plan under the "Temporary Disability Benefits Law" (C.43:21-25 et al.), and in that case contributions shall be at the rate of 1/2 of 1%, except that commencing July 1, 1986, workers in the employ of any nongovernmental employer electing or required to make payments in lieu of contributions shall be required to make contributions to the fund at the same rate prescribed for workers of other nongovernmental employers.

(C) (i) Notwithstanding the above provisions of this paragraph (1), during the period starting July 1, 1986 and ending December 31, 1992, each worker shall contribute to the fund 1.125% of wages paid with respect to his employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under R.S.43:21-19(h)(6), regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection R.S.43:21-19(h) with respect to becoming an employer. Contributions, however, shall be at the rate of 0.625% while the worker is covered by an approved private plan under the "Temporary Disability Benefits Law" or while the worker is exempt under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that such contributions shall be at the rate of 0.625% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of 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 al.) or while the worker is exempt under section 7 of P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that the contributions shall be at the rate of 0.50% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions and which is covered by the State plan under the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is covered for disability benefits by an approved private plan of the employer, no contributions shall be made to the fund.

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

Each worker shall, starting on January 1, 1998 and ending December 31, 1998, contribute to the unemployment compensation fund 0.10% of wages

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

Each worker shall, starting on January 1, 1999 until December 31, 1999, contribute to the unemployment compensation fund 0.15% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

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

Each worker shall, starting on January 1, 2002 until June 30, 2004, contribute to the unemployment compensation fund 0.1825% of wages paid with respect to the worker's employment with a governmental employer electing

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

Each worker shall, starting on and after July 1, 2004, contribute to the unemployment compensation fund 0.3825% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.0825% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

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

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

(G) (i) Each worker shall, starting on July 1, 1994, contribute to the State disability benefits fund an amount equal to 0.50% of wages paid with

respect to the worker's employment with a government employer electing or required to pay contributions to the State disability benefits fund or non-governmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, unless the employer is covered by an approved private disability plan or is exempt from the provisions of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.) under section 7 of that law (C.43:21-31) or any other provision of that law.

(ii) Each worker shall contribute to the State disability benefits fund, in addition to any amount contributed pursuant to subparagraph (i) of this paragraph (1)(G), an amount equal to, during calendar year 2009, 0.09%, and during calendar year 2010 0.12%, of wages paid with respect to the worker's employment with any covered employer, including a governmental employer which is an employer as defined under R.S.43:21-19(h)(5), unless the employer is covered by an approved private disability plan for benefits during periods of family temporary disability leave. The contributions made pursuant to this subparagraph (ii) to the State disability benefits fund shall be deposited into an account of that fund reserved for the payment of benefits during periods of family temporary disability leave as defined in section 3 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the administration of those payments and shall not be used for any other purpose. This account shall be known as the "Family Temporary Disability Leave Account." For calendar year 2011 and each subsequent calendar year, the annual rate of contribution to be paid by workers pursuant to this subparagraph (ii) shall be the rate necessary to obtain a total amount of contributions equal to 125% of the benefits paid for periods of family temporary disability leave during the immediately preceding calendar year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the immediately preceding calendar year, less the amount of net assets remaining in the account as of December 31 of the immediately preceding year. Necessary administrative costs shall include the cost of an outreach program to inform employees of the availability of the benefits and the cost of issuing the reports required or permitted pursuant to section 13 of P.L.2008, c.17 (C.43:21-39.4). No monies, other than the funds in the "Family Temporary Disability Leave Account," shall be used for the payment of benefits during periods of family temporary disability leave or for the administration of those payments, with the sole exception that, during calendar years 2008 and 2009, a total amount not exceeding $25 million may be transferred to that account from the revenues received in the State disability benefits fund pursuant to subparagraph (i) of this paragraph (1)(G) and be expended for those payments and their administration,

including the administration of the collection of contributions made pursuant to this subparagraph (ii) and any other necessary administrative costs. Any amount transferred to the account pursuant to this subparagraph (ii) shall be repaid during a period beginning not later than January 1, 2011 and ending not later than December 31, 2015. No monies, other than the funds in the "Family Temporary Disability Leave Account," shall be used under any circumstances after December 31, 2009, for the payment of benefits during periods of family temporary disability leave or for the administration of those payments, including for the administration of the collection of contributions made pursuant to this subparagraph (ii).

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

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

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

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

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

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

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

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

total wages so exempt plus the amount of such wages subject to contributions to the disability benefits fund, as provided in subparagraph (G) of paragraph (1) of this subsection. The controller shall, in accordance with prescribed regulations, prorate the amount so determined among the applicable private plans in the proportion that the wages covered by each plan bear to the total private plan wages involved in such refunds, and shall assess against and recover from the employer, or the insurer if the insurer has indemnified the employer with respect thereto, the amount so prorated. The provisions of R.S.43:21-14 with respect to collection of employer contributions shall apply to such assessments. The amount so recovered by the controller shall be paid into the State disability benefits fund.

(B) If an employee receives wages from more than one employer during any calendar year, and the sum of his contributions deposited in the "Family Temporary Disability Leave Account" of the State disability benefits fund plus the amount of his contributions, if any, required towards the costs of family temporary disability leave benefits under one or more approved private plans under the provisions of the "Temporary Disability Benefits Law" (C.43:21-25 et seq.) and deducted from his wages, exceeds an amount equal to, during calendar year 2009, 0.09% of the "wages" determined in accordance with the provisions of R.S.43:21-7(b)(3), or during calendar year 2010, 0.12% of those wages, or, during calendar year 2011 or any subsequent calendar year, the percentage of those wages set by the annual rate of contribution determined by the Commissioner of Labor and Workforce Development pursuant to subparagraph (ii) of paragraph(1)(G) of this subsection (d), the employee shall be entitled to a refund of the excess if he makes a claim to the controller within two years after the end of the calendar year in which the wages are received with respect to which the refund is claimed and establishes his right to the refund. The refund shall be made by the controller from the "Family Temporary Disability Leave Account" of the State disability benefits fund. No interest shall be allowed or paid with respect to any such refund. The controller shall, in accordance with prescribed regulations, determine the portion of the aggregate amount of the refunds made during any calendar year which is applicable to private plans for which deductions were made under section 9 of the "Temporary Disability Benefits Law" (C.43:21-33), with that determination based upon the ratio of the amount of such wages exempt from contributions to the fund, as provided in paragraph (1)(B) of this subsection (d) with respect to coverage under private plans, to the total wages so exempt plus the amount of such wages subject to contributions to the "Family Temporary Disability Leave Account" of the State disability benefits fund, as provided in sub-

paragraph (ii) of paragraph (1)(G) of this subsection (d). The controller shall, in accordance with prescribed regulations, prorate the amount so determined among the applicable private plans in the proportion that the wages covered by each plan bear to the total private plan wages involved in such refunds, and shall assess against and recover from the employer, or the insurer if the insurer has indemnified the employer with respect thereto, the prorated amount. The provisions of R.S.43:21-14 with respect to collection of employer contributions shall apply to such assessments. The amount so recovered by the controller shall be paid into the "Family Temporary Disability Leave Account" of the State disability benefits fund.

(4) If an individual does not receive any wages from the employing unit which for the purposes of this chapter (R.S.43:21-1 et al.) 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 al.), or to cease to be an employer subject to this chapter (R.S.43:21-1 et al.), 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 accu-

mulated in the account of the State of New Jersey and establish a rate for the next following fiscal year which, in combination with worker contributions, will produce sufficient revenue to keep the account in balance; except that the rate so established shall not be less than 1/10 of 1%. Such contributions shall become due and be paid by the employer to the controller for the State disability benefits fund as established by law, in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ. In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to $0.005 or more, in which case it shall be increased to $0.01.

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

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

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

(C) The controller may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two

or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

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

(1) Such preliminary rate shall be 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 al.);

(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 subparagraph (D) hereof, as follows:

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

(ii) If the percentage determined in accordance with subparagraph (E)(1) of this 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 subparagraph (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 subparagraph (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 subparagraph (D)(2) hereof, more than 1/2 of 1% in the case of an employer whose

preliminary rate is determined as provided in subparagraph (D)(1) and subparagraph (D)(3) hereof, nor more than 3/4 of 1% in the case of an employer whose preliminary rate is determined as provided in subparagraph (D)(4) hereof.

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

(F) Notwithstanding any other provisions of this subsection (e), the rate of contribution paid to the State disability benefits fund by each covered employer as defined in paragraph (1) of subsection (a) of section 3 of P.L.1948, c.110 (C.43:21-27), shall be determined as if:

(i) No disability benefits have been paid with respect to periods of family temporary disability leave;

(ii) No worker paid any contributions to the State disability benefits fund pursuant to paragraph (1)(G)(ii) of subsection (d) of this section; and

(iii)No amounts were transferred from the State disability benefits funds to the "Family Temporary Disability Leave Account" pursuant to paragraph (1)(G)(ii) of subsection (d) of this section.

2. This act shall take effect immediately.

Approved January 14, 2010.

CHAPTER 196

AN ACT concerning nonpartisan municipal elections, amending various parts of the statutory law, and supplementing P.L.1981, c.379 (C.40:45-5 et seq.) and Title 19 of the Revised Statutes.

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

C.40:45-7.1 Municipal elections, certain, change of date permitted.

1. a. Any municipality governed by the provisions of the "Uniform Nonpartisan Elections Law," P.L.1981, c.379 (C.40:45-5 et seq.) may, by ordinance, choose to hold regular municipal elections on the day of the general election, the Tuesday after the first Monday in November.

b. Once a municipality has chosen to change the day of the regular municipal election to the day of the general election in November, it shall not be permitted to change the day of the election back to the second Tuesday in May until: (1) at least 10 years have passed since the adoption of the ordinance changing the date of the municipal election to the day of the general election; and (2) a new ordinance providing for regular municipal elections to occur on the second Tuesday in May is adopted by the municipality's governing body.

c. The term of any person in office on the date of the adoption of such an ordinance shall be extended until the beginning of the term of the person elected to that office on the day of the general election in November.

C.40:45-7.2 Arranging ballots for general election.

2. Whenever a municipality has passed an ordinance pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1), the clerk of the county in which the municipality is located shall arrange the ballot for each subsequent general election to:

a. include those candidates for election to public office in the municipality that has adopted a form of government that provides for the holding of a regular municipal election on the second Tuesday in May but will be holding that election at the general election in November;

b. ensure that there is a clear separation between each candidate described in subsection a. of this section, each candidate for another public office who has been nominated for that office by a political party in the immediately preceding primary election and each candidate nominated directly by petition, so that there is no discernable alignment between candidates otherwise elected at a regular municipal election, candidates nominated by a political party for any other public office and candidates nominated directly by petition; and

c. follow such provisions of the "Uniform Nonpartisan Elections Law," P.L.1981, c.379 (C.40:45-5 et seq.) as the clerk may deem feasible.

3. Section 2 of P.L.1981, c.379 (C.40:45-6) is amended to read as follows:

C.40:45-6 Application of act.

2. This act shall govern all municipalities having adopted a plan or form of government, or a charter, which provides for the election of municipal officers at regular municipal elections held on the second Tuesday in May, or having chosen to hold such elections on the day of the general election in November pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1), including municipalities holding regular municipal elections under the "Optional Municipal Charter Law," P.L.1950, c.210 (C.40:69A-1 et seq.), under the "commission form of government law" (R.S.40:70-1 et seq.), under the "municipal manager form of government law" N.J.S.40A:63-8, under the "village form of government" (R.S.40:157-16 et seq.), or under any plan or form of government, or charter, hereafter authorized which provides for the holding of regular municipal elections at that time. This act shall govern these municipalities only with respect to the time, manner and method of election of municipal officers. The officers to be elected, and their number, the length of their terms of office, and their powers and responsibilities shall be determined by the laws authorizing the plan or form of government, or charter, which the municipalities have adopted.

4. Section 3 of P.L.1981, c.379 (C.40:45-7) is amended to read as follows:

C.40:45-7 Regular municipal elections; date; place; conduct; change; election officers.

3. Except as may otherwise be provided by law for initial elections conducted in a municipality following its adoption of a plan or form of government, or a charter or an amendment thereto, regular municipal elections shall be held in each municipality governed by this act on the second Tuesday in May, or the day of the general election in November if chosen by the municipality pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1), in the years in which municipal officers are to be elected. The municipal election shall be held at the same place or places and conducted in the same manner, so far as possible, as the general election. The election officers shall be those provided for conducting the general election.

Notwithstanding the provisions of this section, the Secretary of State may change in any year the date provided for a regular municipal election if the date coincides with a period of religious observance that limits significantly the usual activities of the followers of a particular religion or that would result in significant religious consequences for such followers. The secretary shall inform the municipal clerks, county clerks and boards of

election of the adjustment no later than the first working day in January of the year in which the adjustments are to occur.

As used in this section "a period of religious observance" means any day or portion thereof on which a religious observance imposes a substantial burden on an individual's ability to vote.

5. Section 4 of P.L.1981, c.379 (C.40:45-8) is amended to read as follows:

C.40:45-8 Petitions of nomination.

4. On or before the 57th day prior to a regular municipal election, the names of candidates for all elective offices shall be filed with the municipal clerk, in the following manner and form and subject to the following conditions:

a. The petition of nomination shall consist of individual certificates, equal in number to at least 1%, but in no event less than 25, of the registered voters of the municipality or the ward, as the case may be, and shall read substantially as follows:

"I, the undersigned, a registered voter of the municipality of ....., residing at ..... certify that I do hereby join in a petition of the nomination of ..... whose residence is at ..... for the office of mayor (or councilman-at-large, or ward councilman of the ..... ward, or commissioner, or village trustee, as the case may be) to be voted for at the election to be held in the municipality on the ....., 20....., and I further certify that I know this candidate to be a registered voter, for the period required by law, of the municipality (and the ward, in the case of ward councilman) and a person of good moral character, and qualified, in my judgment, to perform the duties of the office, and I further certify that I have not signed more petitions or certificates of nomination than there are places to be filled for the above office.

Signed ....."

Any such petition of nomination which is provided to candidates by the municipal clerk shall contain the following notice: "Notice: All candidates are required by law to comply with the provisions of the 'New Jersey Campaign Contributions and Expenditures Reporting Act.' For further information, please call (insert phone number of the Election Law Enforcement Commission)."

b. Each petition signature shall be on a separate sheet of paper and shall bear the name and address of the petitioner. The candidate for office

and his campaign manager shall make an oath before an officer competent to administer oaths that the statements made therein are true, and that each signature to the papers appended thereto is the genuine signature of the person whose name it purports to be, to their best knowledge and belief. The oath, signed by the candidate, shall constitute his acceptance of nomination and shall be annexed to the petition, together with the oath of his campaign manager, at the time the petition is submitted.

c. The municipal clerk shall immediately provide the Election Law Enforcement Commission with official certification of the filing or withdrawal of a petition of nomination.

6. Section 11 of P.L.1981, c.379 (C.40:45-15) is amended to read as follows:

C.40:45-15 Ballots; printing and authentication; contents; delivery.

11. In the case of a regular municipal election occurring on the second Tuesday in May, the municipal clerk shall cause the ballots to be printed and authenticated by the clerk's signature. Upon the ballots shall be printed the title of each office to be filled. Under each of the titles of office shall be printed the names of the candidates for each office with a square to the left of each name. Below the names of the candidates for each office the words "vote for (insert number of positions to be filled at the election)." The ballot shall be printed upon plain, substantial white paper, and shall be substantially in the following form:

"Municipal election of (insert name of municipality), county of (insert name of county), held (insert the date of the election). To vote for any person make a cross (x) or plus (+) or a check (√) mark in the square preceding the name. Vote for only as many persons as there are officers to be elected. If you wrongly mark the ballot, tear or deface it and return it to election officer and obtain a new ballot."

Blank spaces equal to the number of offices to be filled shall be left below the printed names of the candidates for each office to be voted, wherein the voter may write the name or names of any person or persons for whom he may wish to vote.

The municipal clerk shall deliver ballots to the election officials at each polling place equal in number to 110% of the number of registered voters in each election district, except that where voting machines are used ballots shall be furnished as otherwise provided by law.

In the case of a regular municipal election occurring on the day of the general election in November pursuant to subsection a. of section 1 of

P.L.2009, c.196 (C.40:45-7.1), ballots shall be printed and delivered as otherwise provided by law.

7. Section 13 of P.L.1981, c.379 (C.40:45-17) is amended to read as follows:

C.40:45-17 Number of votes for election; commencement of term of office.

13. At the regular municipal election in any municipality which has adopted this act, the candidates receiving the greatest number of votes cast shall be elected to the respective offices. Except as otherwise provided by law, the term of office of any officer elected pursuant to this act shall begin on July 1 next following election. If a regular municipal election is held on the day of the general election in November pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1), the term of office of any officer elected shall begin on January 1 next following election.

8. Section 15 of P.L.1981, c.379 (C.40:45-19) is amended to read as follows:

C.40:45-19 Run-off elections; votes necessary for election.

15. In any regular municipal election held under section 14 of P.L.1981, c.379 (C.40:45-18), if a sufficient number of candidates do not receive a majority of the votes cast to elect the required number of councilmen-at-large (or commissioners, or village trustees) or no candidate for mayor or no candidate for ward councilman receives a majority of the votes cast for his respective office, a run-off election in the municipality or ward, as the case may be, shall be held on the fourth Tuesday next following that municipal election; unless in any year that Tuesday shall be the date upon which a primary election shall be held, in which case the run-off election shall be held on the fifth Tuesday next following the municipal election. Alternatively, the run-off election shall be held at a special election on the subsequent Tuesday next after the first Monday in December in the case of a regular municipal election occurring on the day of the general election in November pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1).

At the run-off election, the candidates for councilman-at-large (or commissioner, or village trustee) shall be those candidates not elected at the regular municipal election who received the greatest number of votes at that election, but the candidates shall be equal in number to twice the number of councilmen-at-large (or commissioners, or village trustees) remaining to be

elected. The candidates for mayor or ward councilmen at the run-off election shall be the two candidates for the office who received the greatest number of votes at the regular municipal election. Military service ballots shall be printed and distributed for the run-off election in the same manner, so far as possible, as for other municipal elections.

The candidate or candidates who receive the greatest number of votes at the run-off election shall be elected to the office or offices to be filled. If two or more candidates shall be equal and greatest in votes for any of the purposes of this section, they shall draw lots to determine which one shall enter the run-off election, or be elected, as the case may be.

If any candidate to be voted for at the run-off election dies seven or more days prior to the run-off election, the candidate for the office not theretofore included in the run-off election, but next highest in number of votes for that purpose shall be substituted at the run-off election in the place of the deceased candidate and his name shall be substituted on the ballots for that of the deceased candidate.

9. Section 17-1 of P.L.1950, c.210 (C.40:69A-150) is amended to read as follows:

C.40:69A-150 Municipal elections; time.

17-1. Regular municipal elections shall be held in each municipality on the second Tuesday in May, or on the day of the general election in November if chosen by the municipality pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1), in the years in which municipal officers are to be elected, where the election of such officers is not provided to be at the general election. Regular municipal elections shall be conducted pursuant to the "Uniform Nonpartisan Elections Law," P.L.1981, c.379 (C.40:45-5 et seq.).

10. R.S.40:70-2 is amended to read as follows:

Definition of terms.

40:70-2. As used in chapters 70 to 76 of this Title (R.S.40:70-1 et seq.):

"General election" means the annual election held on the first Tuesday after the first Monday in November.

"Regular municipal election" means the election held pursuant to R.S.40:75-2 on the second Tuesday in May, or on the day of the general election in November if chosen by the municipality pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1), in any year in which such an election is required.

"Electors" mean such citizens of the municipality as were registered as voters at the last general election or regular municipal election, whichever occurred last in the municipality.

"Voters" mean such citizens of the municipality as were registered as voters at the last general election or regular municipal election, whichever occurred last in the municipality, and also those citizens who may register in time to vote at the special election.

"Municipal clerk" means the officer acting under the provisions hereof as the clerk of the municipality.

"Agent" or "agents" mean a person or persons designated in a petition to file the petition and to act on behalf of the petitioners.

"Municipality" means any city, town, township, borough, village or other municipality which has heretofore adopted the provisions of the act entitled "An act relating to, regulating and providing for the government of cities, towns, townships, boroughs, villages and municipalities governed by boards of commissioners or improvement commissioners in this State" (title as amended), approved April 25, 1911, or which shall hereafter adopt the provisions of said chapters 70 to 76 of this Title.

"Majority of ballots cast" means more than one-half of the total number of valid ballots cast at such election.

11. R.S.40:75-2 is amended to read as follows:

Subsequent commissioner; election and terms.

40:75-2. On the second Tuesday in May in every fourth year thereafter there shall be elected at a regular municipal election held pursuant to the "Uniform Nonpartisan Elections Law," P.L.1981, c.379 (C.40:45-5 et seq.), the number of persons as hereinbefore provided as commissioners to serve for the term of 4 years and until their successors shall have been elected and duly qualified. The term of office of all succeeding commissioners shall commence at twelve o'clock noon on the third Tuesday of May next ensuing their election.

If the election is held on the day of the general election in November pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1), the term of office of commissioners elected shall commence at twelve o'clock noon on January 1 next following their election.

12. R.S.40:81-5 is amended to read as follows:

Time of annual election; terms.

40:81-5. Except as otherwise provided by referendum of the voters, on the second Tuesday of May of the fourth year following such first election and on the second Tuesday of May of every fourth year thereafter, there shall be elected the number of electors hereinbefore prescribed of like qualifications to serve as members of the municipal council for the term of 4 years and until their successors shall have been elected and duly qualified or unless their places become vacant. The term of office of councilmen subsequently elected shall commence on July 1 next ensuing their election at 12 o'clock noon. Elections shall be conducted pursuant to the "Uniform Nonpartisan Elections Law," P.L.1981, c.379 (C.40:45-5 et al.).

If the election is held on the day of the general election in November pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1), the term of office of councilmen elected shall commence at 12 o'clock noon on January 1 next following their election.[2]

13. R.S.40:84-2 is amended to read as follows:

First election; when held.

40:84-2. The first municipal election for councilmen shall be held on the fourth Tuesday after the adoption of this subtitle and thereafter an election shall be held on the second Tuesday in May or on the day of the general election in November if chosen by the municipality pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1) in the fourth succeeding year and in each fourth year thereafter. Elections shall be conducted pursuant to the "Uniform Nonpartisan Elections Law," P.L.1981, c.381 (C. 40:45-5 et seq.).

14. R.S.40:84-11 is amended to read as follows:

Elections; when held; term of office.

40:84-11. In cases provided for in this article the municipal election to be held in accordance with the "Uniform Nonpartisan Elections Law," P.L. 1981, c.379 (C. 40:45-5 et seq.) shall be held on the second Tuesday in May or on the day of the general election in November if chosen by the municipality pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1) in each year, and the number of persons to be elected at municipal elections shall be equal to the number of vacancies which are then to be filled, and the terms of office of the persons so elected shall be 3 years and until their successors are elected and qualified.

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

Approved January 14, 2010.

CHAPTER 197

AN ACT concerning consumer information for college students and their families and supplementing chapter 3B of Title 18A of the New Jersey Statutes.

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

C.18A:3B-43 Short title.

1. This act shall be known and may be cited as the "New Jersey College Student and Parent Consumer Information Act."

C.18A:3B-44 Information provided by certain colleges, universities.

2. a. A four-year public institution of higher education shall provide for public inspection on its website comprehensive information on the cost of attendance, the graduation rates of admitted students, and the faculty of the institution. The purpose of the information shall be to maximize the awareness of students and their families of the costs associated with enrollment in the institution, the institution's success in ensuring the graduation of its students, and the composition of the teaching faculty that a student will encounter in his coursework. The institution shall post, and annually update, a student consumer information report on its website that includes:

(1) overall four-year and six-year graduation rates;

(2) four-year and six-year graduation rates by demographic group;

(3) four-year and six-year graduation rates by major;

(4) four-year and six-year graduation rates for student-athletes;

(5) the student transfer rate;

(6) an overview of the institutions to which former students of that college or university have transferred prior to the completion of a degree;

(7) the cost for the current academic year of attending the institution including tuition, student fees, room and board, and books and materials;

(8) a description of the types of financial assistance offered directly by the institution to both student-athletes and to students who do not participate in athletic programs at the institution;

(9) the percent of student-athletes who receive financial assistance directly from the institution and the average value of the assistance and the percent of students who do not participate in athletic programs at the institution who receive financial assistance directly from the institution and the average value of the assistance;

(10) the total projected cost for an incoming freshman to live on campus and complete a degree in four years and the total projected cost for an incoming freshman to commute to school and complete a degree in four years;

(11) the total projected cost for an incoming freshman to live on campus and complete a degree in six years and the total projected cost for an incoming freshman to commute to school and complete a degree in six years;

(12) average student loan indebtedness of four-year graduates for both students who live on campus and students who commute;

(13) average student loan indebtedness of six-year graduates for both students who live on campus and students who commute;

(14) average student loan indebtedness of a student who withdraws from the institution prior to the completion of a degree program for both students who live on campus and students who commute;

(15) an overview of the institution's faculty, including the percentage of faculty employed as a tenured professor, the percentage of faculty employed as a full-time non-tenured professor, and the percentage of faculty employed as an adjunct or visiting professor;

(16) the percentage of courses taught by each of the different categories of faculty; and

(17) an indicator of each academic department's capacity to serve the students majoring within that department's programs, as determined by the Commission on Higher Education.

The institution shall provide with all paper applications for admission to the institution a hard copy of the information prepared pursuant to this section.

b. A four-year public institution of higher education shall conform to the guidelines, criteria, and format prescribed by the Commission on Higher Education in reporting the information required pursuant to this section.

c. A four-year public institution of higher education shall submit its student consumer information report to the Commission on Higher Education for inclusion in a comparative profile of the student consumer information reports of all four-year public institutions of higher education.

d. A four-year public institution of higher education shall ensure that the page of its Internet site which includes its student consumer information report contains a link to the page of the Commission on Higher Education's Internet site that includes the comparative profile required pursuant to subsection b. of section 3 of this act.

e. A four-year public institution of higher education shall ensure that the Internet site for submitting an online application to the institution contains a link to the institution's student consumer information report.

f. A four-year public institution of higher education shall require the parent or guardian of a student applying for admission into the institution, or the student if he is an independent adult, to sign and submit a statement acknowledging that he has reviewed the institution's student consumer information report.

C.18A:3B-45 Guidelines, criteria for collection, calculation of information.

3. a. The Commission on Higher Education shall issue guidelines and criteria for collecting and calculating the information required pursuant to section 2 of this act and shall prescribe a uniform reporting method for posting the information.

b. The Commission on Higher Education shall annually compile the student consumer information reports submitted pursuant to subsection c. of section 2 of this act into a comparative profile of all four-year public institutions of higher education. The commission shall present the information on its website in a manner that allows college students and their families to easily compare student consumer information across institutions.

4. This act shall take effect on the 61st day after the date of enactment.

Approved January 14, 2010.

CHAPTER 198

AN ACT concerning certain provisions in the charter for the city of Beverly in the county of Burlington, amending P.L.1857, c.162, and validating the publication of the Notice of Intention.

WHEREAS, The Mayor and the Common Council of the city of Beverly in the county of Burlington have petitioned the Legislature for the passage of a special law to amend the charter of the city of Beverly, as set forth

in P.L.1857, c.162, in order to reduce the common council membership from nine to five members, as was originally proposed by the city, and pursuant to Article IV, Section VII, paragraph 10 of the Constitution of 1947 in accordance with the procedure prescribed by P.L.1948, c.199 (C.1:6-10 et seq.); and

WHEREAS, Notice of intention to apply for the passage of the special law has been duly published and the original of the petition together with a duly certified copy of the ordinance authorizing the filing of the original petition for the charter has been presented and filed; now, therefore,

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

1. Section 2 of P.L.1857, c.162 is amended to read as follows:

2. *And be it enacted,* a. That for the better order and governing of the said city of Beverly, there shall be elected henceforth in said city one mayor, who shall be keeper of the city seal, one clerk, and at the first election for city officers nine common councilmen (three of whom shall hold their office for one year, three for two years, and three for three years, and at the first meeting of the common council after said election, it shall be determined by lot which of the members thereof shall hold their office for one year, which for two, and which for three years) and annually thereafter there shall be elected three persons as members of said common council, who shall hold their office respectively for three years, which mayor, clerk and common councilmen shall be one body politic and corporate, in deed, fact, name and law, by the name, style and title of "The Mayor, Clerk and Common Council of the city of Beverly."

b. Beginning with the first municipal election next following enactment and approval of P.L.2009, c.198, the city of Beverly shall commence a transition to reduce the number of members of the common council from nine to five members, and to increase the term of the mayor and the terms of the council members , following transition, from three to four years, as follows: at the 2010 municipal election, one person, rather than three persons, shall be elected to the common council and that person shall serve as a member of the common council for a transitional term of one year; at the 2011 municipal election, one person shall be elected as mayor for a term of four years and two persons, rather than three persons, shall be elected as members of the common council for terms of four years; at the 2012 municipal election, three persons shall be elected as members of the common

council for transitional terms of five years; and thereafter, as the terms expire, the mayor and the members of the common council shall be elected for terms of four years.

2. Section 3 of P.L.1857, c.162 is amended to read as follows:

3. And be it enacted, That the mayor and common council of said city shall constitute and be called the common council of said city, and the said common council shall be summoned and held at such times and places in said city as they may appoint; the mayor shall preside at the meetings of the common council and have a casting vote only, and if he be absent one of the common councilmen may be appointed by the members present, chairman pro tempore, and a majority of the whole number of members shall be a quorum to transact business; and it shall be the duty of the mayor when necessary, to call special meetings of said common council, and in case of this neglect or refusal, then it shall be lawful for any three members of said common council, at such time and place as they may designate, to call any special meeting or meetings by written or printed notice, and in all cases of special meetings, notice shall be given to all the members of said board of common council in person, or left at their places of residence.

3. Section 4 of P.L.1857, c.162 is amended to read as follows:

4. And be it enacted, That an election by ballot shall be held on the second Monday of April next, at the public (or town) hall in said city, or at such other place as the common council of the borough of Beverly may appoint, of which place the recorder or borough clerk of the said borough of Beverly shall cause public notice to be set up in five of the most public places in said city, and also in a public newspaper, if one be published therein, at least ten days previous to the day of such election (and a like notice shall, at every subsequent election held under or by virtue of this act, be given by the city clerk) at which election one mayor, one clerk, nine common councilmen, one treasurer, one assessor, one or more constables, and not exceeding three, one marshall, one judge of election, three commissioners of appeal in cases of taxation, one harbor master, and one pound keeper, shall be chosen and elected in said city from among the citizens residing therein, and entitled to vote at such election; and annually thereafter, on the second Monday in April, excepting the common council, who shall be elected as hereinbefore provided, as modified by subsection b. of section 2 of P.L.1857, c.162 (added by section 1 of P.L.2009, c.198), but no person shall be elected or serve as mayor or common councilman of said city, unless he or they shall have resided therein at least one year immedi-

ately preceding said election; at which election the judge, treasurer, and assessor, shall be judges or inspectors, and the city council shall, in reference to all subsequent elections, perform all the duties and have all the powers devolved upon the borough council, in reference to the first election to be held under this act.

4. The publication by the city of Beverly of the Notice of Intention to Apply for the Passage of a Special Local Law is hereby validated notwithstanding its failure to strictly comply with the requirements of R.S.1:6-1 concerning publication at least one week prior to introduction of this bill.

5. This act shall take effect immediately but shall remain inoperative until approved by adoption of an ordinance by the mayor and common council of the city of Beverly.

Approved January 14, 2010.

CHAPTER 199

AN ACT concerning a basic skills training program for economic growth, amending and supplementing P.L.2001, c.152 and amending P.L.2007, c.101.

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

C.34:15D-21.1 Short title.

1. This act shall be known and may be cited as the "New Jersey Basic Skills Training Program for Economic Growth Act."

C.34:15D-21.2 Findings, declarations relative to the basic skills training program.

2. The Legislature finds and declares that:

a. A skilled workforce is one of the most critical issues to New Jersey businesses and the State's economic competitiveness, and, unfortunately, the basic computer, mathematics, communications and English skills of many New Jersey workers is less than what employers require for success;

b. In 2007, a public-private partnership formed between the New Jersey Department of Labor and Workforce Development, the New Jersey Community College Consortium for Workforce and Economic Development, and the New Jersey Business and Industry Association to provide basic skills training

with more flexibility to businesses throughout the State by means of a grant from the Supplemental Workforce Fund for Basic Skills;

c. During the first two years of this training program, 750 employers sent almost 10,000 enrollees to be trained, significantly more than any other single New Jersey Department of Labor and Workforce Development grant program;

d. This program was successful in reaching so many more workers and businesses because of its flexibility, in not requiring employers to complete any paperwork or financial disclosure, not charging them for the training, other than requiring that they pay their employees while they are trained, and not requiring every class to have a minimum of ten employees from a single employer;

e. Credit for this flexibility and the program's success should be given to Governor Jon S. Corzine, Commissioner David J. Socolow and the grant staff at the New Jersey Department of Labor and Workforce Development, because they understood that the focus of this grant should be on training as many workers as possible and not on fitting within previous grant structures and traditions, and without them, 750 businesses would not have been helped and 10,000 enrollees would not have been trained;

f. This program has been positive for all those involved: the employees receiving portable training and skills; the employers improving their workforce; the community colleges being optimally utilized to provide the most effective and efficient method of training; and the State positively contributing to workers, businesses and economic development with no new costs; and

g. Legislation is needed to ensure that the success of this program and the flexibilities afforded it by the Governor and commissioner are made permanent in the statutes.

3. Section 1 of P.L.2001, c.152 (C.34:15D-21) is amended to read as follows:

C.34:15D-21 "Supplemental Workforce Fund for Basic Skills."

1. a. A restricted, nonlapsing, revolving "Supplemental Workforce Fund for Basic Skills," to be managed and invested by the State Treasurer, is hereby established in the Department of Labor and Workforce Development to provide basic skills training. All moneys appropriated to the fund, all interest accumulated on balances in the fund and all cash received for the fund from any other source shall be allocated by the Commissioner of Labor and Workforce Development as follows:

(1) 24% shall be deposited in an account reserved to support basic skills training delivered by the State's One Stop Career Centers to qualified displaced, disadvantaged and employed workers pursuant to Employability Development Plans developed pursuant to section 7 of P.L.1992, c.43 (C.34:15D-7);

(2) 28% shall be deposited in an account reserved for Workforce Investment Boards to provide grants for basic skills training for qualified displaced, disadvantaged and employed workers pursuant to Employability Development Plans developed pursuant to section 7 of P.L.1992, c.43 (C.34:15D-7) and for other individuals with learning disabilities or otherwise in need of vocational rehabilitation services;

(3) 25% shall be deposited in an account reserved for grants to consortia including one or more of any of the following: eligible individual employers, employer organizations, labor organizations, community-based organizations or educational institutions to provide basic skills training to qualified displaced, disadvantaged or employed workers or to other individuals seeking to enter apprenticeship training;

(4) 13% shall be deposited in an account reserved for a grant to the New Jersey Community College Consortium for Workforce and Economic Development, a part of the New Jersey Council of County Colleges, to provide basic skills training to qualified displaced, disadvantaged or employed workers; and

(5) 10% shall be deposited in an account to be used, at the discretion of the commissioner, for any of the purposes indicated in this subsection a. and any administrative costs incurred by the Department of Labor and Workforce Development in connection with the fund.

b. Any grant provided in connection with paragraph (3) of subsection a. of this section directly to an employer or to an employer through a consortium shall be regarded as a customized training grant and shall be administered by the Office of Customized Training and the employer and consortium shall comply with all requirements of section 5 of P.L.1992, c.43 (C.34:15D-5), except that any grants provided directly or indirectly to an employer for use in connection with any program which includes apprenticeship training or activities or preparation for entry into apprenticeship training shall be exempt from the requirement of this subsection b. to be administered by the Office of Customized Training and be subject to the requirements of section 5 of P.L.1992, c.43 (C.34:15D-5), if it is approved by the Apprenticeship Policy Committee, as defined in section 3 of P.L.1993, c.268 (C.34:15E-3), and the employer complies with the provisions of subsection e. of section 5 of P.L.1993, c.268 (C.34:15E-5). Any

grant provided in connection with paragraph (b) of subsection a. of this section directly to an individual shall be regarded as an individual training grant and shall be subject to the requirements of subsections a., c. and d. of section 6 of P.L.1992, c.43 (C.34:15D-6).

Also, any funds provided in connection with paragraph (4) of subsection a. of this section shall be provided to the New Jersey Community College Consortium for Workforce and Economic Development by the Office of Customized Training, and shall comply with the following requirements:

(1) The New Jersey Community College Consortium for Workforce and Economic Development shall work with all the community colleges throughout the State of New Jersey to deliver basic skills training in the most effective and efficient manner possible at any of their 63 campuses or at any appropriate business facility;

(2) There shall be no charge to the employer sending employees to the training, but the employer shall pay employees regular wages for the hours the training takes place;

(3) The employers sending their employees to this training shall not be asked to provide any paperwork or complete any financial disclosure forms, including a tax clearance certificate as provided in section 1 of P.L.2007, c.101 (C.54:50-39), except that employers shall provide the employees participating in the training with the information that the employees need to comply with paragraph (4) of this subsection, and shall provide the New Jersey Community College Consortium for Workforce and Economic Development with the information the employer has regarding its participating employees that the consortium needs to produce the annual report required pursuant to paragraph (7) of this subsection;

(4) The employees being trained shall provide the Federal Employer Identification Number (FEIN) of their employer and the employer's contact information at the beginning of the training;

(5) The mean class size for training under this subsection shall be 10, but the New Jersey Community College Consortium for Workforce and Economic Development may aggregate employees from multiple employers in a single training to reach that mean of 10;

(6) The training provided under this subsection shall be basic skills training, but the apportionment of classes in the different areas of basic skills as defined by subsection h. of this section may be determined by the New Jersey Community College Consortium for Workforce and Economic Development in consultation with representatives of the business community;

(7) The New Jersey Community College Consortium for Workforce and Economic Development shall file an annual report by September 1 of

each year with the New Jersey Legislature and the New Jersey Department of Labor and Workforce Development containing the total number of workers trained, the total funds expended on training, the number of workers trained in each area of basic skills training, the number of businesses with employees trained, the number of classes held in each area of basic skills training, the number of classes held at each community college, the wage ranges of the workers trained, the job titles of the workers trained and the results of the pre-training and post-training assessments. The report shall also include an analysis of the strengths and weaknesses of the training program and how it can be improved in the following year. The report shall supplant all requirements for any other reporting that the New Jersey Community College Consortium for Workforce and Economic Development may be asked to complete with respect to the funds it receives through paragraph (4) of subsection a. of this section; and

(8) The New Jersey Community College Consortium for Workforce and Economic Development shall work with the business community to promote this program to businesses across the State, including chambers of commerce, Statewide associations, such as the New Jersey Business and Industry Association, and any other appropriate business organizations.

c. Any employment and training services funded by the Supplemental Workforce Fund for Basic Skills shall be provided in a manner which complies with the provisions of subsections b., c., f., g., h. and i. of section 4 of P.L.1992, c.43 (C.34:15D-4), to the extent that those subsections pertain to remedial education. Any service provider receiving moneys from the Supplemental Workforce Fund for Basic Skills shall be subject to the provisions of section 8 of P.L.1992, c.43 (C.34:15D-8) and section 8 of P.L.1992, c.44 (C.34:15D-19).

d. All staff located at any One Stop Career Center supported by funds provided from the Supplemental Workforce Fund for Basic Skills shall be hired and employed by the State pursuant to Title 11A, Civil Service, of the New Jersey Statutes.

e. Beginning July 1, 2002, and for any subsequent fiscal year, if the unexpended cash balance in any of the accounts indicated in subsection a. of this section, less any amount awarded in grants but not yet disbursed from the account, is determined to exceed 20% of the amount of contributions collected for deposit in the account pursuant to this subsection during the fiscal year then ended, the excess shall be regarded as an unemployment compensation contribution and deposited into the unemployment compensation fund within seven business days of the date that the determination is made.

f. The Commissioner of Labor and Workforce Development shall establish standards of performance for providers of basic skills training pursuant to this act. The standards shall include, but not be limited to, standards for the curriculum or training to be furnished, qualifications for persons who will provide the training under the act, and standards for establishing what constitutes successful completion of the training program. The commissioner shall establish means of determining the ability of enrollees to gain or maintain employment following the successful completion of a training program established pursuant to this section. In the event that the commissioner determines that a provider has not conducted its training program in accordance with the standards of performance, he may take that action necessary to correct the deficiencies of the provider, or terminate the contract with the provider of basic skills services if the provider fails to respond to remedial action.

g. The State Employment and Training Commission shall review and evaluate the operations of programs supported by the Supplemental Workforce Fund for Basic Skills established pursuant to this section, with special consideration to how those programs assist in the implementation of the goals of the Strategic Five-Year State Plan for New Jersey's Workforce Investment System, and shall consult with the Commissioner of Labor and Workforce Development regarding its findings.

h. For the purpose of this section:

"Basic skills training" means basic mathematics, reading comprehension, basic computer literacy, English proficiency and work-readiness skills and shall be regarded as a form of "remedial education" for the purposes of section 3 of P.L.1992, c.43 (C.34:15D-3);

"One Stop Career Center" means one of the centers established in local areas to coordinate a variety of State and local programs providing employment and training services, including job placement services, or any other similar State or local government-sponsored center providing employment and training services as may be developed at any later time; and

"Qualified disadvantaged worker," "qualified displaced worker," "qualified employed worker," and "employment and training services" have the meanings given to them by section 3 of P.L.1992, c.43 (C.34:15D-3).

4. Section 1 of P.L.2007, c.101 (C.54:50-39) is amended to read as follows:

C.54:50-39 Tax clearance certificate required for certain awards; incentive.

1. a. A department or agency of State government, including independent authorities and instrumentalities of the State, shall, as a precondition to

the award of business assistance or incentive or as a component of the application for business assistance or incentive as appropriate, require a person to submit a tax clearance certificate issued by the director prior to the department or agency making an award of business assistance or incentive to the person.

b. The person applying for business assistance or incentive may apply to the director for a tax clearance certificate and shall provide the director such information in such form as the director may prescribe necessary for the director to determine if the person has satisfied all requirements for filing those State tax and information returns and for paying those State taxes for which they have been liable as taxpayers or as collectors of tax.

c. If the director determines that the person has complied with all requirements for filing tax and information returns and for paying or remitting required State taxes and fees, the director shall issue to the person a tax clearance certificate.

If the director determines that the person has not filed all required tax and information returns or has not paid all tax, penalties, interest, or fees due, the director shall issue a notice of delinquency or deficiency listing unfiled returns or balances due. The director may require a person to resolve all delinquencies and deficiencies before a tax clearance certificate is issued, or upon review of the total circumstances, the director may issue an interim tax clearance certificate if the director determines to the director's satisfaction that the person will resolve all such delinquencies or deficiencies within the time period specified by the director.

The director's issuance of a regular or interim tax clearance certificate shall not constitute a waiver of authority to demand resolution of all deficiencies and delinquencies and shall not prevent further audit or the assessment of additional taxes, penalties, interest, or fees as may be provided by law. No additional right to protest or appeal the State tax indebtedness, filing deficiency, or penalties shall be available to any person pursuant to this section.

d. As used in this section:

"Business assistance or incentive" means monetary or financial assistance in any form, other than a tax credit or tax exemption granted pursuant to a claim made on a tax return filed with the Division of Taxation in the Department of the Treasury, including but not limited to a grant, loan, loan guarantee, or other monetary or financial benefit awarded to a person by a department or agency of State government, including independent authorities and instrumentalities of the State, to assist the person in the conduct or

operation of a business, occupation, trade, or profession in the State, in connection with the following programs:

(1) the business employment incentive program established pursuant to P.L.1996, c.26 (C.34:1B-124 et al.);

(2) the business retention and relocation assistance program established pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.);

(3) the customized training services provided pursuant to section 5 of P.L.1992, c.43 (C.34:15D-5), except for assistance provided to a person pursuant to paragraph (4) of subsection a. of section 1 of P.L.2001, c.152 (C.34:15D-21);

(4) the business, commercial and industrial components of the clean energy program administered by the Board of Public Utilities;

(5) the business grant, loan, and loan guarantee programs administered by:

(a) the New Jersey Economic Development Authority;

(b) the New Jersey Housing and Mortgage Finance Agency; and

(c) the Casino Reinvestment Development Authority;

(6) the science and technology grants provided by or through the New Jersey Commission on Science and Technology; and

(7) any other similar State program that confers a significant monetary or financial benefit upon a business or businesses, as prescribed by the State Treasurer pursuant to regulations promulgated pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), except for assistance provided to a person pursuant to paragraph (4) of subsection a. of section 1 of P.L.2001, c.152 (C.34:15D-21).

e. The director may charge and collect an application fee from a person applying for a tax clearance certificate, to reflect the administrative costs, and may charge and collect a reasonable service fee for the provision of any expedited services offered.

f. In order to better manage the workload of issuing tax clearance certificates, the director may prescribe a schedule by which tax clearance certificates will initially be issued for only one or more of the programs enumerated as business assistance or incentive, or one or more of the components of one or more of those programs, and by which tax clearance certificate issuance for other programs enumerated, or other components of those programs, will be instituted beginning on dates specified according to the schedule. In prescribing the schedule the director will give due regard to the monetary value of the assistance and incentive offered, the timing of the application process, the number of applicants, and necessary applicant and program administrator notice for a particular program or program compo-

nent. Such a schedule adopted by the director shall be subject to change by the director, but in any case shall provide for issuance of tax clearance certificates for all enumerated programs before January 1, 2009.

Notwithstanding any provisions of this section to the contrary, no tax clearance certificate shall be required as a precondition to the award of business assistance or incentive or as a component of the application for business assistance or incentive prior to its program's, or its program's component's, scheduling by the director pursuant to this subsection.

g. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the director may adopt immediately upon filing with the Office of Administrative Law such regulations as the director deems necessary to implement the provisions of this act, which shall be effective for a period not to exceed 180 days following enactment of P.L.2007, c.101 (C.54:50-39) and may thereafter be amended, adopted or readopted by the director in accordance with the requirements of P.L.1968, c.410.

5. This act shall take effect immediately.

Approved January 14, 2010.

CHAPTER 200

AN ACT establishing the NJ PLACE program, amending P.L.2007, c.175 and supplementing P.L.1992, c.43 (C.34:15D-1 et seq.).

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

C.34:15D-24 "NJ PLACE" program.

1. a. There is established, in the Department of Labor and Workforce Development and under the direction of the State Employment and Training Commission as part of the commission's responsibilities pursuant to subsection d. of section 9 of P.L.1989, c.293 (C.34:15C-6), the New Jersey Pathways Leading Apprentices to a College Education, or "NJ PLACE", program. The purpose of the program is to facilitate cooperation between appropriate State agencies, employer organizations, labor organizations, schools, and two-year and four-year institutions of higher education to enter into agreements to provide college credit in connection with apprenticeship

programs and permit the work of apprentices in those programs to be credited towards two-year and four-year college degrees. To implement its purpose, the program shall continue the current process of negotiations between county colleges and other institutions of higher education, employer organizations, labor organizations and State agencies which has resulted in the establishment of an associate in applied science in technical studies degree program into which credits are transferred for the time spent by apprentices in classroom and non-classroom apprenticeship training and education. While most of these existing articulation agreements establishing transfer credits are between county colleges and construction trade apprenticeships, the NJ PLACE program shall work to facilitate agreements involving additional apprenticeship programs outside, as well as inside, of the construction industry and involving four-year, as well as two-year, college degrees.

b. The NJ PLACE program shall coordinate its efforts to promote apprenticeship programs and related higher education with the efforts of the "Youth Transitions to Work Partnership Act," created pursuant to P.L.1993, c.268 (C.34:15E-1 et al.) and consortia of businesses, business organizations, labor organizations and educational institutions funded by that partnership to link newly established and existing apprenticeship programs with secondary schools and institutions of higher education to provide effective transitions for high school graduates into those programs.

c. The State Employment and Training Commission is authorized to obtain, accept and utilize resources for the NJ PLACE program as may be, or may become, available from appropriate State, federal and nongovernmental sources of funding for employment, training and educational purposes, including the Workforce Development Partnership Fund created pursuant to section 9 of P.L.1992, c.43 (C.34:15D-9), the "Supplemental Workforce Fund for Basic Skills" established pursuant to section 1 of P.L.2001, c.152 (C.34:15D-21), or funds available pursuant to the Workforce Investment Act of 1998, Pub.L.105-220 (29 U.S.C. s.2801 et seq.).

d. For the purposes of this section, "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, registered by the Office of Apprenticeship of the U.S. Department of Labor, and meeting the standards established by the office.

2. Section 1 of P.L.2007, c.175 (C.18A:62-46) is amended to read as follows:

C.18A:62-46 Transfer of academic credits from county colleges.

1. Each public institution of higher education, in consultation with the New Jersey Commission on Higher Education and the New Jersey Presidents' Council, shall establish and enter into a collective Statewide transfer agreement that provides for the seamless transfer of academic credits to a baccalaureate degree program from a completed associate of arts degree program, a completed associate of science degree program, or a completed associate in applied science in technical studies degree program which has credits transferred by the NJ PLACE program from apprenticeship programs. The transfer agreement shall include:

a. a listing of the general education core courses as stipulated by the Presidents' Council;

b. policies and procedures for the seamless transfer and application of academic credits to a baccalaureate degree program from a completed associate degree program, including a guarantee that an associate of arts degree, associate of science degree, or associate in applied science in technical studies degree which has credits transferred by the NJ PLACE program from apprenticeship programs, awarded by a county college established pursuant to chapter 64A of Title 18A of the New Jersey Statutes shall be fully transferable and credited as the first two years of a baccalaureate degree program at the four-year public institution of higher education in the State to which a student is admitted;

c. policies and procedures for the implementation of an appeals process for students and institutions to resolve disputes regarding the transfer of academic credits;

d. policies and procedures for the annual review and update of the agreement; and

e. policies and procedures for the collection of data by the commission to ensure that all participating institutions of higher education are in compliance with the provisions of this act and to ensure that the agreement is fostering both a seamless transfer process and the academic success of transfer students at the senior institutions. The commission shall annually determine the data to be collected and shall notify each participating institution in a timely manner.

The policies and procedures set forth in the transfer agreement shall be fully operational by September 1, 2008, except that, with respect to associate in applied science in technical studies degree programs which have credits transferred by the NJ PLACE program from apprenticeship programs, the transfer agreement shall be fully operational by September 1, 2011.

3. Section 2 of P.L.2007, c.175 (C.18A:62-47) is amended to read as follows:

C.18A:62-47 Adoption of policies, procedures regarding certain transfers.

2. On or before January 1, 2008, each public institution of higher education shall, in consultation with the Commission on Higher Education and the Presidents' Council, develop and adopt as part of the collective Statewide transfer agreement established pursuant to section 1 of this act policies and procedures for the transfer of credits earned by a student who has not completed his associate degree program prior to transferring into a baccalaureate degree program, except that, with respect to associate in applied science in technical studies degree programs which have credits transferred by the NJ PLACE program from apprenticeship programs, those policies and procedures shall be developed and adopted on or before January 1, 2011.

4. This act shall take effect immediately.

Approved January 14, 2010.

CHAPTER 201

AN ACT concerning ignition interlock devices, designated as Ricci's Law, and amending R.S.39:4-50, P.L.1995, c.286, P.L.1981, c.512, and amending and supplementing P.L.1999, c.417.

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

1. 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 0.08% 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 0.08% or more by weight of alcohol in the defendant's

blood shall be subject:

(1) For the first offense:

(i) if the person's blood alcohol concentration is 0.08% or higher but less than 0.10%, or the person operates a motor vehicle while under the influence of intoxicating liquor, or the person permits another person who is under the influence of intoxicating liquor to operate a motor vehicle owned by him or in his custody or control or permits another person with a blood alcohol concentration of 0.08% or higher but less than 0.10% to operate a motor vehicle, to a fine of not less than $250 nor more than $400 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 three months;

(ii) if the person's blood alcohol concentration is 0.10% or higher, or the person operates a motor vehicle while under the influence of narcotic, hallucinogenic or habit-producing drug, or the person permits another person who is under the influence of narcotic, hallucinogenic or habit-producing drug to operate a motor vehicle owned by him or in his custody or control, or permits another person with a blood alcohol concentration of 0.10% or more to operate a motor vehicle, to a fine of not less than $300 nor more than $500 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 seven months nor more than one year;

(iii) 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 Chief Administrator of the New Jersey Motor Vehicle Commission for a license to operate a motor vehicle, which application may be granted at the discretion of the chief administrator, 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.).

(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 in a county jail or workhouse, except that the court may lower such term for each day, not exceeding 90 days, served participating in a drug or alcohol inpatient rehabilitation program approved by the Intoxicated Driver Resource Center 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.).

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 nitrite 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 0.08%.

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 for a first or second offense 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. 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 chief administrator. 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 Intoxi-

cated 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 chief administrator. 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 chief administrator, 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 chief administrator 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 commission, 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 chief administrator.

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 four years; and, for a third offense, be fined $2,000, imprisoned for 180 days in a county jail or workhouse, except that the court may lower such term for each day, not exceeding 90 days, served participating in a drug or alcohol inpatient rehabilitation program approved by the Intoxicated Driver Resource Center, 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.

2. Section 2 of P.L.1999, c.417 (C.39:4-50.17) is amended to read as follows:

C.39:4-50.17 Sentencing drunk driving offenders; device defined.

2. a. (1) Except as provided in paragraph (2) of this subsection, in sentencing a first offender under R.S.39:4-50, the court may order, in addition to any other penalty imposed by that section, the installation of an ignition interlock device in the motor vehicle principally operated by the offender following the expiration of the period of license suspension imposed under that section. In sentencing a first offender under section 2 of P.L.1981, c.512 (C.39:4-50.4a), the court shall order, in addition to any other penalty imposed by that section, the installation of an ignition interlock device in the motor vehicle principally operated by the offender during and following the expiration of the period of license suspension imposed under that section. The device shall remain installed for not less than six months or more than one year, commencing immediately upon the return of the offender's driver's license after the required period of suspension has been served.

(2) If the first offender's blood alcohol concentration is 0.15% or higher, the court shall order, in addition to any other penalty imposed under R.S.39:4-50, the installation of an ignition interlock device in the motor vehicle principally operated by the offender during and following the expiration of the period of license suspension imposed under that section. In addition to installation during the period of license suspension, the device shall remain installed for not less than six months or more than one year, commencing immediately upon the return of the offender's driver's license after the required period of suspension has been served.

b. In sentencing a second or subsequent offender under R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the court shall order, in addition to any other penalty imposed by that section, the installation of an ignition interlock device in the motor vehicle principally operated by the offender during and following the expiration of the period of license suspension imposed under R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a). In addition to installation during the period of license sus-

pension, the device shall remain installed for not less than one year or more than three years, commencing immediately upon the return of the offender's driver's license after the required period of suspension has been served.

c. The court shall require that, for the duration of its order, an offender shall drive no vehicle other than one in which an interlock device has been installed pursuant to the order.

d. As used in this act, "ignition interlock device" or "device" means a blood alcohol equivalence measuring device which will prevent a motor vehicle from starting if the operator's blood alcohol content exceeds a predetermined level when the operator blows into the device.

e. The provisions of P.L.1999, c.417 (C.39:4-50.16 et al.) and any amendments and supplements thereto shall be applicable only to violations of R.S.39:4-50 and section 2 of P.L.1981, c.512 (C.39:4-50.4a).

3. Section 4 of P.L.1999, c.417 (C.39:4-50.19) is amended to read as follows:

C.39:4-50.19 Violation of law; penalties.

4. a. A person who fails to install an interlock device ordered by the court in a motor vehicle owned, leased or regularly operated by him shall have his driver's license suspended for one year, in addition to any other suspension or revocation imposed under R.S.39:4-50, unless the court determines a valid reason exists for the failure to comply. A person in whose vehicle an interlock device is installed pursuant to a court order who drives that vehicle after it has been started by any means other than his own blowing into the device or who drives a vehicle that is not equipped with such a device shall have his driver's license suspended for one year, in addition to any other penalty applicable by law.

b. A person is a disorderly person who:

(1) blows into an interlock device or otherwise starts a motor vehicle equipped with such a device for the purpose of providing an operable motor vehicle to a person who has been ordered by the court to install the device in the vehicle;

(2) tampers or in any way circumvents the operation of an interlock device; or

(3) knowingly rents, leases or lends a motor vehicle not equipped with an interlock device to a person who has been ordered by the court to install an interlock device in a vehicle he owns, leases or regularly operates.

c. The provisions of subsection b. of this section shall not apply if a motor vehicle required to be equipped with an ignition interlock device is

started by a person for the purpose of safety or mechanical repair of the device or the vehicle, provided the person subject to the court order does not operate the vehicle.

4. Section 2 of P.L.1995, c.286 (C.39:3-40.1) is amended to read as follows:

C.39:4-40.1 Revocation of registration certificate, plates.

2. a. Any motor vehicle registration certificate and registration plates shall be revoked if a person is convicted of violating the provisions of:

(1) subsection a. of R.S.39:3-40 for operating a motor vehicle during a period when that violator's driver's license has been suspended for a violation of R.S.39:4-50; or

(2) subsection b. or c. of R.S.39:3-40 for operating a motor vehicle during a period when that violator's driver's license has been suspended within a five-year period.

(3) (Deleted by amendment, P.L.2009, c.201).

This revocation of registration certificate and registration plates shall apply to all passenger automobiles and motorcycles owned or leased by the violator and registered under the provisions of R.S.39:3-4 and all noncommercial trucks owned or leased by the violator and registered under the provisions of section 2 of P.L.1968, c.439 (C.39:3-8.1), including those passenger automobiles, motorcycles and noncommercial trucks registered or leased jointly in the name of the violator and the other owner of record.

b. At the time of conviction, the court shall notify each violator that the person's passenger automobile, motorcycle, and noncommercial truck registrations are revoked. Notwithstanding the provisions of R.S.39:5-35, the violator shall surrender the registration certificate and registration plates of all passenger automobiles, motorcycles, and noncommercial truck registrations subject to revocation under the provisions of this section within 48 hours of the court's notice. The surrender shall be at a place and in a manner prescribed by the Chief Administrator of the New Jersey Motor Vehicle Commission pursuant to rule and regulation. The court also shall notify the violator that a failure to surrender that vehicle registration certificate and registration plates shall result in the impoundment of the vehicle in accordance with the provisions of section 4 of P.L.1995, c.286 (C.39:3-40.3) and the seizure of said registration certificate and registration plates. The revocation authorized under the provisions of this subsection shall remain in effect for the period during which the violator's license to operate a motor vehicle is

suspended and shall be enforced so as to prohibit the violator from registering or leasing any other vehicle, however acquired, during that period.

c. If the violator subject to the penalties set forth in subsections a. and b. of this section for conviction of violating the provisions of R.S.39:3-40 was operating a motor vehicle owned or leased by another person and that other owner or lessee permitted that operation with knowledge that the violator's driver's license was suspended, the court shall suspend the person's license to operate a motor vehicle and revoke the registration certificate and registration plates for that vehicle for a period of not more than six months. Notwithstanding the provisions of R.S.39:3-35, the owner or lessee shall surrender the registration certificate and registration plates of that vehicle within 48 hours of the court's notice of revocation. The surrender shall be at a place and in a manner prescribed by the Chief Administrator of the New Jersey Motor Vehicle Commission pursuant to rule and regulation. The court also shall notify the owner or lessee that a failure to surrender the revoked registration certificate and registration plates shall result in the impoundment of the vehicle in accordance with the provisions of section 4 of P.L.1995, c.286 (C.39:3-40.3) and the seizure of said registration certificate and registration plates. Nothing in this subsection shall be construed to limit the court from finding that owner or lessee guilty of violating R.S.39:3-39 or any other such statute concerning the operation of a motor vehicle by an unlicensed driver.

5. Section 2 of P.L.1981, c.512 (C.39:4-50.4a) is amended to read as follows:

C.39:4-50.4a Revocation for refusal to submit to breath test; penalties.

2. a. Except as provided in subsection b. of this section, the municipal court shall revoke the right to operate a motor vehicle of any operator who, after being arrested for a violation of R.S.39:4-50 or section 1 of P.L.1992, c.189 (C.39:4-50.14), shall refuse to submit to a test provided for in section 2 of P.L.1966, c.142 (C.39:4-50.2) when requested to do so, for not less than seven months or more than one year unless the refusal was in connection with a second offense under this section, in which case the revocation period shall be for two years or unless the refusal was in connection with a third or subsequent offense under this section in which case the revocation shall be for ten years. A conviction or administrative determination 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 section.

The municipal court shall determine by a preponderance of the evidence whether the arresting officer had probable cause to believe that the person had been driving or was in actual physical control of a motor vehicle on the public highways or quasi-public areas of this State while the person was under the influence of intoxicating liquor or a narcotic, hallucinogenic, or habit-producing drug or marijuana; whether the person was placed under arrest, if appropriate, and whether he refused to submit to the test upon request of the officer; and if these elements of the violation are not established, no conviction shall issue. In addition to any other requirements provided by law, a person whose operator's license is revoked for refusing to submit to a test shall be referred to an Intoxicated Driver Resource Center established by subsection (f) of R.S.39:4-50 and shall satisfy the same requirements of the center for refusal to submit to a test as provided for in section 2 of P.L.1966, c.142 (C.39:4-50.2) in connection with a first, second, third or subsequent offense under this section that must be satisfied by a person convicted of a commensurate violation of this section, or be subject to the same penalties as such a person for failure to do so. For a first offense, the revocation may be concurrent with or consecutive to any revocation imposed for a conviction under the provisions of R.S.39:4-50 arising out of the same incident. For a second or subsequent offense, the revocation shall be consecutive to any revocation imposed for a conviction under the provisions of R.S.39:4-50. In addition to issuing a revocation, except as provided in subsection b. of this section, the municipal court shall fine a person convicted under this section, a fine of not less than $300 or more than $500 for a first offense; a fine of not less than $500 or more than $1,000 for a second offense; and a fine of $1,000 for a third or subsequent offense. The person also shall be required to install an ignition interlock device pursuant to the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).

b. For a first offense, the fine imposed upon the convicted person shall be not less than $600 or more than $1,000 and the period of license suspension shall be not less than one year or more than two years; for a second offense, a fine of not less than $1,000 or more than $2,000 and a license suspension for a period of four years; and for a third or subsequent offense, a fine of $2,000 and a license suspension for a period of 20 years 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.

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.

C.39:4-50.17a Monthly leasing fee for installation of ignition interlock device.

6. a. If a person is required to install an ignition interlock device and that person's family income does not exceed 100% of the federal poverty level, the monthly leasing fee shall be 50% of the fee established by regulation for persons who do not qualify for the reduced fee.

b. If a person is required to install an ignition interlock device and that person's family income does not exceed 149% of the federal poverty level, the monthly leasing fee shall be 75% of the fee established by regulation for persons who do not qualify for the reduced fee.

c. Persons who qualify for a reduced fee pursuant to the provisions of this section shall not be required to pay the installation fee, the cost for monitoring of the device, or any fees for calibration or removal of the device.

7. This act shall take effect immediately.

Approved January 14, 2010.

CHAPTER 202

AN ACT affording employment protections to volunteers responding to emergency alarms in certain cases, and supplementing chapter 14 of Title 40A of the New Jersey Statutes.

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

C.40A:14-213 Short title.

1. This act shall be known and may be cited as the "Emergency Responders Employment Protection Act."

C.40A:14-214 Employment protection for volunteer emergency responder.

2. a. As used in this act, "volunteer emergency responder" means an active member in good standing of a volunteer fire company, a volunteer member of a duly incorporated first aid, rescue or ambulance squad, or a member of any county or municipal volunteer Office of Emergency Management, provided the member's official duties include responding to a fire or emergency call.

b. No employer shall terminate, dismiss or suspend an employee who fails to report for work at his place of employment because he is serving as a volunteer emergency responder during a state of emergency declared by the President of the United States or the Governor of this State or is actively engaged in responding to an emergency alarm; provided the volunteer emergency responder provides his employer with (1) notice, at least one hour before he is scheduled to report to his place of employment, that he is rendering emergency services in response to a declared state of emergency or emergency alarm; and (2) upon returning to his place of employment, a copy of the incident report and a certification by the incident commander, or other official or officer in charge, affirming that the volunteer emergency responder was actively engaged in, and necessary for, rendering emergency services and setting forth the date and time the volunteer emergency responder was relieved from emergency duty by that officer or official, as the case may be. If the volunteer emergency responder is actively engaged in rendering emergency services for more than one consecutive work day, the incident commander, or other official or officer in charge, shall direct that appropriate notice be given the volunteer emergency responder's employer each day the volunteer is required to be absent from his employment.

c. No employer shall be required to pay any employee for any work time that the employee misses while serving as a volunteer emergency responder pursuant to this subsection; provided, however, a volunteer emergency responder may charge his absence as a vacation day or a sick day, if the volunteer has such days available.

d. The provisions of this act shall not apply to any employee who, by statute or contract, is deemed an essential employee.

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

Approved January 14, 2010.

CHAPTER 203

AN ACT concerning the payment of prevailing wages in certain construction undertaken with financial assistance from the Board of Public Utilities and amending P.L.2009, c.89.

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

1. Section 1 of P.L.2009, c.89 (C.48:2-29.47) is amended to read as follows:

C.48:2-29.47 Prevailing wage requirement, construction undertaken with BPU financial assistance.

1. Not less than the prevailing wage rate shall be paid to workers employed in the performance of any construction undertaken in connection with Board of Public Utilities financial assistance, or undertaken to fulfill any condition of receiving Board of Public Utilities financial assistance, including the performance of any contract to construct, renovate or otherwise prepare a facility, the operations of which are necessary for the receipt of Board of Public Utilities financial assistance, except that the prevailing wage rate requirements of this section shall not apply to any contract which is less than the prevailing wage contract threshold amount for municipalities provided in paragraph (a) of subsection (11) of section 2 of P.L.1963, c.150 (C.34:11-56.26). The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the purposes of this section, "Board of Public Utilities financial assistance" means any tax exemption, abatement or other incentive or any rebate, credit, loan, loan guarantee, expenditure, investment, grant, incentive, or other financial assistance which is, in connection with construction, approved, funded, authorized, administered or provided by the Board of Public Utilities, whether the assistance is received before, during or after completion of the construction, except that "Board of Public Utilities financial assistance" does not include

any rebate, credit, loan, loan guarantee, expenditure, investment, grant, rental voucher, rental assistance, tax exemption, tax abatement, tax incentive, or other financial assistance from any source, if that assistance is provided directly to a homeowner or tenant in connection with the homeowner's or tenant's place of residence, including assistance for energy-related and other improvements to the place of residence or if that assistance is provided for any new construction or weatherization of a single family home, town home, or row home, or of any apartment building, condominium building, or multi-family home of four stories or less.

For the purpose of implementing the provisions of this section, the Commissioner of Labor and Workforce Development shall exercise all powers and duties granted by P.L.1963, c.150 (C.34:11-56.25 et seq.) regarding the payment of the prevailing wage, and any worker employed in the performance of construction work subject to this section, and the employer or any designated representative of the worker, may exercise all rights granted to them by that act.

2. This act shall take effect immediately.

Approved January 14, 2010.

CHAPTER 204

AN ACT concerning adults with an autism spectrum disorder, amending and supplementing P.L.2007, c.170.

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

1. The Title of P.L.2007, c.170 is amended to read as follows:

Title amended.

Title. AN ACT concerning the reporting of autism spectrum disorder diagnoses, supplementing Title 26 of the Revised Statutes, and making an appropriation.

2. Section 1 of P.L.2007, c.170 (C.26:2-185) is amended to read as follows:

C.26:2-185 Findings, declarations relative to reporting autism spectrum disorder diagnoses.

1. The Legislature finds and declares that:

a. An autism spectrum disorder is a developmental disorder of brain function which is typically manifested in impaired social interaction, problems with verbal and nonverbal communication and imagination, and unusual or severely limited activities and interests. These symptoms generally appear during the first three years of childhood and continue throughout life, often taking devastating emotional and financial tolls on the family of the child or adult with an autism spectrum disorder;

b. According to the federal Centers for Disease Control and Prevention, or CDC, one of every 94 children in this State has an autism spectrum disorder, which is the highest rate among the states examined by the CDC in the most comprehensive study of the prevalence of autism spectrum disorders to date;

c. There is a clear need for greater accuracy in reporting as well as for information on the epidemiologic data on the incidence and prevalence of autism spectrum disorders in this State; and

d. The State currently requires that a number of other conditions, including cancer and certain birth defects, be reported and maintained in a central registry. A similar requirement for reporting diagnoses of autism spectrum disorder, as well as providing for the inclusion on a voluntary basis of information about adults with an autism spectrum disorder who opt to be included in a registry of that information, and maintaining such a registry is needed to improve current knowledge and understanding of autism spectrum disorders, to conduct thorough and complete epidemiologic surveys of these disorders, to enable analysis of this problem, and to plan for and provide services to children and adults with an autism spectrum disorder and their families.

3. Section 2 of P.L.2007, c.170 (C.26:2-186) is amended to read as follows:

C.26:2-186 Reporting diagnosis to DHSS.

2. a. A physician, psychologist, and any other health care professional licensed pursuant to Title 45 of the Revised Statutes who is qualified by training to make the diagnosis and who then makes the diagnosis that a child has an autism spectrum disorder shall report this diagnosis to the Department of Health and Senior Services in a form and manner prescribed by the Commissioner of Health and Senior Services.

b. The report shall be in writing and shall include the name and address of the person submitting the report, the name, age, place of birth, and address of the child diagnosed as having an autism spectrum disorder, and other pertinent information as may be required by the commissioner; except that, if the child's parent or guardian objects to the reporting of the child's diagnosis for any reason, the report shall not include any information that could be used to identify the child.

c. The commissioner shall specify procedures for the health care professional to inform the child's parent or guardian of the requirements of subsections a. and b. of this section and the purpose served by including this information in the registry established pursuant to section 3 of P.L.2007, c.170 (C.26:2-187), as well as the parent's or guardian's right to refuse to permit the reporting of any information that could be used to identify the child.

C.26:2-186.1 Reporting adult diagnosis of autism spectrum disorder.

4. a. An adult who has been diagnosed as having an autism spectrum disorder by a physician, psychologist, or any other health care professional licensed pursuant to Title 45 of the Revised Statutes who is qualified by training to make the diagnosis, and whose diagnosis has not been reported pursuant to section 2 of P.L.2007, c.170 (C.26:2-186), may, at his discretion, report this diagnosis, or request that a health care professional on his behalf report this diagnosis, to the Department of Health and Senior Services in a form and manner prescribed by the Commissioner of Health and Senior Services.

b. The report shall be in writing and shall include the name and address of the person submitting the report, the name, age, place of birth, and address of the adult diagnosed as having an autism spectrum disorder, and other pertinent information as may be required by the commissioner.

c. The commissioner shall specify procedures for the health care professional to inform the adult of the provisions of subsections a. and b. of this section and the purpose served by including this information in the registry established pursuant to section 3 of P.L.2007, c.170 (C.26:2-187).

5. Section 3 of P.L.2007, c.170 (C.26:2-187) is amended to read as follows:

C.26:2-187 Maintenance of up-to-date registry.

3. The Department of Health and Senior Services, in consultation with the Department of Human Services, shall maintain an up-to-date registry

which shall include a record of: all reported cases of an autism spectrum disorder that occur in New Jersey, including those reported pursuant to section 2 of P.L.2007, c.170 (C.26:2-186) and section 4 of P.L.2009, c.204 (C.26:2-186.1); each reported case of an autism spectrum disorder that occurs in New Jersey in which the initial diagnosis is changed, lost, or considered misdiagnosed; and any other information it deems relevant and appropriate in order to conduct thorough and complete epidemiologic surveys of autism spectrum disorders, to enable analysis of this problem and to plan for and provide services to children and adults with an autism spectrum disorder and their families.

6. Section 4 of P.L.2007, c.170 (C.26:2-188) is amended to read as follows:

C.26:2-188 Use of reports; immunity for professionals.

4. a. The reports made pursuant to P.L.2007, c.170 (C.26:2-185 et seq.) and section 4 of P.L.2009, c.204 (C.26:2-186.1) are to be used only by the Department of Health and Senior Services and other agencies as may be designated by the Commissioner of Health and Senior Services, including the Department of Human Services, and shall not otherwise be divulged or made public so as to disclose the identity of any person to whom they relate; and, to that end, the reports shall not be included under materials available to public inspections pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.).

b. A physician, psychologist, or health care professional providing information to the department in accordance with P.L.2007, c.170 (C.26:2-185 et seq.) or section 4 of P.L.2009, c.204 (C.26:2-186.1) shall not be deemed to be, or held liable for, divulging confidential information.

c. Nothing in P.L.2007, c.170 (C.26:2-185 et seq.) or section 4 of P.L.2009, c.204 (C.26:2-186.1) shall be construed to compel a child or adult who has been reported as having an autism spectrum disorder to submit to medical or health examination or supervision by the department.

7. This act shall take effect on the 180th day after enactment, but the Commissioner of Health and Senior Services may take such anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved January 15, 2010.

CHAPTER 205

AN ACT concerning the rights of persons with an autism spectrum disorder and amending P.L.1945, c.169.

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

1. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read as follows:

C.10:5-5 Definitions relative to discrimination.

5. As used in P.L.1945, c.169 (C.10:5-1 et seq.), unless a different meaning clearly appears from the context:

a. "Person" includes one or more individuals, partnerships, associations, organizations, labor organizations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, and fiduciaries.

b. "Employment agency" includes any person undertaking to procure employees or opportunities for others to work.

c. "Labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

d. "Unlawful employment practice" and "unlawful discrimination" include only those unlawful practices and acts specified in section 11 of P.L.1945, c.169 (C.10:5-12).

e. "Employer" includes all persons as defined in subsection a. of this section unless otherwise specifically exempt under another section of P.L.1945, c.169 (C.10:5-1 et seq.), and includes the State, any political or civil subdivision thereof, and all public officers, agencies, boards or bodies.

f. "Employee" does not include any individual employed in the domestic service of any person.

g. "Liability for service in the Armed Forces of the United States" means subject to being ordered as an individual or member of an organized unit into active service in the Armed Forces of the United States by reason of membership in the National Guard, naval militia or a reserve component of the Armed Forces of the United States, or subject to being inducted into such armed forces through a system of national selective service.

h. "Division" means the "Division on Civil Rights" created by P.L.1945, c.169 (C.10:5-1 et seq.).

i. "Attorney General" means the Attorney General of the State of New Jersey or his representative or designee.

j. "Commission" means the Commission on Civil Rights created by P.L.1945, c.169 (C.10:5-1 et seq.).

k. "Director" means the Director of the Division on Civil Rights.

l. "A place of public accommodation" shall include, but not be limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer camp, day camp, or resort camp, whether for entertainment of transient guests or accommodation of those seeking health, recreation or rest; any producer, manufacturer, wholesaler, distributor, retail shop, store, establishment, or concession dealing with goods or services of any kind; any restaurant, eating house, or place where food is sold for consumption on the premises; any place maintained for the sale of ice cream, ice and fruit preparations or their derivatives, soda water or confections, or where any beverages of any kind are retailed for consumption on the premises; any garage, any public conveyance operated on land or water, or in the air, any stations and terminals thereof; any bathhouse, boardwalk, or seashore accommodation; any auditorium, meeting place, or hall; any theatre, motion-picture house, music hall, roof garden, skating rink, swimming pool, amusement and recreation park, fair, bowling alley, gymnasium, shooting gallery, billiard and pool parlor, or other place of amusement; any comfort station; any dispensary, clinic or hospital; any public library; any kindergarten, primary and secondary school, trade or business school, high school, academy, college and university, or any educational institution under the supervision of the State Board of Education, or the Commissioner of Education of the State of New Jersey. Nothing herein contained shall be construed to include or to apply to any institution, bona fide club, or place of accommodation, which is in its nature distinctly private; nor shall anything herein contained apply to any educational facility operated or maintained by a bona fide religious or sectarian institution, and the right of a natural parent or one in loco parentis to direct the education and upbringing of a child under his control is hereby affirmed; nor shall anything herein contained be construed to bar any private secondary or post secondary school from using in good faith criteria other than race, creed, color, national origin, ancestry, gender identity or expression or affectional or sexual orientation in the admission of students.

m. "A publicly assisted housing accommodation" shall include all housing built with public funds or public assistance pursuant to P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303, P.L.1938, c.19,

P.L.1938, c.20, P.L.1946, c.52, and P.L.1949, c.184, and all housing financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof.

n. The term "real property" includes real estate, lands, tenements and hereditaments, corporeal and incorporeal, and leaseholds, provided, however, that, except as to publicly assisted housing accommodations, the provisions of this act shall not apply to the rental: (1) of a single apartment or flat in a two-family dwelling, the other occupancy unit of which is occupied by the owner as a residence; or (2) of a room or rooms to another person or persons by the owner or occupant of a one-family dwelling occupied by the owner or occupant as a residence at the time of such rental. Nothing herein contained shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, in the sale, lease or rental of real property, from limiting admission to or giving preference to persons of the same religion or denomination or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained. Nor does any provision under this act regarding discrimination on the basis of familial status apply with respect to housing for older persons.

o. "Real estate broker" includes a person, firm or corporation who, for a fee, commission or other valuable consideration, or by reason of promise or reasonable expectation thereof, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase, or rental of real estate or an interest therein, or collects or offers or attempts to collect rent for the use of real estate, or solicits for prospective purchasers or assists or directs in the procuring of prospects or the negotiation or closing of any transaction which does or is contemplated to result in the sale, exchange, leasing, renting or auctioning of any real estate, or negotiates, or offers or attempts or agrees to negotiate a loan secured or to be secured by mortgage or other encumbrance upon or transfer of any real estate for others; or any person who, for pecuniary gain or expectation of pecuniary gain conducts a public or private competitive sale of lands or any interest in lands. In the sale of lots, the term "real estate broker" shall also include any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who

shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange, of any such lot or parcel of real estate.

p. "Real estate salesperson" includes any person who, for compensation, valuable consideration or commission, or other thing of value, or by reason of a promise or reasonable expectation thereof, is employed by and operates under the supervision of a licensed real estate broker to sell or offer to sell, buy or offer to buy or negotiate the purchase, sale or exchange of real estate, or offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate, or to lease or rent, or offer to lease or rent any real estate for others, or to collect rents for the use of real estate, or to solicit for prospective purchasers or lessees of real estate, or who is employed by a licensed real estate broker to sell or offer to sell lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise to sell real estate, or any parts thereof, in lots or other parcels.

q. "Disability" means physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness including epilepsy and other seizure disorders, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a service or guide dog, wheelchair, or other remedial appliance or device, or any mental, psychological or developmental disability, including autism spectrum disorders, resulting from anatomical, psychological, physiological or neurological conditions which prevents the normal exercise of any bodily or mental functions or is demonstrable, medically or psychologically, by accepted clinical or laboratory diagnostic techniques. Disability shall also mean AIDS or HIV infection.

r. "Blind person" means any individual whose central visual acuity does not exceed 20/200 in the better eye with correcting lens or whose visual acuity is better than 20/200 if accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

s. "Guide dog" means a dog used to assist deaf persons or which is fitted with a special harness so as to be suitable as an aid to the mobility of a blind person, and is used by a blind person who has satisfactorily completed a specific course of training in the use of such a dog, and has been trained by an organization generally recognized by agencies involved in the rehabilitation of the blind or deaf as reputable and competent to provide dogs with training of this type.

t. "Guide or service dog trainer" means any person who is employed by an organization generally recognized by agencies involved in the rehabilitation of persons with disabilities as reputable and competent to provide dogs with training, and who is actually involved in the training process.

u. "Housing accommodation" means any publicly assisted housing accommodation or any real property, or portion thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home, residence or sleeping place of one or more persons, but shall not include any single family residence the occupants of which rent, lease, or furnish for compensation not more than one room therein.

v. "Public facility" means any place of public accommodation and any street, highway, sidewalk, walkway, public building, and any other place or structure to which the general public is regularly, normally or customarily permitted or invited.

w. "Deaf person" means any person whose hearing is so severely impaired that the person is unable to hear and understand normal conversational speech through the unaided ear alone, and who must depend primarily on a supportive device or visual communication such as writing, lip reading, sign language, and gestures.

x. "Atypical hereditary cellular or blood trait" means sickle cell trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic fibrosis trait.

y. "Sickle cell trait" means the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin S or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal proportions by standard chemical and physical analytic tests.

z. "Hemoglobin C trait" means the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin C as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin C or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in normal proportions by standard chemical and physical analytic tests.

aa. "Thalassemia trait" means the presence of the thalassemia gene which in combination with another similar gene results in the chronic hereditary disease Cooley's anemia.

bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene which in combination with another similar gene results in the chronic hereditary disease Tay-Sachs.

cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis gene which in combination with another similar gene results in the chronic hereditary disease cystic fibrosis.

dd. "Service dog" means any dog individually trained to the requirements of a person with a disability including, but not limited to minimal protection work, rescue work, pulling a wheelchair or retrieving dropped items. This term shall include a "seizure dog" trained to alert or otherwise assist persons subject to epilepsy or other seizure disorders.

ee. "Qualified Medicaid applicant" means an individual who is a qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

ff. "AIDS" means acquired immune deficiency syndrome as defined by the Centers for Disease Control and Prevention of the United States Public Health Service.

gg. "HIV infection" means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.

hh. "Affectional or sexual orientation" means male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, having a history thereof or being perceived, presumed or identified by others as having such an orientation.

ii. "Heterosexuality" means affectional, emotional or physical attraction or behavior which is primarily directed towards persons of the other gender.

jj. "Homosexuality" means affectional, emotional or physical attraction or behavior which is primarily directed towards persons of the same gender.

kk. "Bisexuality" means affectional, emotional or physical attraction or behavior which is directed towards persons of either gender.

ll. "Familial status" means being the natural parent of a child, the adoptive parent of a child, the resource family parent of a child, having a "parent and child relationship" with a child as defined by State law, or having sole or joint legal or physical custody, care, guardianship, or visitation with a child, or any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

mm. "Housing for older persons" means housing:

(1) provided under any State program that the Attorney General determines is specifically designed and operated to assist elderly persons (as

defined in the State program); or provided under any federal program that the United States Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons (as defined in the federal program); or

(2) intended for, and solely occupied by persons 62 years of age or older; or

(3) intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Attorney General shall adopt regulations which require at least the following factors:

(a) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

(b) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

(c) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

Housing shall not fail to meet the requirements for housing for older persons by reason of: persons residing in such housing as of September 13, 1988 not meeting the age requirements of this subsection, provided that new occupants of such housing meet the age requirements of this subsection; or unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of this subsection.

nn. "Genetic characteristic" means any inherited gene or chromosome, or alteration thereof, that is scientifically or medically believed to predispose an individual to a disease, disorder or syndrome, or to be associated with a statistically significant increased risk of development of a disease, disorder or syndrome.

oo. "Genetic information" means the information about genes, gene products or inherited characteristics that may derive from an individual or family member.

pp. "Genetic test" means a test for determining the presence or absence of an inherited genetic characteristic in an individual, including tests of nucleic acids such as DNA, RNA and mitochondrial DNA, chromosomes or proteins in order to identify a predisposing genetic characteristic.

qq. "Domestic partnership" means a domestic partnership established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).

rr. "Gender identity or expression" means having or being perceived as having a gender related identity or expression whether or not stereotypically associated with a person's assigned sex at birth.

ss. "Civil Union" means a legally recognized union of two eligible individuals established pursuant to R.S.37:1-1 et seq. and P.L.2006, c.103 (C.37:1-28 et al.).

tt. "Premium wages" means additional remuneration for night, weekend or holiday work, or for standby or irregular duty.

uu. "Premium benefit" means an employment benefit, such as seniority, group life insurance, health insurance, disability insurance, sick leave, annual leave, or an educational or pension benefit that is greater than the employment benefit due the employee for an equivalent period of work performed during the regular work schedule of the employee.

2. This act shall take effect immediately.

Approved January 15, 2010.

CHAPTER 206

AN ACT concerning volunteer emergency service providers and municipal elective office, and amending N.J.S.40A:9-4 and N.J.S.40A:14-68.

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

1. N.J.S.40A:9-4 is amended to read as follows:

Dual office holding.

40A:9-4. (1) It shall be unlawful for a person to hold simultaneously an elective county office and an elective municipal office.

(2) It shall be lawful for a member of the Legislature of the State to hold simultaneously any appointive office or position in county or municipal government.

(3) Nothing contained in this section shall be deemed to prevent the incumbent of any office from abstaining from voting in any matter in which the incumbent believes he or she has a conflict of duty or of interest, nor to prevent a challenge of a right to vote on that account under the principles of the common law or any statute.

(4) a. (Deleted by amendment, P.L.2007, c.161).

b. (Deleted by amendment, P.L.2007, c.161).

c. For the purposes of this section the term "elective office" shall mean an office to which an incumbent is elected by the vote of the general electorate.

(5) Notwithstanding the provision of paragraph (1) of this section, a person who, on the effective date of P.L.2007, c.161, holds simultaneously an elective county office and an elective municipal office may continue to hold the elective offices simultaneously if service in those elective offices is continuous following the effective date of P.L.2007, c.161.

(6) It shall be lawful for a member of a volunteer fire company, ambulance, first aid, hazardous materials, or rescue squad, including an officer of the company or squad, to serve as an elected official on the governing body of the municipal government wherein the emergency services are provided; however, the volunteer shall recuse himself from any vote concerning the emergency services provider of which he is a member.

2. N.J.S.40A:14-68 is amended to read as follows:

Contracts with volunteer fire companies; member holding public office.

40A:14-68. a. In any municipality not having a paid or part-paid fire department and force, the governing body, by ordinance, may contract with a volunteer fire company or companies in such municipality, for purposes of extinguishing fires, upon such terms and conditions as shall be deemed proper. The members of any such company shall be under the supervision and control of said municipality and in performing fire duty shall be deemed to be exercising a governmental function; however, the appointment or election of the chief of the volunteer fire company shall remain the prerogative of the membership of the fire company as set forth in the company's certificate of incorporation or bylaws.

b. A member of a volunteer fire company established pursuant to subsection a. of this section shall not be precluded from holding elected public office on the governing body of the municipal government where the fire company operates, provided that the volunteer recuse himself from any vote involving or concerning the volunteer fire company.

3. This act shall take effect immediately.

Approved January 15, 2010.

CHAPTER 207

AN ACT providing for the allocation of $25 million for utility assistance grants for qualified households.

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

1. Notwithstanding any provision to the contrary of section 12 of P.L.1999, c.23 (C.48:3-60) or any law, or any rule, regulation, or order adopted pursuant thereto, in the fiscal year commencing July 1, 2010, the Board of Public Utilities shall, from available balances accumulated in accounts of the board from funds collected through the societal benefits charge imposed pursuant to that section, allocate $25 million to fund the payment of grants to help pay the gas and electric public utility bills of households seeking temporary assistance from the New Jersey Statewide Heating Assistance and Referral for Energy Services, Inc. (NJSHARES) or another equivalent nonprofit energy organization designated by the board.

Within one year after the board shall have completed the disbursement of grant monies to a nonprofit energy organization under this section, that nonprofit energy organization shall issue a report to the board which provides the number of applicants applying for household utility assistance grants, the number of households receiving utility assistance grants, the average amount of assistance provided, the average gross income of households receiving assistance, the methods and procedures used for the verification of income or hardship, and any other information as required by the board. The board shall thereupon submit such report to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1).

2. This act shall take effect on July 1, 2010 and shall expire on the 30th day following submission to the Legislature of the report required to be issued pursuant to section 1 of this act.

Approved January 15, 2010.

CHAPTER 208

AN ACT concerning tuition assistance for members of the New Jersey National Guard and amending N.J.S.18A:62-24 and N.J.S.18A:62-25.

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

1. Section 21 of P.L.1999, c.46 (C.18A:62-24) is amended to read as follows:

Tuition benefits for members of New Jersey National Guard; State payment.

18A:62-24. a. Any member of the New Jersey National Guard shall be permitted to attend regularly-scheduled courses at any public institution of higher education in this State enumerated in N.J.S.18A:62-1 and receive up to 16 credits per semester tuition-free provided that:

(1) the member has completed Initial Active Duty Training and, except as otherwise provided pursuant to subsection c. of this section, is in good standing as an active member of the New Jersey National Guard;

(2) the member has been accepted to pursue a course of undergraduate study and is enrolled as an undergraduate student in good standing at that institution or a course of graduate study and is enrolled as a graduate student in good standing at that institution;

(3) the member has applied for all available State student grants and scholarships and all available federal student grants and scholarships for which the member is eligible; and

(4) the member has applied for tuition benefits available through the United States Department of Veterans Affairs for which the member is eligible under the "Post-9/11 Veterans Educational Assistance Act of 2008," Pub.L.110-252 (38 U.S.C. s.3301 et seq.), except that such application shall not be required in the case of a tuition benefit transfer by the member as permitted by federal law.

b. The State shall reimburse a public institution of higher education for the tuition cost of each National Guard member who enrolls in the institution pursuant to the provisions of this section to the extent that the tuition cost is not paid through tuition benefits available to the member through the United States Department of Veterans Affairs under the "Post-9/11 Veterans Educational Assistance Act of 2008," Pub.L.110-252 (38 U.S.C. s.3301 et seq.).

c. Any member of the New Jersey National Guard whose enrollment in a public institution of higher education on a tuition-free basis pursuant to subsection a. of this section is interrupted by a deployment to active duty shall be permitted to receive the free tuition benefit after discharge from service under conditions other than dishonorable. In the event of a non-medical discharge or a medical discharge that is not caused by an illness or injury related to the performance of duties for the National Guard, eligibil-

ity for the free tuition benefit shall begin from the date of discharge and shall continue for one semester or a period of time equal to the length of the deployment, whichever is longer. In the event of medical discharge or medical retirement as a result of illness or injury incurred in the combat theater, as a result of terrorist action, or in the response to a natural disaster, eligibility for the free tuition benefit shall begin from the date of discharge or retirement and shall continue until completion of the degree program in which enrolled or for five years, whichever occurs first.

2. Section 22 of P.L.1999, c.46 (C.18A:62-25) is amended to read as follows:

Eligibility of child, surviving spouse of certain members of New Jersey National Guard for tuition benefits.

18A:62-25. Any child or surviving spouse of a member of the New Jersey National Guard who heretofore completed Initial Active Duty Training and was killed in the performance of his duties while on active duty with the New Jersey National Guard, or who hereafter completes Initial Active Duty Training and is killed in the performance of his duties while a member of the New Jersey National Guard, shall be permitted to attend regularly-scheduled courses at any public institution of higher education in this State enumerated in N.J.S.18A:62-1 and receive up to 16 credits per semester tuition-free provided that:

a. the child or spouse has been accepted to pursue a course of undergraduate study and is enrolled as an undergraduate student in good standing at that institution or a course of graduate study and is enrolled as a graduate student in good standing at that institution;

b. the child or spouse has applied for all available State student grants and scholarships and all available federal student grants and scholarships for which the child or spouse is eligible;

c. the child or spouse has applied for tuition benefits available through the United States Department of Veterans Affairs for which the child or spouse is eligible under the "Post-9/11 Veterans Educational Assistance Act of 2008," Pub.L.110-252 (38 U.S.C. s.3301 et seq.); and

d. available classroom space permits and tuition-paying students constitute the minimum number required for the course.

3. This act shall take effect immediately and shall be first applicable to the 2010-2011 academic year.

Approved January 16, 2010.

CHAPTER 209

AN ACT concerning assignment of health benefits under managed care plans and amending P.L.2001, c.367.

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

1. Section 2 of P.L.2001, c.367 (C.26:2S-6.1) is amended to read as follows:

C.26:2S-6.1 Managed care plan to pay full contractual rate to out-of-network provider, direct payments, certain circumstances.

2. a. With respect to a carrier which offers a managed care plan that provides for both in-network and out-of-network benefits, in the event that:

(1) a covered person is admitted by an out-of-network health care provider to an in-network health care facility for covered, medically necessary health care services; or

(2) the covered person receives covered, medically necessary health care services from an out-of-network health care provider while the covered person is a patient at an in-network health care facility and was admitted to the health care facility by an in-network provider, the carrier shall reimburse the health care facility for the services provided by the facility at the carrier's full contracted rate without any penalty for the patient's selection of an out-of-network provider, in accordance with the in-network policies and in-network copayment, coinsurance or deductible requirements of the managed care plan.

b. The provisions of subsection a. of this section shall apply only if the covered person complies with the preauthorization or review requirements of the health benefits plan regarding the determination of medical necessity to access in-network inpatient benefits, as set forth in writing pursuant to section 5 of P.L.1997, c.192 (C.26:2S-5).

c. With respect to a carrier which offers a managed care plan that provides for both in-network and out-of-network benefits, in the event that the covered person assigns, through an assignment of benefits, his right to receive reimbursement for medically necessary health care services to an out-of-network health care provider, the carrier shall remit payment for the reimbursement directly to the health care provider in the form of a check payable to the health care provider, or in the alternative, to the health care provider and the covered person as joint payees, with a signature line for

each of the payees. Payment shall be made in accordance with the provisions of this section and P.L.1999, c.154 (C.17B:30-23 et al.). Any payment made only to the covered person rather than the health care provider under these circumstances shall be considered unpaid, and unless remitted to the health care provider within the time frames established by P.L.1999, c.154 (C.17B:30-23 et al.), shall be considered overdue and subject to an interest charge as provided in that act.

2. This act shall take effect on the 365th day next following enactment and shall apply to any health benefits plan in which the carrier has reserved the right to change the premium and which is in effect on or after the effective date.

Approved January 16, 2010.

CHAPTER 210

AN ACT concerning the Delaware River Port Authority, amending P.L.1941, c.100 and amending P.L.1931, c.391, authorizing the Governor, on behalf of the State of New Jersey, to enter into a supplemental compact or agreement with the Commonwealth of Pennsylvania amending the compact or agreement between the State of New Jersey and the Commonwealth of Pennsylvania entitled "Agreement Between The Commonwealth of Pennsylvania and The State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties," as amended and supplemented, and authorizing the Governor to apply, on behalf of the State of New Jersey, to the Congress of the United States for its consent to such supplemental compact or agreement.

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

C.32:3-5.1 Governor authorized to enter into supplemental compact agreement.

1. The Governor is authorized to enter into a supplemental compact or agreement, on behalf of the State of New Jersey, with the Commonwealth of Pennsylvania amending Article IV of the compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey entitled "Agreement Between The Commonwealth of Pennsylvania and The State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties," as set forth in this act.

Powers of commission.

2. Article IV of the "Agreement Between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties," as amended and supplemented (R.S.32:3-5) is amended to read as follows:

R.S.32:3-5. For the effectuation of its authorized purposes the commission is hereby granted the following powers:

(a) To have perpetual succession.

(b) To sue and be sued.

(c) To adopt and use an official seal.

(d) To elect a chairman, vice-chairman, secretary and treasurer, and to adopt suitable bylaws for the management of its affairs. The secretary and treasurer need not be members of the commission.

(e) To appoint, hire, or employ counsel and such other officers and such agents and employees as it may require for the performance of its duties, by contract or otherwise, and fix and determine their qualifications, duties and compensation, provided that the employees of the Delaware River Port Authority shall be subject to the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.) and shall have all of the rights provided to employees by that act, including but not limited to, the right to form, join or assist an employee organization, and the right to have that employee organization engage in collective bargaining on behalf of the employees.

(f) To enter into contracts.

(g) To acquire, own, hire, use, operate and dispose of personal property.

(h) To acquire, own, use, lease, operate, mortgage and dispose of real property and interests in real property, and to make improvements thereon.

(i) To grant by franchise, lease or otherwise, the use of any property or facility owned or controlled by the commission and to make charges therefor.

(j) To borrow money upon its bonds or other obligations, either with or without security, and to make, enter into and perform any and all such covenants and agreements with the holders of such bonds or other obligations as the commission may determine to be necessary or desirable for the security and payment thereof, including without limitation of the foregoing, covenants and agreements as to the management and operation of any property or facility owned or controlled by it, the tolls, rents, rates or other charges to be established, levied, made and collected for any use of any such property or facility, or the application, use and disposition of the proceeds of any bonds or other obligations of the commission or the proceeds

of any such tolls, rents, rates or other charges or any other revenues or moneys of the commission.

(k) To exercise the right of eminent domain within the Port District.

(l) To determine the exact location, system and character of and all other matters in connection with any and all improvements or facilities which it may be authorized to own, construct, establish, effectuate, operate or control.

(m) In addition to the foregoing, to exercise the powers, duties, authority and jurisdiction heretofore conferred and imposed upon the aforesaid Delaware River Joint Commission by the Commonwealth of Pennsylvania or the State of New Jersey, or both of the said two States.

(n) To exercise all other powers not inconsistent with the constitutions of the two States or of the United States, which may be reasonably necessary or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, except the power to levy taxes or assessments, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

(o) To acquire, purchase, construct, lease, operate, maintain and undertake any project, including any terminal, terminal facility, transportation facility, or any other facility of commerce and to make charges for the use thereof.

(p) To make expenditures anywhere in the United States and foreign countries, to pay commissions, and hire or contract with experts or consultants, and otherwise to do indirectly anything which the commission may do directly.

(q) To establish one or more operating divisions as deemed necessary to exercise the power and effectuate the purposes of this agreement.

The commission shall also have such additional powers as may hereafter be delegated to or imposed upon it from time to time by the action of either State concurred in by legislation of the other.

It is the policy and intent of the Legislature of the Commonwealth of Pennsylvania and the State of New Jersey that the powers granted by this article shall be so exercised that the American system of free competitive private enterprise is given full consideration and is maintained and furthered. In making its reports and recommendations to the Legislatures of the Commonwealth of Pennsylvania and the State of New Jersey on the need for any facility or project which the commission believes should be undertaken for the promotion and development of the Port District, the

commission shall include therein its findings which fully set forth that the facility or facilities operated by private enterprise within the Port District and which it is intended shall be supplanted or added to are not adequate.

C.32:3-5.2 Application to Congress for consent and approval.

3. The Governor is authorized to apply, on behalf of the State of New Jersey, to the Congress of the United States for its consent and approval to such supplemental compact or agreement, but in the absence of such consent and approval, the commission referred to in such supplemental compact or agreement shall have all of the powers which the Commonwealth of Pennsylvania and the State of New Jersey may confer upon it without the consent and approval of Congress.

4. Section 3 of P.L.1941, c.100 (C.34:13A-3) is amended to read as follows:

C.34:13A-3 Definitions.

3. When used in this act:

(a) The term "board" shall mean New Jersey State Board of Mediation.

(b) The term "commission" shall mean New Jersey Public Employment Relations Commission.

(c) The term "employer" includes an employer and any person acting, directly or indirectly, on behalf of or in the interest of an employer with the employer's knowledge or ratification, but a labor organization, or any officer or agent thereof, shall be considered an employer only with respect to individuals employed by such organization. This term shall include "public employers" and shall mean the State of New Jersey, or the several counties and municipalities thereof, or any other political subdivision of the State, or a school district, or any special district, or any authority, commission, or board, or any branch or agency of the public service. The term shall also include the Delaware River Port Authority, established pursuant to R.S.32:3-1 et seq.

(d) The term "employee" shall include any employee, and shall not be limited to the employees of a particular employer unless this act explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of or in connection with any current labor dispute or because of any unfair labor practice and who has not obtained any other regular and substantially equivalent employment. This term, however, shall not include any individual taking the place of any employee whose work has ceased as aforesaid, nor shall it include any individual employed by his parent or

spouse, or in the domestic service of any person in the home of the employer, or employed by any company owning or operating a railroad or railway express subject to the provisions of the Railway Labor Act. This term shall include any public employee, i.e., any person holding a position, by appointment or contract, or employment in the service of a public employer, including the Delaware River Port Authority, except elected officials, members of boards and commissions, managerial executives and confidential employees.

(e) The term "representative" is not limited to individuals but shall include labor organizations, and individual representatives need not themselves be employed by, and the labor organization serving as a representative need not be limited in membership to the employees of, the employer whose employees are represented. This term shall include any organization, agency or person authorized or designated by a public employer, public employee, group of public employees, or public employee association to act on its behalf and represent it or them.

(f) "Managerial executives" of a public employer means persons who formulate management policies and practices, and persons who are charged with the responsibility of directing the effectuation of such management policies and practices, except that in any school district this term shall include only the superintendent or other chief administrator, and the assistant superintendent of the district.

(g) "Confidential employees" of a public employer means employees whose functional responsibilities or knowledge in connection with the issues involved in the collective negotiations process would make their membership in any appropriate negotiating unit incompatible with their official duties.

5. This section and sections 1 through 3 of this act shall take effect immediately; but the Governor shall not enter into the supplemental compact or agreement hereinabove set forth on behalf of the State of New Jersey until passage by the Commonwealth of Pennsylvania of a substantially similar act embodying the supplemental compact or agreement between the two States. Section 4 shall take effect upon passage of that substantially similar act, and the consent and approval of Congress to that supplemental compact or agreement, if that consent and approval is required to confer the powers granted in this act upon the Delaware River Port Authority.

Approved January 16, 2010.

CHAPTER 211

AN ACT concerning eligibility for unemployment compensation and amending R.S.43:21-19.

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

1. R.S.43:21-19 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 Workforce Development, 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 and Workforce Development, 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 hospi-

tal 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 exempt 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 ap-

proved 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) (Deleted by amendment, P.L.2009, c.211.)

(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 Workforce Development and receives an employer registration number.

(10) Services performed by a legal transcriber, or certified court reporter certified pursuant to P.L.1940, c.175 (C.45:15B-1 et seq.), shall not be deemed to be employment subject to the "unemployment compensation law," R.S.43:21-1 et seq., if those services are provided to a third party by the transcriber or reporter who is referred to the third party pursuant to an agreement with another legal transcriber or legal transcription service, or certified court reporter or court 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.

For purposes of this paragraph (10): "legal transcription service" and "legal transcribing" mean making use, by audio, video or voice recording, of a verbatim record of court proceedings, depositions, other judicial proceedings, meetings of boards, agencies, corporations, or other bodies or groups, and causing that record to be printed in readable form or produced on a computer screen in readable form; and "legal transcriber" means a person who engages in "legal transcribing."

(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.

(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.

2. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 212

AN ACT concerning the practice of medicine and surgery and amending P.L.2005, c.303.

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

1. Section 1 of P.L.2005, c.303 (C.45:9-5.2) is amended to read as follows:

C.45:9-5.2 Needle electromyography, interpretation restricted to physicians, surgeons.

1. a. A person shall not perform needle electromyography unless that person is licensed to practice medicine and surgery in this State pursuant to chapter 9 of Title 45 of the Revised Statutes.

A person shall not interpret evoked potentials or nerve conduction studies unless that person is licensed to practice: medicine and surgery in this State pursuant to chapter 9 of Title 45 of the Revised Statutes; audiology in this State pursuant to chapter 3B of Title 45 of the Revised Statutes; or chiropractic in this State pursuant to chapter 9 of Title 45 of the Revised Statutes.

b. As used in this act:

"Evoked potential" means the analysis of an electrical potential produced by introducing stimuli into the central nervous system for the diagnosis of diseases of the brain, spinal cord and nerves contiguous with them and includes brainstem auditory evoked responses, visual evoked responses and somatosensory evoked potentials;

"Needle electromyography" means the study of spontaneous and voluntary electrical activity of muscle, which is performed by insertion of a needle electrode into a muscle and recording the electrical activity at rest and during voluntary contraction; and

"Nerve conduction study" means the application of electrical stimulation at various points along or near a nerve and usually requires the use of surface electrodes for stimulation and recording.

2. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 213

AN ACT concerning agriculture and biomass, solar, and wind energy, supplementing P.L.1983, c.32 (C.4:1C-11 et seq.), and amending and supplementing P.L.1983, c.31 and P.L.1964, c.48.

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

C.4:1C-32.4 Certain generation facilities, structures, equipment permitted on preserved farmland.

1. a. Notwithstanding any law, rule or regulation to the contrary, a person who owns preserved farmland may construct, install, and operate biomass, solar, or wind energy generation facilities, structures, and equipment on the farm, whether on the preserved portion of the farm or on any portion excluded from preservation, for the purpose of generating power or heat, and may make improvements to any agricultural, horticultural, residential, or other building or structure on the land for that purpose, provided that the biomass, solar, or wind energy generation facilities, structures, and equipment:

(1) do not interfere significantly with the use of the land for agricultural or horticultural production, as determined by the committee;

(2) are owned by the landowner, or will be owned by the landowner upon the conclusion of the term of an agreement with the installer of the biomass, solar, or wind energy generation facilities, structures, or equipment by which the landowner uses the income or credits realized from the biomass, solar, or wind energy generation to purchase the facilities, structures, or equipment;

(3) are used to provide power or heat to the farm, either directly or indirectly, or to reduce, through net metering or similar programs and systems, energy costs on the farm; and

(4) are limited (a) in annual energy generation capacity to the previous calendar year's energy demand plus 10 percent, in addition to what is allowed under subsection b. of this section, or alternatively at the option of the landowner (b) to occupying no more than one percent of the area of the entire farm including both the preserved portion and any portion excluded from preservation.

The person who owns the farm and the energy generation facilities, structures, and equipment may only sell energy through net metering or as otherwise permitted under an agreement allowed pursuant to paragraph (2) of this subsection.

b. The limit on the annual energy generation capacity established pursuant to subparagraph (a) of paragraph (4) of subsection a. of this section shall not include energy generated from facilities, structures, or equipment existing on the roofs of buildings or other structures on the farm as of the date of enactment of P.L.2009, c.213 (C.4:1C-32.4 et al.).

c. A landowner shall seek and obtain the approval of the committee before constructing, installing, and operating biomass, solar, or wind energy generation facilities, structures, and equipment on the farm as allowed pursuant to subsection a. of this section. The committee shall provide the holder of any development easement on the farm with a copy of the application submitted for the purposes of subsection a. of this section, and the holder of the development easement shall have 30 days within which to provide comments to the committee on the application. The committee shall, within 90 days of receipt, approve, disapprove, or approve with conditions an application submitted for the purposes of subsection a. of this section. The decision of the committee on the application shall be based solely upon the criteria listed in subsection a. of this section and comments received from the holder of the development easement.

d. No fee shall be charged of the landowner for review of an application submitted to, or issuance of a decision by, the committee pursuant to this section.

e. The committee may suspend or revoke an approval issued pursuant to this section for a violation of any term or condition of the approval or any provision of this section.

f. The committee, in consultation with the Department of Environmental Protection and the Department of Agriculture, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary for the implementation of this section, including provisions prescribing standards concerning impervious cover which may be permitted in connection with biomass, solar, or wind energy generation facilities, structures, and equipment authorized to be constructed, installed, and operated on lands pursuant to this section.

g. In the case of biomass energy generation facilities, structures, or equipment, the landowner shall also seek and obtain the approval of the Department of Agriculture as required pursuant to section 5 of P.L.2009, c.213 (C.4:1C-32.5) if the land is valued, assessed and taxed pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

h. Notwithstanding any provision of this section to the contrary, the construction, installation, or operation of any biomass, solar, or wind energy generation facility, structure, or equipment in the pinelands area, as defined and regulated by the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), shall comply with the standards of P.L.1979, c.111 and the comprehensive management plan for the pinelands area adopted pursuant to P.L.1979, c.111.

i. For the purposes of this section:

"Biomass" means an agricultural crop, crop residue, or agricultural byproduct that is cultivated, harvested, or produced on the farm and which can be used to generate energy in a sustainable manner.

"Net metering" means the same as that term is used for purposes of subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87).

"Preserved farmland" means land on which a development easement was conveyed to, or retained by, the committee, a board, or a qualifying tax exempt nonprofit organization pursuant to the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any other State law enacted for farmland preservation purposes.

2. Section 6 of P.L.1983, c.31 (C.4:1C-9) is amended to read as follows:

C.4:1C-9 Commercial farm owners, operators; permissible activities.

6. Notwithstanding the provisions of any municipal or county ordinance, resolution, or regulation to the contrary, the owner or operator of a commercial farm, located in an area in which, as of December 31, 1997 or thereafter, agriculture is a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan, or which commercial farm is in operation as of the effective date of P.L.1998, c.48 (C.4:1C-10.1 et al.), and the operation of which conforms to agricultural management practices recommended by the committee and adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or whose specific operation or practice has been determined by the appropriate county board, or in a county where no county board exists, the committee, to constitute a generally accepted agricultural operation or practice, and all relevant federal or State statutes or rules and regulations adopted pursuant thereto, and which does not pose a direct threat to public health and safety may:

a. Produce agricultural and horticultural crops, trees and forest products, livestock, and poultry and other commodities as described in the Standard Industrial Classification for agriculture, forestry, fishing and trapping or, after the operative date of the regulations adopted pursuant to section 5 of P.L.2003, c.157 (C.4:1C-9.1), included under the corresponding classification under the North American Industry Classification System;

b. Process and package the agricultural output of the commercial farm;

c. Provide for the operation of a farm market, including the construction of building and parking areas in conformance with municipal standards;

d. Replenish soil nutrients and improve soil tilth;

e. Control pests, predators and diseases of plants and animals;

f. Clear woodlands using open burning and other techniques, install and maintain vegetative and terrain alterations and other physical facilities for water and soil conservation and surface water control in wetland areas;

g. Conduct on-site disposal of organic agricultural wastes;

h. Conduct agriculture-related educational and farm-based recreational activities provided that the activities are related to marketing the agricultural or horticultural output of the commercial farm;

i. Engage in the generation of power or heat from biomass, solar, or wind energy, provided that the energy generation is consistent with the provisions of P.L.2009, c.213 (C.4:1C-32.4 et al.), as applicable, and the rules and regulations adopted therefor and pursuant to section 3 of P.L.2009, c.213 (C.4:1C-9.2); and

j. Engage in any other agricultural activity as determined by the State Agriculture Development Committee and adopted by rule or regulation pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

C.4:1C-9.2 Committee to develop rules, regulations; BPU to provide technical assistance.

3. a. The committee shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.):

(1) such rules and regulations as may be necessary for the implementation of subsection i. of section 6 of P.L.1983, c.31 (C.4:1C-9); and

(2) agricultural management practices for biomass energy generation on commercial farms, including, but not necessarily limited to, standards for the management of odor, dust, and noise.

b. The Board of Public Utilities shall provide technical assistance and support to the State Agriculture Development Committee with regard to the committee's responsibilities in connection with this section and subsection i. of section 6 of P.L.1983, c.31 (C.4:1C-9).

c. Notwithstanding any provision of this section or subsection i. of section 6 of P.L.1983, c.31 (C.4:1C-9) to the contrary, the construction, installation, or operation of any biomass, solar, or wind energy generation facility, structure, or equipment in the pinelands area, as defined and regulated by the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), shall comply with the standards of P.L.1979, c.111 and the comprehensive management plan for the pinelands area adopted pursuant to P.L.1979, c.111.

d. For the purposes of this section and subsection i. of section 6 of P.L.1983, c.31 (C.4:1C-9), "biomass" means an agricultural crop, crop residue, or agricultural byproduct that is cultivated, harvested, or produced on the commercial farm and which can be used to generate energy in a sustainable manner.

C.54:4-23.3c Land use for taxation purposes.

4. a. (1) No land used for biomass, solar, or wind energy generation shall be considered land in agricultural or horticultural use or actively devoted to agricultural or horticultural use for the purposes of the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), except as provided in this section.

(2) No generated energy from any source shall be considered an agricultural or horticultural product.

b. Land used for biomass, solar, or wind energy generation may be eligible for valuation, assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.), provided that:

(1) the biomass, solar, or wind energy generation facilities, structures, and equipment were constructed, installed, and operated on property that is part of an operating farm continuing to be in operation as a farm in the tax year for which the valuation, assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.) is applied for;

(2) in the tax year preceding the construction, installation, and operation of the biomass, solar, or wind energy generation facilities, structures, and equipment on an operating farm, the acreage used for the biomass, solar, or wind energy generation facilities, structures, and equipment was valued, assessed and taxed as land in agricultural or horticultural use;

(3) the power or heat generated by the biomass, solar, or wind energy generation facilities, structures, and equipment is used to provide, either directly or indirectly but not necessarily exclusively, power or heat to the farm or agricultural or horticultural operations supporting the viability of the farm;

(4) the owner of the property has filed a conservation plan with the soil conservation district, with provisions for compliance with paragraph (5) of this subsection where applicable, to account for the aesthetic, impervious coverage, and environmental impacts of the construction, installation, and operation of the biomass, solar, or wind energy generation facilities, structures, and equipment, including, but not necessarily limited to, water recapture and filtration, and the conservation plan has been approved by the district;

(5) where solar energy generation facilities, structures, and equipment are installed, the property under the solar panels is used to the greatest extent practicable for the farming of shade crops or other plants capable of being grown under such conditions, or for pasture for grazing;

(6) the amount of acreage devoted to the biomass, solar, or wind energy generation facilities, structures, and equipment does not exceed a ratio of one to five acres, or portion thereof, of land devoted to energy generation facilities, structures, and equipment and land devoted to agricultural or horticultural operations;

(7) biomass, solar, or wind energy generation facilities, structures, and equipment are constructed or installed on no more than 10 acres of the farmland for which the owner of the property is applying for valuation, assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.), and if power is being generated, no more than two megawatts of power are generated on the 10 acres or less; and

(8) for biomass energy generation, the owner of the property has obtained the approval of the Department of Agriculture pursuant to section 5 of P.L.2009, c.213 (C.4:1C-32.5).

c. No income from any power or heat sold from the biomass, solar, or wind energy generation may be considered income for eligibility for valuation, assessment and taxation of land pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), and, notwithstanding the provisions of that act, or any rule or regulation adopted pursuant thereto, to the contrary, there shall be no income requirement for property valued, assessed and taxed pursuant to subsection b. of this section.

d. Notwithstanding any provision of this section, section 3 of P.L.1964, c.48 (C.54:4-23.3), or section 4 of P.L.1964, c.48 (C.54:4-23.4) to the contrary, the construction, installation, or operation of any biomass, solar, or wind energy generation facility, structure, or equipment in the pinelands area, as defined and regulated by the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), shall comply with the standards of P.L.1979, c.111 and the comprehensive management plan for the pinelands area adopted pursuant to P.L.1979, c.111.

e. The Division of Taxation, in consultation with the Department of Agriculture, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary for the implementation and administration of this section.

f. For the purposes of this section:

"Biomass" means an agricultural crop, crop residue, or agricultural byproduct that is cultivated, harvested, or produced on the farm, or directly obtained from a farm where it was cultivated, harvested, or produced, and which can be used to generate energy in a sustainable manner, except with respect to preserved farmland, "biomass" means the same as that term is defined in section 1 of P.L.2009, c.213 (C.4:1C-32.4).

"Land used for biomass, solar, or wind energy generation" means the land upon which the biomass, solar, or wind energy generation facilities, structures, and equipment are constructed, installed, and operated. In the case of biomass energy generation, "land used for biomass, solar, or wind energy generation" shall not mean the land upon which agricultural or horticultural products used as fuel in the biomass energy generation facility, structure, or equipment are grown.

"Preserved farmland" means land on which a development easement was conveyed to, or retained by, the State Agriculture Development Committee, a county agriculture development board, or a qualifying tax exempt nonprofit organization pursuant to the provisions of section 24 of P.L.1983,

c.32 (C.4:1C-31), section 5 of P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any other State law enacted for farmland preservation purposes.

C.4:1C-32.5 Approval required.

5. a. No person may construct, install, or operate biomass energy generation facilities, structures, or equipment on any land that is valued, assessed and taxed pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), without the approval of the Department of Agriculture, in addition to any other approvals that may be required by law.

b. The Department of Agriculture, in consultation with 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 concerning: (1) the construction, installation, and operation of biomass energy generation facilities, structures, and equipment and the management of biomass fuel for such facilities, structures, and equipment on farms; and (2) the process by which a landowner may apply for the approval required pursuant to subsection a. of this section, including establishment of reasonable application fees, if necessary, to help pay for the cost of review of the application, except no application fee may be charged for preserved farmland as defined in section 1 of P.L.2009, c.213 (C.4:1C-32.4).

c. Notwithstanding any provision of this section to the contrary, the construction, installation, or operation of any biomass, solar, or wind energy generation facility, structure, or equipment in the pinelands area, as defined and regulated by the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), shall comply with the standards of P.L.1979, c.111 and the comprehensive management plan for the pinelands area adopted pursuant to P.L.1979, c.111.

d. For the purposes of this section, "biomass" means an agricultural crop, crop residue, or agricultural byproduct that is cultivated, harvested, or produced on the farm, or directly obtained from a farm where it was cultivated, harvested, or produced, and which can be used to generate energy in a sustainable manner, except with respect to preserved farmland, "biomass" means the same as that term is defined in section 1 of P.L.2009, c.213 (C.4:1C-32.4).

C.4:1C-32.6 Report to Governor, Legislature, committees.

6. Every two years, the Department of Agriculture, in consultation with the State Agriculture Development Committee and the Department of

the Treasury, shall prepare a report on the implementation of P.L.2009, c.213 (C.4:1C-32.4 et al.). The report shall include: a survey and inventory of all biomass, solar, or wind energy generation facilities, structures, and equipment placed on farmland in accordance with P.L.2009, c.213 (C.4:1C-32.4 et al.); the extent to which existing structures, such as barns, sheds, and silos, are used for those purposes, and how those structures have been modified therefor; the extent to which new structures, instead of existing structures, have been erected; and such other information as either of the departments or the committee deems useful.

The report prepared pursuant to this section shall be transmitted to the Governor, the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and the respective chairpersons of the Senate Economic Growth Committee, the Senate Environment Committee, the Assembly Agriculture and Natural Resources Committee, and the Assembly Environment and Solid Waste Committee or their designated successors. Copies of the report shall also be made available to the public upon request and free of charge, and shall be posted on the website of the Department of Agriculture.

7. Section 3 of P.L.1964, c.48 (C.54:4-23.3) is amended to read as follows:

C.54:4-23.3 Agricultural use of land.

3. Land shall be deemed to be in agricultural use when devoted to the production for sale of plants and animals useful to man, including but not limited to: forages and sod crops; grains and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding, boarding, raising, rehabilitating, training or grazing of any or all of such animals, except that "livestock" shall not include dogs; bees and apiary products; fur animals; trees and forest products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government, except that land which is devoted exclusively to the production for sale of tree and forest products, other than Christmas trees, and is not appurtenant woodland, shall not be deemed to be in agricultural use unless the landowner fulfills the following additional conditions:

a. The landowner establishes and complies with the provisions of a woodland management plan for this land, prepared in accordance with poli-

cies, guidelines and practices approved by the Division of Parks and Forestry in the Department of Environmental Protection, in consultation with the Department of Agriculture and the Dean of Cook College at Rutgers, The State University, which policies, guidelines and practices are designed to eliminate excessive and unnecessary cutting;

b. The landowner and a forester from a list of foresters approved by the Department of Environmental Protection annually attest to compliance with subsection a. of this section; and

c. The landowner annually submits an application, as prescribed in section 13 of P.L.1964, c.48 (C.54:4-23.13), to the assessor, accompanied by a copy of the plan established pursuant to subsection a. of this section; written documentation of compliance with subsection b. of this section; a supplementary woodland data form setting forth woodland management actions taken in the pre-tax year, the type and quantity of tree and forest products sold, and the amount of income received or anticipated for same; a map of the land showing the location of the activity and the soil group classes of the land; and other pertinent information required by the Director of the Division of Taxation as part of the application for valuation, assessment and taxation, as provided in P.L.1964, c.48 (C.54:4-23.1 et seq.). The landowner shall, at the same time, submit to the Commissioner of the Department of Environmental Protection an exact copy of the application and accompanying information submitted to the assessor pursuant to this subsection. For the purposes of this amendatory and supplementary act, "appurtenant woodland" means a wooded piece of property which is contiguous to, part of, or beneficial to a tract of land, which tract of land has a minimum area of at least five acres devoted to agricultural or horticultural uses other than the production for sale of trees and forest products, exclusive of Christmas trees, to which tract of land the woodland is supportive and subordinate.

For the purposes of this section and P.L.1964, c.48 (C.54:4-23.1 et seq.):

(1) agricultural use shall also include biomass, solar, or wind energy generation, provided that the biomass, solar, or wind energy generation is consistent with the provisions of P.L.2009, c.213 (C.4:1C-32.4 et al.), as applicable, and the rules and regulations adopted therefor; and

(2) "biomass" means an agricultural crop, crop residue, or agricultural byproduct that is cultivated, harvested, or produced on the farm, or directly obtained from a farm where it was cultivated, harvested, or produced, and which can be used to generate energy in a sustainable manner, except with respect to preserved farmland, "biomass" means the same as that term is defined in section 1 of P.L.2009, c.213 (C.4:1C-32.4).

8. Section 4 of P.L.1964, c.48 (C.54:4-23.4) is amended to read as follows:

C.54:4-23.4 Land deemed in horticultural use.

4. Land shall be deemed to be in horticultural use when devoted to the production for sale of fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal Government.

For the purposes of this section and P.L.1964, c.48 (C.54:4-23.1 et seq.):

(1) horticultural use shall also include biomass, solar, or wind energy generation, provided that the biomass, solar, or wind energy generation is consistent with the provisions of P.L.2009, c.213 (C.4:1C-32.4 et al.), as applicable, and the rules and regulations adopted therefor; and

(2) "biomass" means an agricultural crop, crop residue, or agricultural byproduct that is cultivated, harvested, or produced on the farm, or directly obtained from a farm where it was cultivated, harvested, or produced, and which can be used to generate energy in a sustainable manner, except with respect to preserved farmland, "biomass" means the same as that term is defined in section 1 of P.L.2009, c.213 (C.4:1C-32.4).

9. This act shall take effect immediately, except that sections 4, 7, and 8 of this act shall be applicable to tax years commencing after the date of enactment of this act.

Approved January 16, 2010.

CHAPTER 214

AN ACT concerning the sale of certain jewelry 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:21-36 Sale of secondhand jewelry.

1. No person engaged in the business of retailing, wholesaling, or smelting jewelry who purchases any article of used or secondhand jewelry

shall sell or offer to sell that used or secondhand jewelry, unless that person:

a. Maintains, for five years, a record of the name, address and telephone number of the person from whom it was purchased and:

(1) a descriptive list of any used jewelry purchased from that seller, including any identifying characteristics of that jewelry; or

(2) photographs of any used jewelry purchased from that seller;

b. Verifies the identity of the person selling the jewelry by requesting and examining a photograph-bearing, valid State or federal issued driver's license or other government issued form of identification bearing a photograph;

c. Delivers, on a weekly basis, to the police department having jurisdiction in the location of that person's place of business a copy of the record of all used jewelry purchased by that person during the preceding week;

d. Maintains in his possession any used jewelry purchased for not less than three business days following the delivery of the record of the purchase of that jewelry to the police department, as required by subsection c. of this section; and

e. Maintains, for five years, a copy of any list provided by an individual pursuant to section 2 of P.L.2009, c.214 (C.2C:21-37).

Nothing in this section shall be construed to apply to pawnbrokers licensed and regulated pursuant to the pawnbroking law, R.S.45:22-1 et seq., or sales made through an Internet website. Nothing in this section shall be construed to apply to a person engaged in retail, provided the sale of jewelry is not his primary business and further provided the person does not engage in the purchase of used or secondhand jewelry on more than three days in a calendar year.

C.2C:21-37 Requirements for reselling of secondhand jewelry.

2. Any individual who purchases used or secondhand jewelry from another individual with the intent of selling that jewelry to a person engaged in the business of retailing, wholesaling, or smelting jewelry shall:

a. Maintain, for five years, a record of the sale of that jewelry, including, but not limited to, the date the jewelry is sold; name of the person engaged in the business of retailing, wholesaling, or smelting jewelry to whom it is sold; and an itemized, descriptive list of that jewelry; and

b. Provide an itemized, descriptive list of the jewelry sold to the person engaged in the business of retailing, wholesaling, or smelting jewelry at the time of sale.

C.2C:21-38 Requisite knowledge, belief for violation.

3. The requisite knowledge or belief for a violation of N.J.S.2C:20-7 is presumed in the case of a person subject to the provisions of section 1 or 2 of P.L.2009, c.214 (C.2C:21-36 or C.2C:21-37) who purchases any article of used or secondhand jewelry and fails to comply with the requirements of section 1 or 2 of P.L.2009, c.214 (C.2C:21-36 or C.2C:21-37), as applicable.

C.2C:21-39 Report by purchaser.

4. Any person who purchases any article of used or secondhand jewelry shall immediately report to an appropriate law enforcement agency any delivery or sale of used jewelry under circumstances that would cause a reasonable person to believe the used jewelry was probably stolen or otherwise inappropriately obtained.

C.2C:21-40 Immunity.

5. Notwithstanding any provision of the law to the contrary, any person who reports information to a law enforcement official or agency concerning the suspect sale of used jewelry shall be immune from any civil liability on account of the report, unless such person has acted in bad faith or with malicious purpose.

C.2C:21-41 Regulations.

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

7. This act shall take effect on the first day of the fourth month following enactment, but the Attorney General may take such anticipatory acts in advance of that date as may be necessary for the timely implementation of this act.

Approved January 16, 2010.

CHAPTER 215

AN ACT designating the bridge carrying State Highway Route No. 3 over the Passaic River between the Borough of Rutherford and the City of Clifton as the "Chaplain Charles J. Watters Memorial Bridge."

WHEREAS, Chaplain Charles J. Watters, a native of New Jersey who ministered to many parishes in the State, entered active duty as a U.S. Army Chaplain in 1964 and voluntarily served in the Vietnam War; and

WHEREAS, On November 19, 1967, Chaplain Watters was killed while helping care for the wounded on the field of battle; and

WHEREAS, Chaplain Watters was giving aid to the wounded when he himself was mortally wounded; and

WHEREAS, During an engagement in the vicinity of Dak To between U.S. Army forces and a heavily armed enemy battalion, while unarmed and completely exposed to both friendly and enemy fire, Chaplain Watters moved among, as well as in front of advancing troops, giving aid to the wounded, assisting in their evacuation, giving words of encouragement, administering the last rites to the dying, and carrying wounded soldiers to safety; and

WHEREAS, With complete disregard for his own safety and ignoring attempts to restrain him, Chaplain Watters entered the battlefield three times in the face of small arms, automatic weapons, and mortar fire to carry and to assist the injured troopers to safety; and

WHEREAS, Satisfied that all of the wounded were inside the battlefield perimeter, he began aiding the medics, applying field bandages to open wounds, obtaining and serving food and water, and giving spiritual strength and comfort; and

WHEREAS, Chaplain Watters was posthumously awarded the Medal of Honor for his conspicuous gallantry, unyielding perseverance, and selfless devotion to his comrades on the battlefield in keeping with the highest traditions of the U.S. Army; and

WHEREAS, The citizens of this State are indebted to the brave men and women who have served in the Armed Forces of the United States; and

WHEREAS, It is altogether fitting and proper that the State of New Jersey recognize and honor the heroic actions of U.S. Army Chaplain Charles J. Watters by designating the bridge carrying State Highway Route No. 3 over the Passaic River between the Borough of Rutherford and the City of Clifton as the "Chaplain Charles J. Watters Memorial Bridge"; now, therefore,

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

1. The Commissioner of Transportation shall designate the bridge carrying State Highway Route No. 3 over the Passaic River between the Borough of Rutherford and the City of Clifton as the "Chaplain Charles J. Watters Memorial Bridge" and erect appropriate signs bearing this designation and dedication.

2. No State or other public funds shall be used for producing or purchasing, or for erecting signs pursuant to section 1 of this act. The Commissioner of the Department of Transportation is authorized to receive gifts or grants or other financial aid in any form from any private source for the purpose of funding the costs associated with producing or purchasing, and for erecting signs pursuant to section 1 of this act.

3. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 216

AN ACT concerning alcoholic beverage tastings and samplings, amending R.S.33:1-12, and supplementing Title 33 of the Revised Statutes.

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

1. R.S.33:1-12 is amended to read as follows:

Class C licenses; classifications; fees.

33:1-12. Class C licenses shall be subdivided and classified as follows:

Plenary retail consumption license. 1. The holder of this license shall be entitled, subject to rules and regulations, to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises; but this license shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which a grocery, delicatessen, drug store or other mercantile business is carried on, except as hereinafter provided. The holder of this license shall be permitted to conduct consumer wine, beer and spirits tasting events and samplings for a fee or on a complimentary basis pursuant to conditions established by rules and regulations of the Division of Alcoholic Beverage Control, provided how-

ever, that the holder of this license complies with the terms and conditions set forth in section 3 of P.L.2009, c.216 (C.33:1-12d). Subject to such rules and regulations established from time to time by the director, the holder of this license shall be permitted to sell alcoholic beverages in or upon the premises in which any of the following is carried on: the keeping of a hotel or restaurant including the sale of mercantile items incidental thereto as an accommodation to patrons; the sale, at an entertainment facility as defined in R.S.33:1-1, having a seating capacity for no less than 4,000 patrons, of mercantile items traditionally associated with the type of event or program held at the site; the sale of distillers', brewers' and vintners' packaged merchandise prepacked as a unit with other suitable objects as gift items to be sold only as a unit; the sale of novelty wearing apparel identified with the name of the establishment licensed under the provisions of this section; the sale of cigars, cigarettes, packaged crackers, chips, nuts and similar snacks and ice at retail as an accommodation to patrons, or the retail sale of nonalcoholic beverages as accessory beverages to alcoholic beverages; or, in commercial bowling establishments, the retail sale or rental of bowling accessories and the retail sale from vending machines of candy, ice cream and nonalcoholic beverages. The fee for this license shall be fixed by the governing board or body of the municipality in which the licensed premises are situated, by ordinance, at not less than $250 and not more than $2,500. No ordinance shall be enacted which shall raise or lower the fee to be charged for this license by more than 20% from that charged in the preceding license year or $500.00, whichever is the lesser. The governing board or body of each municipality may, by ordinance, enact that no plenary retail consumption license shall be granted within its respective municipality.

The holder of this license shall be permitted to obtain a restricted brewery license issued pursuant to subsection 1c. of R.S.33:1-10 and to operate a restricted brewery immediately adjoining the licensed premises in accordance with the restrictions set forth in that subsection. All fees related to the issuance of both licenses shall be paid in accordance with statutory law.

Seasonal retail consumption license. 2. The holder of this license shall be entitled, subject to rules and regulations, to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises, during the summer season from May 1 until November 14, inclusive, or during the winter season from November 15 until April 30, inclusive; but this license shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which a grocery, delicatessen, drug store or other mercantile business is carried on, except as

hereinafter provided. Subject to such rules and regulations established from time to time by the director, the holder of this license shall be permitted to sell alcoholic beverages in or upon the premises in which any of the following is carried on: the keeping of a hotel or restaurant including the sale of mercantile items incidental thereto as an accommodation to patrons; the sale of distillers', brewers' and vintners' packaged merchandise prepacked as a unit with other suitable objects as gift items to be sold only as a unit; the sale of novelty wearing apparel identified with the name of the establishment licensed under the provisions of this section; the sale of cigars, cigarettes, packaged crackers, chips, nuts and similar snacks and ice at retail as an accommodation to patrons; or the retail sale of nonalcoholic beverages as accessory beverages to alcoholic beverages. The fee for this license shall be fixed by the governing board or body of the municipality in which the licensed premises are situated, by ordinance, at 75% of the fee fixed by said board or body for plenary retail consumption licenses. The governing board or body of each municipality may, by ordinance, enact that no seasonal retail consumption license shall be granted within its respective municipality.

Plenary retail distribution license. 3. a. The holder of this license shall be entitled, subject to rules and regulations, to sell any alcoholic beverages for consumption off the licensed premises, but only in original containers; except that licensees shall be permitted to conduct consumer wine, beer, and spirits tasting events and samplings on a complimentary basis pursuant to conditions established by rules and regulations of the Division of Alcoholic Beverage Control, provided however, that the holder of this license complies with the terms and conditions set forth in section 3 of P.L.2009, c.216 (C.33:1-12d).

The governing board or body of each municipality may, by ordinance, enact that this license shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which any other mercantile business is carried on, except that any such ordinance, heretofore or hereafter adopted, shall not prohibit the retail sale of distillers', brewers' and vintners' packaged merchandise prepacked as a unit with other suitable objects as gift items to be sold only as a unit; the sale of novelty wearing apparel identified with the name of the establishment licensed under the provisions of this act; cigars, cigarettes, packaged crackers, chips, nuts and similar snacks, ice, and nonalcoholic beverages as accessory beverages to alcoholic beverages. The fee for this license shall be fixed by the governing board or body of the municipality in which the licensed premises are situated, by ordinance, at not less than $125 and not more than $2,500. No ordinance shall be enacted which shall raise or lower the fee to be charged for this license by more than 20% from that charged in the preceding license year

or $500.00, whichever is the lesser. The governing board or body of each municipality may, by ordinance, enact that no plenary retail distribution license shall be granted within its respective municipality.

Limited retail distribution license. 3. b. The holder of this license shall be entitled, subject to rules and regulations, to sell any unchilled, brewed, malt alcoholic beverages in quantities of not less than 72 fluid ounces for consumption off the licensed premises, but only in original containers; provided, however, that this license shall be issued only for premises operated and conducted by the licensee as a bona fide grocery store, meat market, meat and grocery store, delicatessen, or other type of bona fide food store at which groceries or other foodstuffs are sold at retail; and provided further that this license shall not be issued except for premises at which the sale of groceries or other foodstuffs is the primary and principal business and at which the sale of alcoholic beverages is merely incidental and subordinate thereto. The fee for this license shall be fixed by the governing body or board of the municipality in which the licensed premises are situated, by ordinance, at not less than $31 and not more than $63. The governing board or body of each municipality may, by ordinance, enact that no limited retail distribution license shall be granted within its respective municipality.

Plenary retail transit license. 4. The holder of this license shall be entitled, subject to rules and regulations, to sell any alcoholic beverages, for consumption only, on railroad trains, airplanes, limousines and boats, while in transit. The fee for this license for use by a railroad or air transport company shall be $375, for use by the owners of limousines shall be $31 per vehicle, and for use on a boat shall be $63 on a boat 65 feet or less in length, $125 on a boat more than 65 feet in length but not more than 110 feet in length, and $375 on a boat more than 110 feet in length; such boat lengths shall be determined in the manner prescribed by the Bureau of Customs of the United States Government or any federal agency successor thereto for boat measurement in connection with issuance of marine documents. A license issued under this provision to a railroad or air transport company shall cover all railroad cars and planes operated by any such company within the State of New Jersey. A license for a boat or limousine issued under this provision shall apply only to the particular boat or limousine for which issued, and shall permit the purchase of alcoholic beverages for sale or service in a boat or limousine to be made from any Class A and B licensee or from any Class C licensee whose license privilege permits the sale of alcoholic beverages in original containers for off-premises consumption. An interest in a plenary retail transit license issued in accordance

with this section shall be excluded in determining the maximum number of retail licenses permitted under P.L.1962, c.152 (C.33:1-12.31 et seq.).

Club license. 5. The holder of this license shall be entitled, subject to rules and regulations, to sell any alcoholic beverages but only for immediate consumption on the licensed premises and only to bona fide club members and their guests. The fee for this license shall be fixed by the governing board or body of the municipality in which the licensed premises are situated, by ordinance, at not less than $63 and not more than $188. The governing board or body of each municipality may, by ordinance, enact that no club licenses shall be granted within its respective municipality. Club licenses may be issued only to such corporations, associations and organizations as are operated for benevolent, charitable, fraternal, social, religious, recreational, athletic, or similar purposes, and not for private gain, and which comply with all conditions which may be imposed by the Director of the Division of Alcoholic Beverage Control by rules and regulations.

The provisions of section 23 of P.L.2003, c.117 amendatory of this section shall apply to licenses issued or transferred on or after July 1, 2003, and to license renewals commencing on or after July 1, 2003.

C.33:1-12c Definitions relative to alcoholic beverage tastings and samplings.

2. As used in this act:

"Sample" means a small amount of an alcoholic beverage.

"Sampling" means a licensee or permittee offering a sample to a consumer for the purpose of inducing or promoting a sale.

"Tasting event" means a scheduled event hosted by a licensee or permittee, at which samples may be provided, that may be open to the general public or limited by invitation.

C.33:1-12d Terms, conditions relative to consumer wine, beer and spirits tasting events and samplings.

3. The following terms and conditions shall apply to consumer wine, beer, and spirits tasting events and samplings conducted by or on the premises of the holder of a plenary retail consumption license or plenary retail distribution license:

a. Samples shall not be offered to, or allowed to be consumed by, any person under the legal age for consuming alcoholic beverages or an intoxicated person;

b. Tasting events and samplings shall not be conducted when the sale of alcoholic beverages is otherwise prohibited;

c. Tasting events and samplings shall be confined to the licensed premises;

d. In any one calendar day, each consumer shall be limited to no more than four one-and-one-half ounce samples of wine, four three ounce samples of beer, or three one-half ounce samples of spirits;

e. Any supplier, manufacturer, importer, wholesaler, solicitor, or an authorized representative licensed or permitted by the division may participate in, assist with, and promote consumer wine, beer, and spirits tasting events up to two times per month at the licensed premises, but samples shall not be served by any employee of a wholesaler. A solicitor employed by a supplier, manufacturer or importer who holds a wholesale license, or an authorized representative licensed or permitted by the division, may serve samples at a tasting event;

f. Wine, beer, and spirits used in tasting events and samplings shall be owned by the plenary retail consumption or plenary retail distribution licensee;

g. Tasting events may be advertised in any type of media, including, but not limited to, print, radio, television, Internet, and signs, and these advertisements may include the date, time, and location of the event, such as the name and address of the licensed premises and other information regarding the event; and

h. A supplier, manufacturer, importer, wholesaler, solicitor, or authorized representative licensed or permitted by the division may provide the licensee upon whose premises the tasting event will be held with permissible advertising and promotional materials for use at the event and permissible consumer novelties for distribution to the consumer attending the event.

Notwithstanding any other penalty that may be lawfully imposed, a person who violates subsections a. through h. of this section shall be fined an amount to be established by the director.

4. This act shall take effect on the first day of the fourth month after enactment.

Approved January 16, 2010.

CHAPTER 217

AN ACT concerning court appointed special advocates, amending P.L.1982, c.79 and supplementing Title 2A of the New Jersey Statutes.

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

C.2A:4A-92 "Court Appointed Special Advocate" (CASA) program.

1. a. As provided in this act, a "Court Appointed Special Advocate" (CASA) shall mean a community volunteer who has been recruited, screened, trained, and supervised by a CASA program affiliated with Court Appointed Special Advocates of New Jersey or a similar organization as determined by the Administrative Office of the Courts. An affiliate CASA program shall meet all State Court Appointed Special Advocate and National Court Appointed Special Advocate standards, and shall be affiliated with Court Appointed Special Advocates of New Jersey and the National Court Appointed Special Advocates Association.

b. There shall be established in the State of New Jersey a Court Appointed Special Advocate program which shall serve as a resource to the courts in determining the best interests of any child less than 18 years of age who has been removed from his home due to abuse or neglect. A Court Appointed Special Advocate may continue to undertake activities in furtherance of the child's best interests, in appropriate cases, until the child who is the subject of the court appointment reaches 21 years of age.

c. Pursuant to the Rules of Court, the court may appoint a special advocate from the CASA program to act on behalf of the court. The special advocate shall undertake certain activities in furtherance of the child's interests, but shall not supplant or interfere with the role of counsel or guardian ad litem for that child. Any such special advocate shall be a volunteer associated with a court-authorized CASA program. The duties and activities of a CASA program and all of its volunteers shall be subject to guidelines and standards established by the Administrative Director of the Courts.

d. A person seeking to volunteer as a Court Appointed Special Advocate shall be subject to the following:

(1) a criminal history record background check submitted by the Administrative Office of the Courts or its designee to the appropriate authorities. A copy of the results shall be provided to the affiliate CASA program. A person shall not be approved as a Court Appointed Special Advocate if criminal history record information exists on file with the Federal Bureau of Investigation or the Division of State Police which would disqualify that person from serving in that capacity, as determined by the affiliate CASA program; and

(2) a child abuse record information check conducted by the Department of Children and Families to determine if an incident of child abuse or neglect has been substantiated, pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11), against the prospective CASA volunteer. The department shall cooperate by conducting the child abuse record information check and providing the results to the affiliate CASA program.

If a prospective volunteer refuses to consent to, or cooperate in, the securing of a criminal history record background check or a child abuse record information check, the person shall not be appointed as a Court Appointed Special Advocate.

e. Upon presentation of an order of appointment, the special advocate shall be provided access to all information and records relevant to the child, including but not limited to: school records, child care records, medical records, mental health records, family court and juvenile court records, and records of the Division of Youth and Family Services in the Department of Children and Families.

f. Any special advocate or affiliate CASA program staff member acting in good faith within the scope of his appointment or employment shall have immunity from any civil or criminal liability that otherwise might result by reason of his actions or failure to act, except in cases of willful or wanton misconduct.

2. Section 1 of P.L.1982, c.79 (C.2A:4A-60) is amended to read as follows:

C.2A:4A-60 Disclosure of juvenile information; penalties for disclosure.

1. Disclosure of juvenile information; penalties for disclosure.

a. Social, medical, psychological, legal and other records of the court and probation division, and records of law enforcement agencies, pertaining to juveniles charged as a delinquent or found to be part of a juvenile-family crisis, shall be strictly safeguarded from public inspection. Such records shall be made available only to:

(1) Any court or probation division;

(2) The Attorney General or county prosecutor;

(3) The parents or guardian and to the attorney of the juvenile;

(4) The Department of Human Services or Department of Children and Families, if providing care or custody of the juvenile;

(5) Any institution or facility to which the juvenile is currently committed or in which the juvenile is placed;

(6) Any person or agency interested in a case or in the work of the agency keeping the records, by order of the court for good cause shown, except that information concerning adjudications of delinquency, records of custodial confinement, payments owed on assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or restitution ordered following conviction of a crime or adjudication of delinquency, and the juvenile's financial resources, shall be made available upon request to the Victims of

Crime Compensation Agency established pursuant to section 2 of P.L.2007, c.95 (C.52:4B-3.2), which shall keep such information and records confidential;

(7) The Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170);

(8) Law enforcement agencies for the purpose of reviewing applications for a permit to purchase a handgun or firearms purchaser identification card;

(9) Any potential party in a subsequent civil action for damages related to an act of delinquency committed by a juvenile, including the victim or a member of the victim's immediate family, regardless of whether the action has been filed against the juvenile; provided, however, that records available under this paragraph shall be limited to official court documents, such as complaints, pleadings and orders, and that such records may be disclosed by the recipient only in connection with asserting legal claims or obtaining indemnification on behalf of the victim or the victim's family and otherwise shall be safeguarded from disclosure to other members of the public. Any potential party in a civil action related to the juvenile offense may file a motion with the civil trial judge seeking to have the juvenile's social, medical or psychological records admitted into evidence in a civil proceeding for damages;

(10) Any potential party in a subsequent civil action for damages related to an act of delinquency committed by a juvenile, including the victim or a member of the victim's immediate family, regardless of whether the action has been filed against the juvenile; provided, however, that records available under this paragraph shall be limited to police or investigation reports concerning acts of delinquency, which shall be disclosed by a law enforcement agency only with the approval of the County Prosecutor's Office or the Division of Criminal Justice. Prior to disclosure, all personal information regarding all individuals, other than the requesting party and the arresting or investigating officer, shall be redacted. Such records may be disclosed by the recipient only in connection with asserting legal claims or obtaining indemnification on behalf of the victim or the victim's family, and otherwise shall be safeguarded from disclosure to other members of the public;

(11) The Office of the Child Advocate established pursuant to P.L.2005, c.155 (C.52:27EE-1 et al.). Disclosure of juvenile information received by the child advocate pursuant to this paragraph shall be in accordance with the provisions of section 76 of P.L.2005, c.155 (C.52:27EE-76);

(12) Law enforcement agencies with respect to information available on the juvenile central registry maintained by the courts pursuant to subsection g. of this section, including, but not limited to: records of official court documents, such as complaints, pleadings and orders for the purpose of obtaining juvenile arrest information; juvenile disposition information; juvenile pretrial information; and information concerning the probation status of a juvenile; and

(13) A Court Appointed Special Advocate as defined in section 1 of P.L.2009, c.217 (C.2A:4A-92).

b. Records of law enforcement agencies may be disclosed for law enforcement purposes, or for the purpose of reviewing applications for a permit to purchase a handgun or a firearms purchaser identification card to any law enforcement agency of this State, another state or the United States, and the identity of a juvenile under warrant for arrest for commission of an act that would constitute a crime if committed by an adult may be disclosed to the public when necessary to execution of the warrant.

c. At the time of charge, adjudication or disposition, information as to the identity of a juvenile charged with an offense, the offense charged, the adjudication and disposition shall, upon request, be disclosed to:

(1) The victim or a member of the victim's immediate family;

(2) (Deleted by amendment, P.L.2005, c.165).

(3) On a confidential basis, the principal of the school where the juvenile is enrolled for use by the principal and such members of the staff and faculty of the school as the principal deems appropriate for maintaining order, safety or discipline in the school or to planning programs relevant to the juvenile's educational and social development, provided that no record of such information shall be maintained except as authorized by regulation of the Department of Education; or

(4) A party in a subsequent legal proceeding involving the juvenile, upon approval by the court.

d. A law enforcement or prosecuting agency shall, at the time of a charge, adjudication or disposition, send written notice to the principal of the school where the juvenile is enrolled of the identity of the juvenile charged, the offense charged, the adjudication and the disposition if:

(1) The offense occurred on school property or a school bus, occurred at a school-sponsored function or was committed against an employee or official of the school; or

(2) The juvenile was taken into custody as a result of information or evidence provided by school officials; or

(3) The offense, if committed by an adult, would constitute a crime, and the offense:

(a) resulted in death or serious bodily injury or involved an attempt or conspiracy to cause death or serious bodily injury; or

(b) involved the unlawful use or possession of a firearm or other weapon; or

(c) involved the unlawful manufacture, distribution or possession with intent to distribute a controlled dangerous substance or controlled substance analog; or

(d) was committed by a juvenile who acted with a purpose to intimidate an individual or group of individuals because of race, color, religion, sexual orientation or ethnicity; or

(e) would be a crime of the first, second, or third degree.

Information provided to the principal pursuant to this subsection shall be maintained by the school and shall be treated as confidential but may be made available to such members of the staff and faculty of the school as the principal deems appropriate for maintaining order, safety or discipline in the school or for planning programs relevant to a juvenile's educational and social development.

e. Nothing in this section prohibits a law enforcement or prosecuting agency from providing the principal of a school with information identifying one or more juveniles who are under investigation or have been taken into custody for commission of any act that would constitute an offense if committed by an adult when the law enforcement or prosecuting agency determines that the information may be useful to the principal in maintaining order, safety or discipline in the school or in planning programs relevant to the juvenile's educational and social development. Information provided to the principal pursuant to this subsection shall be treated as confidential but may be made available to such members of the staff and faculty of the school as the principal deems appropriate for maintaining order, safety or discipline in the school or for planning programs relevant to the juvenile's educational and social development. No information provided pursuant to this section shall be maintained.

f. Information as to the identity of a juvenile adjudicated delinquent, the offense, the adjudication and the disposition shall be disclosed to the public where the offense for which the juvenile has been adjudicated delinquent if committed by an adult, would constitute a crime of the first, second or third degree, or aggravated assault, destruction or damage to property to an extent of more than $500.00, unless upon application at the time of disposition the juvenile demonstrates a substantial likelihood that specific and

extraordinary harm would result from such disclosure in the specific case. Where the court finds that disclosure would be harmful to the juvenile, the reasons therefor shall be stated on the record.

g. (1) Nothing in this section shall prohibit the establishment and maintaining of a central registry of the records of law enforcement agencies relating to juveniles for the purpose of exchange between State and local law enforcement agencies and prosecutors of this State, another state, or the United States. These records of law enforcement agencies shall be available on a 24-hour basis.

(2) Certain information and records relating to juveniles in the central registry maintained by the courts, as prescribed in paragraph (12) of subsection a. of this section, shall be available to State and local law enforcement agencies and prosecutors on a 24-hour basis.

h. Whoever, except as provided by law, knowingly discloses, publishes, receives, or makes use of or knowingly permits the unauthorized use of information concerning a particular juvenile derived from records listed in subsection a. or acquired in the course of court proceedings, probation, or police duties, shall, upon conviction thereof, be guilty of a disorderly persons offense.

i. Juvenile delinquency proceedings.

(1) Except as provided in paragraph (2) of this subsection, the court may, upon application by the juvenile or his parent or guardian, the prosecutor or any other interested party, including the victim or complainant or members of the news media, permit public attendance during any court proceeding at a delinquency case, where it determines that a substantial likelihood that specific harm to the juvenile would not result. The court shall have the authority to limit and control attendance in any manner and to the extent it deems appropriate;

(2) The court or, in cases where the county prosecutor has entered an appearance, the county prosecutor shall notify the victim or a member of the victim's immediate family of any court proceeding involving the juvenile and the court shall permit the attendance of the victim or family member at the proceeding except when, prior to completing testimony as a witness, the victim or family member is properly sequestered in accordance with the law or the Rules Governing the Courts of the State of New Jersey or when the juvenile or the juvenile's family member shows, by clear and convincing evidence, that such attendance would result in a substantial likelihood that specific harm to the juvenile would result from the attendance of the victim or a family member at a proceeding or any portion of a

proceeding and that such harm substantially outweighs the interest of the victim or family member to attend that portion of the proceeding;

(3) The court shall permit a victim, or a family member of a victim to make a statement prior to ordering a disposition in any delinquency proceeding involving an offense that would constitute a crime if committed by an adult.

j. The Department of Education, in consultation with the Attorney General, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations concerning the creation, maintenance and disclosure of pupil records including information acquired pursuant to this section.

3. This act shall take effect on the first day of the tenth month following enactment.

Approved January 16, 2010.

CHAPTER 218

AN ACT concerning the sale of certain prepaid funeral agreements and amending P.L.1997, c.322 and P.L.1993, c.147.

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

1. Section 32 of P.L.1997, c.322 (C.17:44B-32) is amended to read as follows:

C.17:44B-32 Licensure of individual insurance producers; exemption for certain agents, member of fraternal benefits societies, conditions.

32. Individuals acting as insurance producers with respect to societies shall be licensed in accordance with the provisions of the "New Jersey Insurance Producer Licensing Act of 2001," P.L.2001, c.210 (C.17:22A-26 et al.). Notwithstanding the provisions of this section or of any other law to the contrary, a license as an insurance producer shall not be required of any agent, representative or member of a fraternal benefit society who devotes, or intends to devote, less than 50 percent of his time to the solicitation and procurement of insurance contracts for that fraternal benefit society and who receives, or intends to receive, any commission or other compensation

directly dependent on the amount of insurance. Any person who in the preceding calendar year has solicited or procured any of the following contracts of insurance on behalf of a fraternal benefit society shall be presumed to have devoted, or intended to devote, 50 percent of his time to the solicitation or procurement of insurance contracts:

a. Life insurance contracts that, in the aggregate, exceed $200,000 of coverage for all lives insured for the preceding calendar year;

b. A permanent life insurance contract offering more than $10,000 of coverage on an individual life;

c. A term life insurance contract offering more than $50,000 of coverage on an individual life;

d. An insurance contract, other than a life insurance contract, that the fraternal benefit society may write that insures the individual lives of more than 25 persons;

e. Any variable life insurance or variable annuity contract; or

f. Any "funeral insurance policy" as defined in section 24 of P.L.1993, c.147 (C.17B:17-5.1).

2. Section 9 of P.L.1993, c.147 (C.45:7-90) is amended to read as follows:

C.45:7-90 Prohibitions for providers.

9. No person shall:

a. Advertise "discounts," "rebates" or other price reduction incentives:

(1) which are not actual reductions of the retail prices of a provider's current general price list; or

(2) which are based solely on a funeral insurance policy's premium rate tables.

b. In offering to provide preneed funeral arrangements or prepaid funeral agreements, use the word "trust" or "trust funded" in any name, advertisement or solicitation in a misleading manner.

c. Fund or finance preneed funeral arrangements or a prepaid funeral agreement through retail installment contracts, reverse mortgages or credit life insurance, or in any manner other than a funeral trust or funeral insurance policy.

d. Waive any provision of this act in any agreement in which a person pays money under, or in connection with, a prepaid funeral agreement. Any agreement to waive any portion of this act shall render the agreement voidable by the purchaser.

3. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 219

AN ACT establishing the Task Force on Underage Drinking in Higher Education.

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

1. a. There is established a task force to be known as the Task Force on Underage Drinking in Higher Education. The task force shall be comprised of 22 members including: the Chairman of the New Jersey Commission on Higher Education, or a designee; the Director of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety, or a designee; the Director of the Division of Highway Traffic Safety in the Department of Law and Public Safety, or a designee; the Director of the Division of Addiction Services in the Department of Human Services, or a designee; and 18 members to be appointed by the Governor. The gubernatorial appointments shall include: two college presidents; four vice-presidents or administrators of student affairs representing a county college, a State college established pursuant to chapter 64 of Title 18A of the New Jersey Statutes, an independent institution of higher education, and a public research university; a chief of police of a campus police force of an institution of higher education in the State; a chief of police of a municipal police force that is responsible for policing an institution of higher education in the State; a director of a public safety department of an institution of higher education in the State; a representative of the New Jersey Prevention Network; a representative of the New Jersey chapter of Mothers Against Drunk Driving; and two college students, two representatives of the K-12 education community, two proprietors of establishments that sell or serve alcoholic beverages on or in close proximity to a college campus, and a member of the faculty of an institution of higher education in the State who shall have knowledge of and expertise in anti-underage drinking policies and programs in the higher education setting.

b. Appointments to the task force shall be made within 30 days of the effective date of this act. Vacancies in the membership of the task force

shall be filled in the same manner as the original appointments were made. The members shall serve without compensation, but shall be reimbursed for necessary expenditures incurred in the performance of their duties as members of the task force.

c. The task force shall organize as soon as may be practicable after the appointment of its members and shall choose a chairperson from among its members and shall appoint a secretary who need not be a member of the task force. For purposes of convening a task force meeting, a quorum shall consist of six members; for purposes of adopting task force recommendations, a majority of the total task force membership shall be required.

d. The Commission on Higher Education shall provide such stenographic, clerical and other administrative assistants, and such professional staff, as the task force requires to carry out its work. The task force shall also be entitled to call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available for its purposes.

2. It shall be the duty of the task force to study and develop recommendations regarding the most effective means of combating the consumption of alcohol by underage persons in the higher education setting. The task force shall:

a. prepare an inventory of all existing partnerships in the State between institutions of higher education, law enforcement agencies, and other stakeholders to combat and respond to incidents of underage drinking in the higher education setting in order to assess the current level of collaboration;

b. review promising partnerships in other states between institutions of higher education, law enforcement agencies, and other stakeholders that are undertaken to combat and respond to incidents of underage drinking in the higher education setting and identify those partnerships that could be effectively modeled in this State;

c. review and compare the student alcohol policies of institutions of higher education in the State, including a review of sanctions for policy violations;

d. identify promising and innovative programs, practices, and policies of institutions of higher education in the State which have been implemented to combat underage drinking;

e. examine the use and impact of Good Samaritan policies, as they relate to alcohol consumption, and which are already in place at some of the State's institutions of higher education; and

f. study and review all aspects of State law relating to underage drinking.

3. The task force shall issue a final report containing its findings and recommendations, including any recommendations for legislation that it deems appropriate, no later than six months after the task force organizes, to the Governor, the President of the Senate and the Speaker of the General Assembly, and the Senate and Assembly Education Committees, or the successor committees.

4. This act shall take effect immediately and the task force shall expire on the 30th day after the issuance of its final report.

Approved January 16, 2010.

CHAPTER 220

AN ACT concerning drug testing of certain State employees and supplementing Title 30 of the Revised Statutes and Title 38A of the New Jersey Statutes.

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

C.30:4-3.27 Drug testing required for certain State employees at psychiatric hospitals, developmental centers.

1. a. As a condition of employment as a direct care staff member at a State psychiatric hospital or developmental center listed in R.S.30:1-7, an applicant for employment shall consent to and undergo drug testing for controlled dangerous substances as provided in subsection f. of this section. The drug testing shall be at the expense of the applicant.

If a person applying for employment at a State psychiatric hospital or developmental center on or after the effective date of this act tests positive for the unlawful use of any controlled dangerous substance, or refuses to submit to drug testing, the person shall be removed from consideration for employment.

b. A person who is employed at a State psychiatric hospital or developmental center as a direct care staff member shall be subject to random drug testing for controlled dangerous substances performed at such inter-

vals as the Commissioner of Human Services deems appropriate. The commissioner shall annually perform random drug tests on 500 direct care staff members.

c. A person who is employed at a State psychiatric hospital or developmental center as a direct care staff member may be required to undergo drug testing for controlled dangerous substances if the employee's immediate supervisor has reasonable suspicion to believe that the employee is illegally using a controlled dangerous substance, based on the employee's visible impairment or professional misconduct which relates adversely to patient care or safety. The supervisor shall report this information to his immediate supervisor in a form and manner specified by the commissioner, and if the supervisor concurs that there is reasonable suspicion to believe that an employee is illegally using a controlled dangerous substance, that supervisor shall notify the chief executive officer of the State psychiatric hospital or developmental center, as applicable, or other executive level officer of the hospital or developmental center designated by the commissioner, and request approval in writing for ordering the employee to undergo drug testing. Drug testing of an employee shall not be ordered without the written approval of the chief executive officer or other executive level officer designated by the commissioner.

d. An employee who tests positive for the unlawful use of any controlled dangerous substance may be referred to employee advisory services, or terminated from employment, as applicable, based on the employee's job title. An employee who refuses to submit to drug testing shall be terminated from employment. In all cases, however, the employee shall retain any available right of review by the Civil Service Commission.

e. The drug testing required pursuant to subsections b. and c. of this section shall be at the expense of the Department of Human Services.

f. Drug testing shall be performed by an outside drug testing facility in a manner prescribed by the commissioner.

g. The commissioner shall notify all affected employees of State psychiatric hospitals and developmental centers of the provisions of this section.

h. As used in this section, "direct care staff member" means a: Human Services Technician; Human Services Assistant; physician; psychiatrist; dentist; psychologist; nurse; nurse assistant; physical, occupational, or speech therapist; social worker; and any other staff member employed by a State psychiatric hospital or developmental center who provides direct care to a patient or resident at the facility, as determined by the commissioner.

i. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall adopt rules and regulations

necessary to effectuate the purposes of this act, including, but not limited to, those rules and regulations necessary to ensure the confidentiality of the person undergoing drug testing, and that drug test results are not reported to law enforcement authorities.

C.38A:3-2b5 Drug testing required for certain employees of veterans memorial homes.

2. a. As a condition of employment as a direct care staff member at a New Jersey veterans memorial home, an applicant for employment shall consent to and undergo drug testing for controlled dangerous substances as provided in subsection f. of this section. The drug testing shall be at the expense of the applicant.

If a person applying for employment at a New Jersey veterans memorial home on or after the effective date of this act tests positive for the unlawful use of any controlled dangerous substance, or refuses to submit to drug testing, the person shall be removed from consideration for employment.

b. A person who is employed at a New Jersey veterans memorial home as a direct care staff member shall be subject to random drug testing for controlled dangerous substances performed at such intervals as the Adjutant General deems appropriate. The Adjutant General shall annually perform random drug tests on 100 direct care staff members.

c. A person who is employed at a New Jersey veterans memorial home as a direct care staff member may be required to undergo drug testing for controlled dangerous substances if the employee's immediate supervisor has reasonable suspicion to believe that the employee is illegally using a controlled dangerous substance, based on the employee's visible impairment or professional misconduct which relates adversely to patient care or safety. The supervisor shall report this information to his immediate supervisor in a form and manner specified by the Adjutant General, and if the supervisor concurs that there is reasonable suspicion to believe that an employee is illegally using a controlled dangerous substance, that supervisor shall notify the chief executive officer of the New Jersey veterans memorial home, or other executive level officer of the veterans memorial home designated by the Adjutant General, and request approval in writing for ordering the employee to undergo drug testing. Drug testing of an employee shall not be ordered without the written approval of the chief executive officer or other executive level officer designated by the Adjutant General.

d. An employee who tests positive for the unlawful use of any controlled dangerous substance may be referred to employee advisory services, or terminated from employment, as applicable, based on the employee's job title. An employee who refuses to submit to drug testing shall be termi-

nated from employment. In all cases, however, the employee shall retain any available right of review by the Civil Service Commission.

e. The drug testing required pursuant to subsections b. and c. of this section shall be at the expense of the Department of Military and Veterans' Affairs.

f. Drug testing shall be performed by an outside drug testing facility in a manner prescribed by the Adjutant General.

g. The Adjutant General shall notify all affected employees of New Jersey veterans memorial homes of the provisions of this section.

h. As used in this section, "direct care staff member" means a: Human Services Technician; Human Services Assistant; physician; psychiatrist; dentist; psychologist; nurse; nurse assistant; physical, occupational, or speech therapist; social worker; and any other staff member employed by a veterans memorial home who provides direct care to a resident at the facility, as determined by the Adjutant General.

i. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Adjutant General shall adopt rules and regulations necessary to effectuate the purposes of this act, including, but not limited to, those rules and regulations necessary to ensure the confidentiality of the person undergoing drug testing, and that drug test results are not reported to law enforcement authorities.

3. This act shall take effect on the 90th day after the date of enactment, but the Commissioner of Human Services and the Adjutant General may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 16, 2010.

CHAPTER 221

AN ACT concerning continuing education for dentists and amending and supplementing P.L.1991, c.490.

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

C.45:6-10.10 Definitions relative to continuing education for dentists.

1. For the purposes of P.L.1991, c.490 (C.45:6-10.1 et seq.) and this 2009 amendatory and supplementary act:

"Core continuing dental education" means any minimum continuing education hours in specified subjects determined by the board that shall be completed to satisfy the biennial continuing education requirement applicable to dentists pursuant to P.L.1991, c.490 (C.45:6-10.1 et seq.).

"Eligible person" means: (1) any person under the age of 19 whose parent or guardian attests that he meets the eligibility requirements for, and is enrolled in, the NJ FamilyCare Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et seq.); (2) a child who is in the custody of the Division of Youth and Family Services in the Department of Children and Families; or (3) any person who attests that he meets the eligibility requirements for, and is enrolled in, the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), the Pharmaceutical Assistance to the Aged and Disabled program established pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), or the Senior Gold Prescription Discount Program established pursuant to P.L.2001, c.96 (C.30:4D-43 et seq.).

"Volunteer dental service" means dental care provided, without charge, to an eligible person, or to a minor in a primary school, secondary school, or other school setting, or to a patient through a dental clinic as defined by section 1 of P.L.1951, c.199 (C.45:6-15.1), in accordance with the standards, procedures, requirements, and limitations as may be established by the board.

2. Section 1 of P.L.1991, c.490 (C.45:6-10.1) is amended to read as follows:

C.45:6-10.1 Continuing dental education required.

1. The New Jersey State Board of Dentistry shall require each person licensed as a dentist, as a condition for biennial registration pursuant to R.S.45:6-10 and P.L.1972, c.108 (C.45:1-7), to complete a requisite number of credits of continuing dental education, as determined by the board pursuant to section 2 of P.L.1991, c.490 (C.45:6-10.2) during each biennial registration period.

3. Section 2 of P.L.1991, c.490 (C.45:6-10.2) is amended to read as follows:

C.45:6-10.2 Standards for continuing education.

2. a. The board shall:

(1) Establish standards for continuing dental education, including the subject matter and content of courses of study, and may establish any core

continuing dental educational requirements pursuant to subsection c. of this section that all licensees shall complete as a condition of biennial licensure;

(2) Accredit educational and other programs offering credit towards the continuing dental education requirements; and

(3) Accredit other equivalent educational programs, including, but not limited to, meetings of constituents and components of dental professional associations recognized by the board, examinations, papers, publications, scientific presentations, teaching and research appointments, table clinics and scientific exhibits, and shall establish procedures for the issuance of credit upon satisfactory proof of the completion of these programs.

b. In the case of education courses or programs, each hour of instruction shall be equivalent to one credit.

c. The board may, in its discretion, delineate specific topics of dental education for any biennial renewal period or periods as core continuing dental education requirements that the board deems necessary to address developments in science or technology or particular issues or problems. The board shall provide notification of the specific topics and the registration periods to which those requirements apply by direct communication to licensees or through electronic media.

4. Section 3 of P.L.1991, c.490 (C.45:6-10.3) is amended to read as follows:

C.45:6-10.3 Compliance and evaluation.

3. The board may:

a. Establish procedures for monitoring compliance with the continuing dental education requirements; and

b. Establish procedures to evaluate and grant approval to providers of continuing dental education courses and programs.

5. Section 4 of P.L.1991, c. 490 (C.45:6-10.4) is amended to read as follows:

C.45:6-10.4 Hardship waivers, waivers for certain volunteers.

4. a. The board may in its discretion, waive requirements for continuing dental education on an individual basis for reasons of hardship such as illness or disability, retirement of the license, or other good cause.

b. The board may, in its discretion, waive up to one half of the biennial continuing dental education requirements for a licensee who renders volunteer dental services to eligible persons, provided that core continuing

dental educational requirements, if any, shall not be waived for this purpose; and one half-hour of one continuing dental education credit hour shall be waived for each hour of volunteer dental service.

6. This act shall take effect on the first day of the seventh month next following enactment, but the New Jersey State Board of Dentistry may take any anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 16, 2010.

CHAPTER 222

AN ACT concerning police training 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-71.10 Definitions relative to police training.

1. a. As used in this act:

"Approved school" means a school approved and authorized by the Police Training Commission to give police training courses.

"Basic course" means an entry-level police training course designed for trainees.

"Commission" means the Police Training Commission established pursuant to section 5 of P.L.1961, c.56 (C.52:17B-70).

b. Notwithstanding the provisions of any statute, rule or regulation to the contrary, an approved school located in a city of the first class or a city of the second class having a population of not less than 85,000 or more than 150,000 according to the 2000 federal decennial census may continue operations so long as that school conducts a minimum of one basic course annually.

2. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 223

AN ACT establishing a Community Service Phase Two Pilot Enhancement Program in the Department of Education.

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

1. The Legislature finds and declares that:

a. P.L.2005, c.220, approved in September of 2005, established a community service pilot program for high school juniors;

b. Under the pilot program, the Commissioner of Education selected 30 pilot schools, and high school juniors within those schools completed a minimum of 15 hours of community service during the evenings, on weekends, or during the summer;

c. The purpose of the program was to evaluate whether the establishment of a service requirement for high school students would provide young people with an opportunity to help them mature into responsible citizens with strong social and moral values, and to determine the advisability of the pilot program's continuation and expansion to all high schools within the State;

d. Students in the pilot districts participated in a wide array of community service activities such as mentoring programs, senior citizen support programs, and environmental awareness programs, and offered their services in diverse settings such as food banks, soup kitchens, nursing homes, and animal welfare shelters;

e. The schools that participated in the pilot program acknowledged the positive outcomes of including a service requirement for high school students and identified certain barriers that may have prevented certain pilot schools from implementing the program more successfully;

f. On January 14, 2009, the commissioner, in accordance with the requirements of P.L.2005, c.220, issued a report to the Legislature that included recommendations concerning the continuation of a high school service program and possible changes to such a program based on the lessons learned from the initial pilot program; and

g. The commissioner's report recommended that prior to expanding a service requirement to all high schools in the State a Community Service Phase Two Pilot Enhancement Program be established specifically geared to reflect suggested modifications based on the experience gained and the data collected from the initial pilot program.

2. a. The Commissioner of Education, in consultation with the Secretary of State, shall establish a four-year Community Service Phase Two Pilot Enhancement Program. Under the pilot program, a student who enters grade nine in the 2010-2011 school year in a selected pilot school shall complete a minimum of 20 hours of community service over the four years of high school. The student:

(1) may complete the community service requirement during the evenings, on weekends, during the summer, or during school hours. The service activities may take place on or off campus;

(2) may complete the community service requirement with a non-profit agency or organization, a public agency or institution, a non-profit or for-profit health care facility, or any other community organization which the commissioner deems appropriate; and

(3) shall not receive compensation for community service or substitute employment for the service requirement.

b. The commissioner shall select 15 schools to participate in the pilot program based upon the commissioner's evaluation of the school's ability to successfully implement the program. In selecting the schools to participate, the commissioner shall include urban and suburban schools, and shall select five schools in each of the northern, central, and southern regions of the State. The board of education of the school district of a selected school may choose not to participate in the pilot program.

The commissioner shall ensure that the program includes a data collection component in order to determine strategies that would be most effective for implementing a Statewide program.

c. The commissioner shall authorize the board of education of a school district in which a selected school is located to exempt a student from all or part of the community service requirement if, in the judgment of the board, the requirement would result in undue hardship for the student. In addition, the commissioner may authorize the board of education to exempt a student who is classified pursuant to chapter 46 of Title 18A of the New Jersey Statutes from all or part of the service required pursuant to the pilot program if, in the judgment of the board, the performance of that service would be inconsistent with the Individual Education Plan of that student.

3. No school district or employee shall be held liable for any good faith act or omission consistent with the provisions of this act. Good faith shall not include willful misconduct, gross negligence, or recklessness.

4. The commissioner shall periodically review the progress of the Community Service Phase Two Pilot Enhancement Program to ensure that the program is achieving the intended goals, and shall report to the Governor and Legislature by December, 2014 on the effectiveness of the pilot program. The report shall include a recommendation on the advisability of the pilot program's continuation and expansion to all high schools within the State.

5. Nothing in this act shall be construed to exempt the agencies, organizations, and institutions which permit high school students to perform community service from complying with child labor laws pursuant to P.L.1940, c.153 (C.34:2-21.1 et seq.).

The commissioner shall consult with the Division of Wage and Hour Compliance in the Department of Labor and Workforce Development to ensure that the pilot program is in compliance with all relevant federal and State child labor laws and regulations.

6. The State Board of Education shall adopt 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.

7. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 224

AN ACT concerning certain motor vehicle surcharges, amending R.S.39:3-40, and supplementing Title 39 of the Revised Statutes

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 at least one but 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 and 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 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) In addition to any penalty imposed under the provisions of subsections a. through e. of this section, 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) In addition to any penalty imposed under 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) In addition to any penalty imposed under 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. (Deleted by amendment, P.L.2009, c.224);

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) or for failure to comply with a time payment order, the violator shall be subject to a maximum fine of $100 upon proof that the violator has paid all fines and other assessments related to the parking violation that were the subject of the Order of Suspension, or if the violator makes sufficient payments to become current with respect to payment obligations under the time payment order;

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 chief administrator pursuant to section 1 of P.L.1982, c.43 (C.39:5-30.5).

C.39:2A-42 Promotional payment incentives.

2. a. Notwithstanding the provisions of any other law to the contrary, no later than six months from the date of enactment of this act, and periodically thereafter, the Chief Administrator of the New Jersey Motor Vehicle Commission shall establish promotional payment incentives and shall offer such incentives to any driver who has failed to pay any motor vehicle surcharges levied pursuant to paragraph (1) or paragraph (3) of subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35) or who has been authorized by the chief administrator to pay a surcharge levied pursuant to paragraph (1)

or paragraph (3) of subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35) on an installment basis. The promotional payment incentives afforded under this subsection shall not apply to surcharges levied pursuant to paragraph (2) of subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35) nor shall any driver who has any outstanding surcharges levied pursuant to that paragraph be eligible to participate in any promotional payment incentives established by the chief administrator.

Promotional payment incentives may include, but need not be limited to, waivers of down payments necessary to satisfy any surcharge suspension, waivers of interest for the payment of the full principal amount of any surcharges owed to the chief administrator, or any other incentive that the chief administrator establishes.

b. All monies collected pursuant to the provisions of this section shall be remitted to the "Motor Vehicle Surcharges Revenue Fund," established pursuant to section 6 of P.L.2004, c.70 (C.34:1B-21.28).

3. This act shall take effect immediately but the Chief Administrator of the New Jersey Motor Vehicle Commission may take such anticipatory administrative action as shall be necessary for the implementation of this act.

Approved January 16, 2010.

CHAPTER 225

AN ACT concerning the construction of school facilities projects and supplementing P.L.2000, c.72 (C.18A:7G-1 et al.).

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

C.18A:7G-41.1 Definitions relative to construction of school facilities projects; competition for contracts.

1. a. As used in this section:

"affiliate" means any firm or person having an overt or covert relationship such that any one of them directly or indirectly controls or has power to control another;

"firm" or "person" means any natural person, association, company, contractor, corporation, joint stock company, limited liability company, partnership, sole proprietorship, or other business entity, including their assignees, lessees, receivers, or trustees.

b. The New Jersey Schools Development Authority shall not restrict the ability of a firm or person that holds a valid classification or a valid prequalification, as applicable, issued by the Division of Property Management and Construction in the Department of the Treasury from competing for contracts or other work in any of the construction categories or trades or specific professional disciplines for which the firm or person holds a classification or prequalification.

Nothing in this section shall be construed to prohibit the development authority from requiring the prequalification of a firm or person by the development authority in accordance with the provisions of section 59 of P.L.2000, c.72 (C.18A:7G-33).

c. Notwithstanding any provision of subsection b. of this section to the contrary, a firm or person or an affiliate thereof shall not serve as a general contractor or as a subcontractor or as a subconsultant on an authority project for which the firm or person serves as the construction manager.

2. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 226

AN ACT concerning certain wage withholdings, amending P.L.1965, c.173.

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

1. Section 4 of P.L.1965, c.73 (C.34:11-4.4) is amended to read as follows:

C.34:11-4.4 Withholding from wages.

4. No employer may withhold or divert any portion of an employee's wages unless:

a. The employer is required or empowered to do so by New Jersey or United States law; or

b. The amounts withheld or diverted are for:

(1) Contributions authorized either in writing by employees, or under a collective bargaining agreement, to employee welfare, insurance, hospitali-

zation, medical or surgical or both, pension, retirement, and profit-sharing plans, and to plans establishing individual retirement annuities on a group or individual basis, as defined by section 408 (b) of the federal Internal Revenue Code of 1986 (26 U.S.C.s.408(b)), or individual retirement accounts at any State or federally chartered bank, savings bank, or savings and loan association, as defined by section 408 (a) of the federal Internal Revenue Code of 1986 (26 U.S.C.s.408(a)), for the employee, his spouse or both.

(2) Contributions authorized either in writing by employees, or under a collective bargaining agreement, for payment into company-operated thrift plans; or security option or security purchase plans to buy securities of the employing corporation, an affiliated corporation, or other corporations at market price or less, provided such securities are listed on a stock exchange or are marketable over the counter.

(3) Payments authorized by employees for payment into employee personal savings accounts, such as payments to a credit union, savings fund society, savings and loan or building and loan association; and payments to banks for Christmas, vacation, or other savings funds; provided all such deductions are approved by the employer.

(4) Payments for company products purchased in accordance with a periodic payment schedule contained in the original purchase agreement; payments for employer loans to employees, in accordance with a periodic payment schedule contained in the original loan agreement; payments for safety equipment; payments for the purchase of United States Government bonds; payments to correct payroll errors; and payments of costs and related fees for the replacement of employee identification, which is used to allow employees access to sterile or secured areas of airports, in accordance with a fee schedule described in any airline media plan approved by the federal Transportation Security Administration; provided all such deductions are approved by the employer.

(5) Contributions authorized by employees for organized and generally recognized charities; provided the deductions for such contributions are approved by the employer.

(6) Payments authorized by employees or their collective bargaining agents for the rental of work clothing or uniforms or for the laundering or dry cleaning of work clothing or uniforms; provided the deductions for such payments are approved by the employer.

(7) Labor organization dues and initiation fees, and such other labor organization charges permitted by law.

(8) Contributions authorized in writing by employees, pursuant to a collective bargaining agreement, to a political committee, continuing political committee, or both, as defined in section 3 of P.L.1973, c.83 (C.19:44A-3), established by the employees' labor union for the purpose of making contributions to aid or promote the nomination, election or defeat of any candidate for a public office of the State or of a county, municipality or school district or the passage or defeat of any public question, subject to the conditions specified in section 2 of P.L.1991, c.190 (C.34:11-4.4a).

(9) Contributions authorized in writing by employees to any political committee or continuing political committee, other than a committee provided for in paragraph (8) of this subsection, for the purpose of making contributions to aid or promote the nomination, election or defeat of any candidate for a public office of the State or of a county, municipality or school district or the passage or defeat of any public question, subject to the conditions specified in section 2 of P.L.1991, c.190 (C.34:11-4.4a); in making a payroll deduction pursuant to this paragraph the administrative expenses incurred by the employer shall be borne by such committee, at the option of the employer.

(10) Payments authorized by employees for employer-sponsored programs for the purchase of insurance or annuities on a group or individual basis, if otherwise permitted by law.

(11) Such other contributions, deductions and payments as the Commissioner of Labor and Workforce Development may authorize by regulation as proper and in conformity with the intent and purpose of this act, if such deductions are approved by the employer.

2. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 227

AN ACT concerning certain teaching paraprofessionals 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:27-10.1 Findings, declarations relative to teaching paraprofessionals.

1. The Legislature finds and declares that as school districts that receive federal funding under Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. s.6301 et seq.) come under greater pressure to meet standards and demonstrate higher student performance, teachers in those districts are being forced to focus more on curriculum and student test preparation. In response to this pressure, the paraprofessionals that assist teachers are assuming greater responsibility for supporting students in the classroom and the school environment. Paraprofessionals perform a critically important role in providing a thorough and efficient education to the State's public school students. It is therefore fitting and proper to establish measures to enhance employment stability and promote professional development for these individuals.

C.18A:27-10.2 Contract, written notice relative to employment of paraprofessional.

2. a. As used in this section, "paraprofessional" means an individual who is employed in a school district as a school aide or classroom aide who assists a teaching staff member with the supervision of pupil activities.

b. On or before May 15 in each year, a paraprofessional continuously employed since the preceding September 30 in a school district that receives funding under Title I of the federal Elementary and Secondary Education Act of 1965 (20 U.S.C. s. 6301 et seq.) shall receive either:

(1) a written offer of a contract for employment from the board of education for the next succeeding year providing for at least the same terms and conditions of employment but with such increases in salary as may be required by law or policies of the board of education; or

(2) a written notice from the chief school administrator that employment will not be offered.

C.18A:27-10.3 Dismissal, reduction in compensation; conditions.

3. a. As used in this section, "paraprofessional" means an individual who is employed in a school district as a school aide or classroom aide who assists a teaching staff member with the supervision of pupil activities.

b. A paraprofessional employed in a school district that receives funding under Title I of the federal Elementary and Secondary Education Act of 1965 (20 U.S.C. s.6301 et seq.) shall be dismissed or reduced in compensation during the term of a contract only for just cause, and may not be dismissed for arbitrary or capricious reasons. A paraprofessional who is dismissed or reduced in compensation shall receive notice of the basis for the dismissal or reduction in compensation and have an opportunity to be heard.

c. Nothing is this section shall be construed to grant tenure to a paraprofessional, interfere with the provisions of a collective bargaining agreement, or affect any other right or remedy that may be available to a school district or paraprofessional pursuant to law.

C.18A:27-10.4 Student teaching performed in district of employment.

4. a. As used in this section, "paraprofessional" means an individual who is employed in a school district as a school aide or classroom aide who assists a teaching staff member with the supervision of pupil activities.

b. Prior to the beginning of the first full academic year following the enactment of P.L.2009, c.227 (C.18A:27-10.1 et seq.), a regionally-accredited institution of higher education offering coursework for a New Jersey instructional certificate shall adopt policies and procedures to allow a student who is enrolled in a teacher preparation program offered by the institution and who is a paraprofessional employed in a school district that receives funding under Title I of the federal Elementary and Secondary Education Act of 1965 (20 U.S.C. s.6301 et seq.) to perform his student teaching experience in the district in which he is employed. The institution shall enter into an agreement with the district in which the paraprofessional is employed to authorize the student teaching.

c. Prior to the beginning of the first full school year following the enactment of P.L.2009, c.227 (C.18A:27-10.1 et seq.), a school district that receives funding under Title I of the federal Elementary and Secondary Education Act of 1965 (20 U.S.C. s.6301 et seq.) shall adopt policies and procedures to allow a paraprofessional who is employed by the district and who is enrolled in a teacher preparation program at a regionally-accredited institution of higher education to perform his student teaching experience in the district. The district shall enter into an agreement with the institution of higher education in which the paraprofessional is enrolled to authorize the student teaching experience in the district.

d. A school district that receives funding under Title I of the federal Elementary and Secondary Education Act of 1965 (20 U.S.C. s.6301 et seq.) shall provide, if feasible, a paraprofessional who is student teaching in the district pursuant to this section with a modified work schedule that enables the paraprofessional to complete the student teaching experience while employed as a paraprofessional.

5. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 228

AN ACT establishing the New Jersey Reading Disabilities Task Force.

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

1. The Legislature finds and declares that:

a. Approximately 85% of all children who receive special education services have basic deficits in language and reading; and

b. Many students with reading disabilities are never properly diagnosed and do not receive the necessary specialized educational programs; and

c. It is in the public interest for the State to establish a New Jersey Reading Disabilities Task Force to study instructional practices and strategies that benefit students with reading disabilities and examine the ways in which current State policies affect this population.

2. a. There is hereby established the New Jersey Reading Disabilities Task Force. The purpose of the task force shall be to study and evaluate practices for diagnosing, treating, and educating children with reading disabilities and examine how current statutes and regulations affect these students in order to develop recommendations to be presented to the Governor and Legislature.

b. The task force shall consist of 13 members as follows:

(1) the Commissioners of Education and Human Services, or their designees, who shall serve ex officio;

(2) 11 members who shall be appointed no later than the 30th day after the effective date of this act, as follows:

(a) five persons appointed by the Governor, who shall include: one person upon the recommendation of the New Jersey branch of the Learning Disabilities Association of America; one person upon the recommendation of the New Jersey branch of the International Dyslexia Association; one person upon the recommendation of the New Jersey Speech-Language-Hearing Association; one person upon the recommendation of the New Jersey Education Association; and one member of the public with demonstrated expertise in issues relating to the work of the task force;

(b) two members of the Senate, appointed by the President of the Senate, no more than one of whom shall be of the same political party;

(c) two members of the General Assembly, appointed by the Speaker of the General Assembly, no more than one of whom shall be of the same political party; and

(d) two members of the public, one selected by the President of the Senate and one selected by the Speaker of the General Assembly, with demonstrated expertise in issues relating to the work of the task force.

Vacancies in the membership of the task force shall be filled in the same manner provided by the original appointments.

c. The Commissioner of Education, or the commissioner's designee, shall serve as the chairperson of the task force. The task force shall organize as soon as practicable following the appointment of its members and shall select a vice-chairperson from among its members. The chairperson shall appoint a secretary who need not be a member of the task force.

d. The public members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties and within the limits of funds available to the task force.

e. The task force shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county, or municipal department, board, bureau, commission, or agency as it may require and as may be available to it for its purposes.

f. The task force may meet and hold hearings at the places it designates during the sessions or recesses of the Legislature.

3. The task force shall report its findings and recommendations to the Governor, and to the Legislature pursuant to section 2 of P.L. 1991, c.164 (C.52:14-19.1), along with any legislative bills that it desires to recommend for adoption by the Legislature, no later than 12 months after the initial meeting of the task force.

4. This act shall take effect immediately and shall expire upon the issuance of the task force report.

Approved January 16, 2010.

CHAPTER 229

AN ACT concerning landscape irrigation contractors and amending and supplementing P.L.1991, c.27.

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

1. Section 2 of P.L.1991, c.27 (C.45:5AA-2) is amended to read as follows:

C.45:5AA-2 Definitions.

2. As used in this act:

a. "Board" means the Landscape Irrigation Contractors Examining Board established pursuant to section 5 of P.L.1991, c.27 (C.45:5AA-5).

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

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

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

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

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

g. "Business permit" means the permit issued by the board to a person allowing the person to engage in the business of landscape irrigation contracting, pursuant to the provisions of P.L.1991, c.27 (C.45:5AA-1 et seq.).

h. "Person" means any natural person, corporation, company, partnership, firm, association, and any owner or operator of a permittee.

i. "Permittee" means a person who has secured a business permit to engage in the business of landscape irrigation contracting, pursuant to the provisions of P.L.1991, c.27 (C.45:5AA-1 et seq.).

2. Section 3 of P.L.1991, c.27 (C.45:5AA-3) is amended to read as follows:

C.45:5AA-3 Business permit, certification for landscape irrigation contractors.

3. a. No person shall advertise, enter into or engage in the business of landscape irrigation contracting unless the person has first secured a business permit from the board and such person or an officer, partner or employee who is or will be actively engaged in the business for which a business permit is sought has obtained a landscape irrigation contractor certificate from the board in accordance with the provisions of P.L.1991, c.27 (C.45:5AA-1 et seq.), and such certified landscape irrigation contractor shall assume full responsibility for inspection and supervision of all landscape irrigation contracting work to be performed by the permittee. If a permittee or business permit applicant employs more than one certified landscape irrigation contractor, the permittee or business permit applicant shall designate which certified landscape irrigation contractor shall assume full responsibility for inspection and supervision of all landscape irrigation contracting work to be performed by the permittee. Any single act or transaction, including the advertising of available services, shall constitute engaging in the business of landscape irrigation contracting. A certified landscape irrigation contractor shall not be entitled to qualify more than one person for a business permit.

b. Officers, employees, and duly authorized representatives of the United States, the State, or any political subdivision thereof performing work on the property of the public entity; vendors of landscape irrigation components, materials, or equipment who perform only such functions as delivery, rendering of advice or assistance in the installation or normal warranty service or exchange of defective or damaged goods; contractors engaged in the design, fabrication, installation or construction of irrigation apparatus, or irrigation equipment of any type which is to be used solely for agricultural purposes in the production of harvestable and saleable vegetative or animal products; plumbing contractors as defined by section 2 of P.L.1968, c.362 (C.45:14C-2); and employees engaged in landscape irrigation contracting for a permittee which has at least one certified landscape irrigation contractor, are exempt from the requirement of a certificate imposed by this act.

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

d. (1) Landscape contractors are exempt from obtaining a certificate as provided in P.L.1991, c.27 (C.45:5AA-1 et seq.) when replacing sprinkler

heads damaged during lawn mowing or grounds maintenance or when making minor incidental repairs to sprinkler piping damaged during landscape construction.

(2) The exemption provided in paragraph (1) of this subsection shall not apply to the installation of automatic controllers, electric or hydraulic control valves, drip irrigation systems and micro-irrigation systems, or to the performance of irrigation system service or maintenance.

e. Golf course employees performing work on landscape irrigation systems on the golf course where they are currently employed, are exempt from obtaining a certificate as provided in P.L.1991, c.27 (C.45:5AA-1 et seq.).

f. A business permit shall not be required in connection with landscape irrigation contracting performed by an employee of a community association for the community association's landscape irrigation system. For purposes of this subsection, "community association" means a condominium, homeowner, fee simple, cooperative or other community association.

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

3. Section 4 of P.L.1991, c.27 (C.45:5AA-4) is amended to read as follows:

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

4. A person seeking certification as a landscape irrigation contractor shall apply therefor on forms prescribed and provided by the board, and pay the application fee established by the board. In addition to any other information or documents that may be required by the board, each applicant shall submit satisfactory evidence that the applicant is at least 18 years of age, has no unresolved violations with the board and has a minimum of three years' experience within the last 15 years in the field of landscape irrigation. Field experience acquired after January 1, 1997 must comply with the requirements of P.L.1991, c.27 (C.45:5AA-1 et seq.).

4. Section 5 of P.L.1991, c.27 (C.45:5AA-5) is amended to read as follows:

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

5. a. There is established in the Department of Environmental Protection the Landscape Irrigation Contractors Examining Board, which shall

consist of seven members, as follows: the Commissioner of Environmental Protection, or the commissioner's designated representative, who shall serve ex officio; five public members who shall be landscape irrigation contractors and residents of the State; and one public member who shall be a licensed professional engineer or certified landscape architect. Each of the public members shall be appointed by the Governor with the advice and consent of the Senate, for terms of three years. Each of these members shall hold office for the term of the appointment and until a successor is appointed and qualified. Any vacancy in the membership occurring other than by expiration of a term shall be filled in the same manner as the original appointment, but for the unexpired term only.

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

c. The powers of the board are vested in the members thereof in office, and a majority of the total authorized membership of the board is required to exercise its powers at any meeting thereof; provided however, that if a board member has resigned or otherwise vacated his or her membership appointment before the expiration of his or her term, or if a board member does not serve after the expiration of his or her term pending the appointment of a successor, then, until such vacancies are filled, a majority of the currently serving membership of the board is required to exercise its powers at any meeting thereof.

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

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

5. Section 6 of P.L.1991, c.27 (C.45:5AA-6) is amended to read as follows:

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

6. The board shall:

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

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

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

d. Refuse to issue or renew or shall suspend or revoke a certificate issued under this act pursuant to section 8 of P.L.1991, c.27 (C.45:5AA-8);

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

f. Require continuing education for certified landscape irrigation contractors as provided in section 10 of P.L.2009, c.229 (C.45:5AA-7.1);

g. Review applications for a business permit;

h. Issue a business permit to a person engaged in the business of landscape irrigation contracting and define any restrictions or requirements regarding the use of that permit;

i. Allow a person to continue to engage in landscape irrigation contracting for a period of up to 180 calendar days after the death, disability or cessation of employment of the responsible certificate holder who qualified the person for a business permit when the board is notified within 30 days of such an occurrence;

j. Refuse to issue or renew a business permit or suspend or revoke a business permit in accordance with section 8 of P.L.1991, c.27 (C.45:5AA-8);

k. Establish procedures for the registry of a business permit for each person engaged in the business of landscape irrigation contracting;

l. Maintain a registry of landscape irrigation contracting business permits which shall include the permittee's name, trade name, business permit number, federal and State tax identification numbers, landscape irrigation contractor's certificate name and certification number, street address and mailing address of the permittee, phone number of the permittee, and other information the board deems necessary;

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

n. Adopt, pursuant to the "Administrative Procedure Act," fees for examinations, applications and renewals of certificates or business permits, and administrative costs associated with verifying continuing education requirements. These fees shall be prescribed or changed to the extent necessary to defray the expenses incurred by the board in the performance of its duties but shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

6. Section 7 of P.L.1991, c.27 (C.45:5AA-7) is amended to read as follows:

C.45:5AA-7 Development of qualifying examination; renewal, granting of business permit, certificate.

7. a. The board shall develop an examination to evaluate the knowledge, ability, and fitness of applicants to perform as landscape irrigation contractors and for the certification thereof and shall administer these examinations at least semi-annually at times and places to be determined by the board. The board shall provide adequate written notice of the time and place of the examination. An applicant who fails an examination may not retake the examination sooner than six months after the initial examination. The board shall issue a certificate to an applicant who successfully passes the examination and otherwise meets the standards and qualifications established by the board.

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

c. A person may seek renewal of a certificate upon submission of a renewal application, proof of having obtained any required continuing education credits and payment of the renewal fee established by the board.

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

e. Each application for a business permit or its renewal shall be accompanied by proof of liability insurance, and workers' compensation insurance if workers' compensation insurance is required by law, and the appropriate fee. The applicant or permittee shall notify the board of any insurance changes.

f. The board may, upon payment of appropriate fees, grant landscape irrigation contractors certificates without examination or upon partial examination to applicants licensed or certified by other states; provided that New Jersey landscape irrigation contractors are granted reciprocity by those states and those states' standards are equal or comparable to those of New Jersey.

7. Section 8 of P.L.1991, c.27 (C.45:5AA-8) is amended to read as follows:

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

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

(1) Has obtained a certificate or business permit or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;

(2) Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;

(3) Has engaged in gross negligence or gross incompetence;

(4) Has engaged in repeated acts of negligence or incompetence;

(5) Has engaged in occupational misconduct as may be determined by the board;

(6) Has been convicted of any crime involving moral turpitude or any crime relating adversely to the activity regulated by the board. For the purpose of this paragraph a plea of guilty, non vult, nolo contendere or any other similar disposition of alleged criminal activity shall be deemed a conviction;

(7) Has had his authority to engage in the activity regulated by the board revoked or suspended by any other state, agency or authority for reasons consistent with this section;

(8) Has violated or failed to comply with the provisions of this act;

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

(10) Has failed to comply with the continuing education requirements as provided in section 10 of P.L.2009, c.229 (C.45:5AA-7.1).

b. The board shall afford a landscape irrigation contractor or person holding a business permit an opportunity for hearing before a certificate or business permit is revoked. The board shall afford a landscape irrigation contractor or person holding a business permit an opportunity for hearing after issuing an order to suspend a certificate or business permit, issued pursuant to section 10 of P.L.1991, c.27 (C.45:5AA-10).

8. Section 9 of P.L.1991, c.27 (C.45:5AA-9) is amended to read as follows:

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

9. a. If any person violates any provisions of P.L.1991, c.27 (C.45:5AA-1 et seq.), or any code, rule, regulation, or order adopted or issued pursuant

thereto, the board may institute a civil action in a court of competent jurisdiction for injunctive or any other appropriate relief to prohibit and prevent a violation or violations and the court may proceed in the action in a summary manner.

b. If any person violates the provisions of P.L.1991, c.27 (C.45:5AA-1 et seq.) or any code, rule, regulation or order adopted or issued pursuant thereto, the board may assess a civil administrative penalty of not more than $2,500 for the first offense and not more than $5,000 for the second and each subsequent offense. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense. No civil administrative penalty shall be levied except upon an administrative order issued pursuant to section 10 of P.L.1991, c.27 (C.45:5AA-10).

c. The board is authorized and empowered to compromise and settle any claim for a penalty in such amount in the discretion of the board as is appropriate and equitable under all circumstances.

d. Any person who violates a provision of P.L.1991, c.27 (C.45:5AA-1 et seq.) or any code, rule, regulation, or order adopted or issued pursuant thereto, or a court order issued pursuant to subsection a. of this section, or who fails to pay a civil administrative penalty in full pursuant to subsection b. of this section, is subject, upon order of the court, to a civil penalty of not more than $2,500 for the first offense and not more than $5,000 for the second and each subsequent offense.

e. If the violation is of a continuing nature, each day during which the violation continues, or each day in which the civil administrative penalty is not paid in full, constitutes an additional, separate and distinct offense. Any penalty imposed under this section may be recovered with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the municipal court shall have jurisdiction to enforce the "Penalty Enforcement Law of 1999" in connection with P.L.1991, c.27 (C.45:5AA-1 et seq.).

9. Section 10 of P.L.1991, c.27 (C.45:5AA-10) is amended to read as follows:

C.45:5AA-10 Investigation, authority of board.

10. a. Should the board have cause to believe that any person is in violation of any provision of P.L.1991, c.27 (C.45:5AA-1 et seq.) or rules and regulations promulgated pursuant thereto, the board may initiate an investigation. If upon investigation the board determines that there has been a viola-

tion of the provisions of P.L.1991, c.27 (C.45:5AA-1 et seq.) or rules and regulations promulgated pursuant thereto, the board shall be authorized to:

(1) issue a letter of warning, reprimand, or censure with regard to any act, conduct, or practice which in the judgment of the board upon consideration of all relevant facts and circumstances does not warrant an initiation of formal action; or

(2) order any person violating any provision of P.L.1991, c.27 (C.45:5AA-1 et seq.) or rules and regulations promulgated pursuant thereto to cease or desist from future violations or to take such affirmative corrective action as may be necessary with regard to any act or practice found unlawful by the board; or

(3) order any person found to have violated any provision of P.L.1991, c.27 (C.45:5AA-1 et seq.) or rules and regulations promulgated pursuant thereto to restore any person for whom landscape irrigation contracting work was done to his position prior to performance of the work; or

(4) assess a civil administrative penalty in accordance with section 9 of P.L.1991, c.27 (C.45:5AA-9);

(5) Bring a civil action for injunctive or any other appropriate relief to prohibit and prevent such violation or violations in accordance with section 9 of P.L. 1991, c. 27 (C. 45:5AA-9);

(6) Bring a civil action for a civil penalty in accordance with section 9 of P.L.1991, c.27 (C.45:5AA-9); or

(7) revoke or suspend a certificate or business permit pursuant to section 8 of P.L.1991, c.27 (C.45:5AA-8).

The use of any of the remedies specified under this section shall not preclude use of any other remedy specified.

b. Any person to which an order or assessment of civil administrative penalty or a notice of revocation of a certificate or business permit is issued has 20 days from the receipt of the order to deliver to the board a written request for a hearing. Upon receipt of that request, the board shall determine whether to conduct the hearing itself or refer the matter to the Office of Administrative Law, which shall assign an Administrative Law Judge to conduct a hearing in the form of a contested case pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). If the matter is referred to the Office of Administrative Law, the board shall affirm, reject, or modify the decision within 45 days of receipt of the Administrative Law Judge's initial decision by issuing its own final decision. The board's action shall be considered the final agency action for the purposes of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and shall be subject only to judicial review as provided in the Rules of Court.

c. If no hearing is requested, an order becomes a final order upon the expiration of the 20-day period. This final order shall be considered the final agency action for the purposes of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and shall be subject only to judicial review as provided in the Rules of Court. Payment of an administrative penalty is due when a final order is issued or when the order becomes a final order. Pending the determination by the board and upon application by a person to whom an order or notice of revocation is issued, the board may stay operation of an order upon such terms and conditions as it deems proper.

C.45:5AA-7.1 Standards for continuing education.

10. a. The board shall establish standards for continuing education for landscape irrigation contractors as a condition of certification renewal for certificates issued under its jurisdiction. The standards shall concern the subject matter and the number and type of continuing education credits to be required.

b. The board shall approve education programs relevant to landscape irrigation and water conservation and designate by regulation the number of credits to be given for continuing education.

c. The board shall approve other equivalent educational programs including, but not limited to, programs provided by educational institutions, irrigation associations and other relevant professional and technical associations, as well as relevant trade groups and shall establish procedures for the issuance of credit upon the satisfactory completion of these programs.

d. The board shall waive continuing education requirements under this section on an individual basis for reasons of certified illness, undue hardship, disability, retirement, or other good cause.

11. This act shall take effect on the 180th day after the date of enactment, but the board may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 16, 2010.

CHAPTER 230

AN ACT establishing the New Jersey Chronic Kidney Disease Task Force.

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

1. The Legislature finds and declares that:

a. Chronic kidney disease, or CKD, includes conditions that damage the kidneys and decrease their ability to keep a person healthy by performing their normal functions;

b. Experts believe that many persons with kidney disease never progress to renal dialysis because they die from other conditions such as cardiovascular disease that are associated with kidney disease;

c. CKD can lead to complications such as high blood pressure, anemia, weak bones, poor nutritional health, and nerve damage, and increases a person's risk of having heart and blood vessel disease;

d. When kidney disease progresses, it may eventually lead to kidney failure, which requires dialysis or a kidney transplant to maintain life;

e. The two main causes of CKD are diabetes and high blood pressure, which are responsible for up to two-thirds of the cases;

f. Many persons with CKD may not have any severe symptoms until their kidney disease is advanced; however, symptoms may include: fatigue; difficulty concentrating; poor appetite; difficulty sleeping; muscle cramping at night; swollen feet and ankles; puffiness around the eyes, especially in the morning; dry, itchy skin; and the need to urinate frequently, especially at night;

g. Anyone can develop CKD at any age; however, those who may be at increased risk for kidney disease include persons who: have diabetes, high blood pressure, or a family history of CKD; are older; or belong to a population group that has a high rate of diabetes or high blood pressure, such as African Americans, Hispanic Americans, Asians, Pacific Islanders, and American Indians;

h. Some 20 million Americans, or one in nine adults nationwide, have CKD, and another 20 million more are at increased risk;

i. Heart disease is the major cause of death for all people with CKD; however, early detection can help prevent the progression of kidney disease to kidney failure, and three simple tests can detect CKD: blood pressure; urine albumin; and serum creatinine;

j. Initiatives and organizations such as Healthy People 2010, the National Kidney Foundation, and the National Institute of Diabetes & Digestive & Kidney Diseases have identified CKD as a public health issue and are advocating early diagnosis and treatment;

k. Unmanaged and undetected CKD manifests itself in increased health care expenditures, increased hospitalizations, more rapid progression of cardiovascular disease, increased mortality, and earlier initiation of renal dialysis;

l. Early diagnosis of CKD and treatment of its co-morbid conditions will lead to better identification of high-risk patients, improved patient outcomes, and cost savings through reduced need for high-cost health care services; and

m. It is in the public interest for the State to provide for a comprehensive review and recommendations concerning cost-effective means to enhance early screening, diagnosis, and treatment of CKD and its complications.

2. a. There is established the New Jersey Chronic Kidney Disease Task Force in the Department of Health and Senior Services.

The purpose of the task force shall be to:

(1) develop a plan to educate the public and health care professionals about the advantages and methods of early screening, diagnosis, and treatment of chronic kidney disease and its complications based on kidney disease outcomes, evidence-based clinical practice guidelines for chronic kidney disease, or other medically recognized clinical practice guidelines;

(2) make recommendations on the implementation of a cost-effective plan for early screening, diagnosis, and treatment of chronic kidney disease Statewide; and

(3) identify barriers to the adoption of best practices and potential public policy options to address these barriers.

b. The task force shall consist of 13 members as follows:

(1) the Director of the Office of Minority and Multicultural Health in the Department of Health and Senior Services, who shall serve ex officio;

(2) 10 public members, who shall be appointed by the Commissioner of Health and Senior Services no later than the 60th day after the effective date of this act, as follows: six licensed physicians practicing in this State, including two nephrologists, one of whom is a pediatric nephrologist, two family physicians, and two pathologists; one person who represents the State affiliate of the National Kidney Foundation; one person who represents providers of private renal dialysis services in this State; one person who represents owners or operators of licensed clinical laboratories in this State; and one person who has a chronic kidney disease and is not in one of the previous membership categories set forth in this paragraph; and

(3) two public members with a demonstrated expertise in issues relating to the work of the task force, one of whom shall be appointed by the President of the Senate and one of whom shall be appointed by the Speaker of the General Assembly.

Vacancies in the membership of the task force shall be filled in the same manner provided for the original appointments.

c. The task force shall organize as soon as practicable following the appointment of its members and shall select a chairperson and vice-chairperson from among the members. The chairperson shall appoint a secretary who need not be a member of the task force.

d. The public members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties and within the limits of funds available to the task force.

e. The task force shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purposes.

f. The task force may meet and hold hearings as it deems appropriate.

g. The Department of Health and Senior Services shall provide staff support to the task force.

3. The task force shall report its findings and recommendations to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), along with any legislative bills that it desires to recommend for adoption by the Legislature, no later than 12 months after the initial meeting of the task force.

4. This act shall take effect immediately and shall expire upon the issuance of the task force report.

Approved January 16, 2010.

CHAPTER 231

AN ACT concerning county and municipal budgets and supplementing chapter 4 of Title 40A of the New Jersey Statutes.

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

C.40A:4-54.1 Emergency funding for certain employee group insurance programs.

1. Whenever the accumulated deficits of a municipal health insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.) exceed an amount equal to 10% of the current year's total assessments, the commissioners of the fund may adopt a resolution declaring a special emergency for the purpose of funding obligations to satisfy the accumulated deficits of the employee group insurance programs administered by the fund. The resolution must be adopted no later than 90 days after the fund year end. No resolution adopted by the commissioners for the purpose of authorizing special emergency appropriations for the insurance fund shall take effect without the approval of the Local Finance Board and the Commissioner of Banking and Insurance. The special emergency may be funded for up to 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).

C.40A:4-54.2 Certified copy of resolution, submission.

2. The municipal health insurance fund shall forward a certified copy of the resolution to each fund member and the Local Finance Board and the Commissioner of Banking and Insurance. The fund shall submit a report to the Local Finance Board and the Commissioner of Banking and Insurance setting forth the elements of the accumulated deficit and provide a detailed plan that will enable the fund to retire the accumulated deficit no later than the last day of the third year following the date of the adoption of the resolution authorizing special emergency appropriations.

C.40A:4-54.3 Notice provided to members.

3. After a resolution authorizing special emergency appropriations has been approved by the Local Finance Board and the Commissioner of Banking and Insurance the municipal health insurance fund shall provide notice to each member that the resolution was approved. The fund's annual assessment shall provide sufficient detail to allow each fund member to determine what portion currently relates to the current fund assessment and what portion relates to the funding of the accumulated deficit. On behalf of members who require relief from the adjusted tax levy provisions of section 10 of P.L.2007, c.62 (C.40A:4-45.45) in order to meet their pro rata share of the deficit assessment, the fund may file a single request for waiver for all members who require such relief. The Local Finance Board shall be authorized to approve such a consolidated waiver request.

4. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 232

AN ACT concerning stalkers and amending P.L.1996, c.39.

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

1. Section 3 of P.L.1996, c.39 (C.2C:12-10.1) is amended to read as follows:

C.2C:12-10.1 Conviction for stalking, permanent restraining order.

3. a. A judgment of conviction for stalking shall operate as an application for a permanent restraining order limiting the contact of the defendant and the victim who was stalked.

b. A hearing shall be held on the application for a permanent restraining order at the time of the verdict or plea of guilty unless the victim requests otherwise. This hearing shall be in Superior Court. A permanent restraining order may grant the following specific relief:

(1) An order restraining the defendant from entering the residence, property, school, or place of employment of the victim and requiring the defendant to stay away from any specified place that is named in the order and is frequented regularly by the victim.

(2) An order restraining the defendant from making contact with the victim, including an order forbidding the defendant from personally or through an agent initiating any communication likely to cause annoyance or alarm including, but not limited to, personal, written, or telephone contact, or contact via electronic device, with the victim, the victim's employers, employees, or fellow workers, or others with whom communication would be likely to cause annoyance or alarm to the victim. As used in this paragraph, "communication" shall have the same meaning as defined in subsection q. of N.J.S.2C:1-14.

c. The permanent restraining order entered by the court subsequent to a conviction for stalking as provided in this act may be dissolved upon the application of the stalking victim to the court which granted the order.

d. Notice of permanent restraining orders issued pursuant to this act shall be sent by the clerk of the court or other person designated by the court to the appropriate chiefs of police, members of the State Police and any other appropriate law enforcement agency or court.

e. Any permanent restraining order issued pursuant to this act shall be in effect throughout the State, and shall be enforced by all law enforcement officers.

f. A violation by the defendant of an order issued pursuant to this act shall constitute an offense under subsection a. of N.J.S.2C:29-9 and each order shall so state. Violations of these orders may be enforced in a civil or criminal action initiated by the stalking victim or by the court, on its own motion, pursuant to applicable court rules. Nothing in this act shall preclude the filing of a criminal complaint for stalking based on the same act which is the basis for the violation of the permanent restraining order.

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

Approved January 16, 2010.

CHAPTER 233

AN ACT concerning private contracts for the collection of certain debts owed to the government and amending P.L.1995, c.9, P.L.2000, c.126, P.L.1983, c.208, and N.J.S.40A:4-39.

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

1. Section 6 of P.L.1995, c.9 (C.2B:19-6) is amended to read as follows:

C.2B:19-6 Transfer of matters involving the collection of monies.

6. a. All matters involving the collection of monies in the Superior Court and Tax Court which have not been resolved in accordance with an order of the court may be transferred, pursuant to court rule, to the comprehensive enforcement program for such action as may be appropriate. As an alternative to, or in addition to, the use of the comprehensive enforcement program, the Administrative Director of the Courts may contract with a

private agency or firm to collect any outstanding monies payable to the Superior Court, the Tax Court, or the municipal courts. Outstanding monies payable to a municipal court means monies owed after a final determination of guilt by a municipal court and only when the municipal court has exhausted all judicial enforcement remedies permitted by law or court rule. The use of private collection agencies to collect outstanding monies payable to the Superior Court, the Tax Court and municipal courts shall be governed by rules and procedures adopted by the Supreme Court. The Administrative Director of the Courts may authorize the assessment of an administrative fee by a private agency or firm not to exceed 22% of the amount collected to be paid by the defendant to the private collection agency to pay for the costs of collection.

b. (1) A municipal court may request that all matters which have not been resolved in accordance with an order of that court be transferred to the comprehensive enforcement program in accordance with the provisions of section 9 of P.L.1995, c.9 (C.2B:19-9) for such action as may be appropriate. All monies collected through the comprehensive enforcement program which result from the enforcing of orders transferred from any municipal court shall be subject to the 25% deduction authorized pursuant to section 4 of P.L.1995, c.9 (C.2B:19-4) except for monies collected in connection with the enforcement of orders related to parking violations.

(2) (Deleted by amendment, P.L.2009, c.233)

c. The Chief Administrator of the New Jersey Motor Vehicle Commission may refer matters of surcharges imposed administratively under the New Jersey Merit Rating Plan in accordance with the provisions of section 6 of P.L.1983, c.65 (C.17:29A-35) which have not been satisfied to the comprehensive enforcement program in accordance with the procedures established pursuant to section 4 of P.L.1997, c.280 (C.2B:19-10) to be reduced to judgment and for such additional action as may be appropriate. All monies collected through the comprehensive enforcement program which result from the collection of these surcharge monies shall be subject to the 25% deduction authorized pursuant to section 4 of P.L.1995, c.9 (C.2B:19-4).

d. (1) At the request of the Public Defender, the Clerk of the Superior Court shall refer every unsatisfied lien, filed by the Public Defender, to the comprehensive enforcement program for collection. All monies collected through the comprehensive enforcement program which result from the collection of these liens shall be subject to the deduction authorized pursuant to section 4 of P.L.1995, c.9 (C.2B:19-4).

(2) Upon satisfaction of a public defender lien through the comprehensive enforcement program, the comprehensive enforcement program shall notify the Clerk of the Superior Court within 10 days of satisfaction and the satisfaction of the lien shall be entered in the Superior Court Judgment Index.

2. Section 37 of P.L.2000, c.126 (C.40:23-6.53) is amended to read as follows:

C.40:23-6.53 Contracts for collection of delinquent fees, fines.

37. The governing body of any county may enter into a contract with a private agency or firm for the purpose of collecting delinquent fees, fines, costs, surcharges, and other penalties or assessments imposed, after a final determination of guilt, by a central municipal court established pursuant to subsection e. of N.J.S.2B:12-1. The use of private agencies or firms to collect delinquent fees, fines, costs, surcharges and other penalties or assessments imposed by a central municipal court shall be in accordance with rules or procedures adopted by the Supreme Court. Any such contract shall be made pursuant to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.). The governing body of any county may authorize the assessment of a fee by a private agency or firm not to exceed 22% of the amount collected to be paid by the debtor to the private agency or firm to pay for the costs of collection.

3. Section 1 of P.L.1983, c.208 (C.40:48-5a) is amended to read as follows:

C.40:48-5a Contract for collection services between municipality, private entity.

1. The governing body of any municipality may enter into contract with a private agency or firm for the purpose of collecting delinquent fees, fines, costs, surcharges and other penalties or assessments imposed, after a final determination of guilt, by a municipal court. The governing body of any municipality may proceed only when the court has exhausted all judicial enforcement remedies permitted by law or court rule and the Administrative Director of the Courts has authorized collection through a private agency or firm. The use of private agencies or firms to collect delinquent fees, fines, costs, surcharges, and other penalties or assessments imposed by a municipal court shall be in accordance with rules or procedures adopted by the Supreme Court. Any such contract shall be made and awarded pursuant to the provisions of the "Local Public Contracts Law," P.L.1971,

c.198 (C.40A:11-1 et seq.). The governing body of any municipality may authorize the assessment of a fee by a private agency or firm not to exceed 22% of the amount collected to be paid by the debtor to the private agency or firm to pay for the costs of collection.

4. N.J.S.40A:4-39 is amended to read as follows:

Anticipation of dedicated revenues.

40A:4-39. a. In the budget of any local unit, dedicated revenues anticipated during the fiscal year from any dog tax, dog license, revenues collected pursuant to N.J.S.18A:39-1.2, solid fuel license, sinking fund for term bonds, bequest, escheat, federal grant, motor vehicle fine dedicated to road repairs, relocation costs deposited into a revolving relocation assistance fund established pursuant to section 2 of P.L.1987, c.98 (C.20:4-4.1a), fee revenues collected in connection with recreation programs operated pursuant to section 2 of P.L.1999, c.292 (C.40:48-2.56), receipts from franchise assessments levied pursuant to section 4 of P.L.1995, c.173 (C.40A:12A-53) to be retained by the municipality, refund payments from a joint insurance fund deposited into a joint insurance revolving fund established pursuant to section 12 of P.L.1996, c.113 (C.40A:10-36.2), fee revenues collected in connection with the "Attorney Identification Card Program" pursuant to section 1 of P.L.2009, c.11 (C.40A:4-22.2), fee revenues imposed on delinquent amounts owed to the county or municipality and collected pursuant to section 37 of P.L.2000, c.126 (C.40:23-6.53) (as amended by section 2 of P.L.2009, c.233) or section 1 of P.L.1983, c.208 (C.40:48-5a) (as amended by section 3 of P.L.2009, c.233), and, subject to the prior written consent of the director, other items of like character when the revenue is not subject to reasonably accurate estimate in advance, may be included in said budget by annexing to said budget a statement in substantially the following form:

"The dedicated revenues anticipated during the year ..... from ..... (here insert one or more of the sources above, as the case may be) are hereby anticipated as revenue and are hereby appropriated for the purposes to which said revenue is dedicated by statute or other legal requirement."

b. Dedicated revenues included in accordance with this section shall be available for expenditure by the local unit as and when received in cash during the fiscal year. The inclusion of such dedicated revenues shall be subject to the approval of the director, who may require such explanatory statements or data in connection therewith as the director deems advisable for the information and protection of the public.

5. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 234

AN ACT concerning the membership of the State Board of Medical Examiners and amending R.S.45:9-1.

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

1. R.S.45:9-1 is amended to read as follows:

State Board of Medical Examiners; advisory committee.

45:9-1. The State Board of Medical Examiners, hereinafter in this chapter designated as the "board" shall consist of 21 members, one of whom shall be the Commissioner of Health and Senior Services, or his designee, three of whom shall be public members and one an executive department designee as required pursuant to section 2 of P.L.1971, c.60 (C.45:1-2.2), and 16 of whom shall be persons of recognized professional ability and honor, and shall possess a license to practice their respective professions in New Jersey, and all of whom shall be appointed by the Governor in accordance with the provisions of section 2 of P.L.1971, c.60 (C.45:1-2.2); provided, however, that said board shall consist of 12 graduates of schools of medicine or osteopathic medicine who shall possess the degree of M.D. or D.O. The number of osteopathic physicians on the board shall be a minimum of, but not limited to, two members. In addition the membership of said board shall comprise: one podiatric physician who does not possess a license to practice in any other health care profession regulated under Title 45 of the Revised Statutes; one physician assistant; one certified nurse midwife; and one licensed bio-analytical laboratory director, who may or may not be the holder of a degree of M.D. The term of office of members of the board hereafter appointed shall be three years or until their successors are appointed. Said appointees shall, within 30 days after receipt of their respective commissions, take and subscribe the oath or affirmation prescribed by law and file the same in the office of the Secretary of State.

The Governor shall also appoint an advisory committee to consist of four licensed bio-analytical laboratory directors, only two of whom shall possess the degree of M.D. or D.O., and who shall be appointed from a list to be submitted by the society or organization of which the persons nominated are members. The members of this advisory committee shall serve for a term of three years and until their successors are appointed and qualified, and shall be available to assist the board in the administration of the "Bio-analytical Laboratory and Laboratory Directors Act (1953)," P.L.1953, c.420 (C.45:9-42.1 et al.). The advisory committee shall meet at the call of the board. The board may authorize reimbursement of the members of the advisory committee for their actual expenses incurred in connection with the performance of their duties as members of the committee.

2. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 235

AN ACT concerning the Franchise Practices Act and amending P.L.1971, c.356.

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

1. Section 2 of P.L.1971, c.356 (C.56:10-2) is amended to read as follows:

C.56:10-2 Legislative findings.

2. The Legislature finds and declares that distribution and sales through franchise arrangements in the State of New Jersey vitally affects the general economy of the State, the public interest and the public welfare. It is therefore necessary in the public interest to define the relationship and responsibilities of franchisors and franchisees in connection with franchise arrangements and to protect franchisees from unreasonable termination by franchisors that may result from a disparity of bargaining power between national and regional franchisors and small franchisees. The Legislature finds that these protections are necessary to protect not only retail busi-

nesses, but also wholesale distribution franchisees that, through their efforts, enhance the reputation and goodwill of franchisors in this State. Further, the Legislature declares that the courts have in some cases more narrowly construed the Franchise Practices Act than was intended by the Legislature.

2. Section 3 of P.L.1971, c.356 (C.56:10-3) is amended to read as follows:

C.56:10-3 Definitions.

3. As used in this act:

a. "Franchise" means a written arrangement for a definite or indefinite period, in which a person grants to another person a license to use a trade name, trade mark, service mark, or related characteristics, and in which there is a community of interest in the marketing of goods or services at wholesale, retail, by lease, agreement, or otherwise.

b. "Person" means a natural person, corporation, partnership, trust, or other entity and, in case of an entity, it shall include any other entity which has a majority interest in such entity or effectively controls such other entity as well as the individual officers, directors, and other persons in active control of the activities of each such entity.

c. "Franchisor" means a person who grants a franchise to another person.

d. "Franchisee" means a person to whom a franchise is offered or granted.

e. "Sale, transfer or assignment" means any disposition of a franchise or any interest therein, with or without consideration, to include but not be limited to bequest, inheritance, gift, exchange, lease or license.

f. "Place of business" means a fixed geographical location at which the franchisee displays for sale and sells the franchisor's goods or offers for sale and sells the franchisor's services. Place of business shall not mean an office, a warehouse, a place of storage, a residence or a vehicle, except that with respect to persons who do not make a majority of their sales directly to consumers, "place of business" means a fixed geographical location at which the franchisee displays for sale and sells the franchisor's goods or offers for sale and sells the franchisor's services, or an office or a warehouse from which franchisee personnel visit or call upon customers or from which the franchisor's goods are delivered to customers.

3. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 236

AN ACT establishing the Nursing Faculty Loan Redemption Program and supplementing chapter 71B 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:71C-50 Short title.

1. This act shall be known and may be cited as the "Nursing Faculty Loan Redemption Program Act."

C.18A:71C-51 Findings, declarations relative to the Nursing Faculty Loan Redemption Program.

2. The Legislature finds and declares that:

a. This State is experiencing a critical shortage in its nursing workforce, which is expected to worsen in the next two decades. In New Jersey, as well as nationwide, the shortage of faculty in schools of nursing is reaching crisis proportions. Insufficient numbers of faculty hinder schools' efforts to increase their capacity.

b. According to projections by the Health Resources and Services Administration of the federal Department of Health and Human Services, New Jersey is estimated to be 49% below demand, resulting in a shortfall of 42,400 registered professional nurse full-time equivalent positions throughout the State by 2020.

c. The demand for nurses at all levels of training and in all health care settings, including hospitals, nursing homes, veterans' homes and home health care and community-based programs, is increasing as the population gets older. Recent data from schools of nursing in New Jersey show that there is an increased interest in nursing by potential students; 67% of schools of nursing in the State turned away qualified student applicants and 57% report numbers of enrollments greater than their current capacity to educate students.

d. The average age of New Jersey's registered professional nurses and licensed practical nurses is increasing each year; in 2007 54.4% of the State's registered professional nurses were between 46 and 60 years of age and 13.3% were more than 60 years of age; 29% of non-retired registered professional nurses were older than 55 years of age. These findings indicate that, assuming the majority of nurses retire at 65 years of age, the State will need to replace one third of its nursing workforce over the next 10 years.

e. The number of full-time faculty positions currently budgeted in New Jersey's schools of nursing totals 575 full-time equivalents. Of these, six percent, or 35 full-time equivalents, were vacant in October 2004; 54% of the nursing schools in the State reported faculty vacancies.

f. The faculty shortage is part of the larger picture and all areas must be addressed as nurses are vital to the public's health. Research indicates that without sufficient numbers of well-qualified nurses, patients' lives and well-being are at increased risk. The minimum educational requirement of a nursing instructor according to the New Jersey Board of Nursing regulations is a master's degree in nursing (MSN). For nursing faculty in the State's 13 associate degree programs in community colleges and 11 diploma programs in hospitals, a MSN is required. Many schools also require that faculty be certified in the specialty practice area in which they teach.

C.18A:71C-52 Definitions relative to the Nursing Faculty Loan Redemption Program.

3. As used in this act:

"Approved graduate degree program" means a master's degree in nursing (MSN), a doctor of nursing science degree (DNS), a doctor of nursing practice degree (DPN), a doctor of philosophy degree (PhD) in nursing or another relevant field of study.

"Authority" means the Higher Education Student Assistance Authority established pursuant to N.J.S.18A:71A-3.

"Eligible student loan expenses" means the cumulative total of the annual student loans covering the cost of attendance at an approved graduate degree program. Interest paid or due on student loans that an applicant has taken out for use in paying the costs of such education shall be considered eligible for reimbursement under the program.

"Participant" means a person who has completed an approved graduate degree program at an accredited public or independent institution of higher education, and who participates in the program.

"Program" means the Nursing Faculty Loan Redemption Program established pursuant to this act.

C.18A:71C-53 Nursing Faculty Loan Redemption Program established.

4. a. There is established within the Higher Education Student Assistance Authority the Nursing Faculty Loan Redemption Program. The purpose of the program is to address the current and projected critical shortage of nursing faculty in the State by providing an incentive for persons to enter graduate nursing education programs and for persons already trained as

nurses to advance their training in the profession so as to ensure that sufficient numbers of nursing faculty are available to train nursing students, and the State's hospitals, nursing homes, veterans' facilities and home care services and community care programs will have sufficient, trained nursing staff in the future to provide quality health care services to the residents of this State.

The program shall provide loan redemption in exchange for full-time faculty employment at a school of nursing in the State for a five-year period following completion of the approved graduate degree program. The authority may establish a limit on the total amount of student loans which may be redeemed for participants under the program.

b. In developing the program, the authority shall collaborate with the Robert Wood Johnson Foundation New Jersey Nursing Initiative and such other entities as the authority deems appropriate.

C.18A:71C-54 Eligibility for participation in program.

5. To be eligible to participate in the program, an applicant shall:

a. be a resident of the State and maintain domicile in the State during participation in the program; and

b. (1) have obtained a master's degree in nursing (MSN), a doctor of nursing science degree (DNS), a doctor of nursing practice degree (DNP), a doctor of philosophy degree (PhD) in nursing or another relevant field of study within a one-year period prior to being hired for full-time faculty employment on or after the date of enactment of this act; and

(2) have maintained a grade point average of 3.0 or higher on a scale of 4.0, or its equivalent, while enrolled in an approved graduate degree program.

C.18A:71C-55 Application to authority for loan redemption.

6. a. A graduate nursing student or graduate may apply to the authority for a loan redemption in such manner as prescribed by the authority.

b. A program participant shall enter into a written contract with the authority to participate in the program. The contract shall specify the duration of the applicant's required service and the total amount of eligible student loan expenses to be redeemed by the authority in return for service.

c. A participant who has entered into a redemption contract with the authority may nullify that contract by submitting written notification to the authority and assuming full responsibility for repayment of the full amount of the loan or that portion of the loan that has not been redeemed by the State in return for partial fulfillment of the contract.

d. In the case of a participant's death or total or permanent disability, the authority shall nullify the service obligation of the participant; or where continued enforcement of the contract may result in extreme hardship, the authority may nullify or suspend the participant's service obligation.

C.18A:71C-56 Annual report on the program.

7. The authority shall annually submit to the Governor, and pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the chairman of the Senate Budget and Appropriations Committee, the chairman of the Assembly Appropriations Committee, the chairmen of the Senate and Assembly Education Committees, and the chairmen of the Senate and Assembly Health Committees, a report on the program. The report shall be submitted no later than August 1 of each year and shall include, but not be limited to, the following information for the prior fiscal year:

a. the total number of participants receiving loan redemption under the program;

b. the total number of participants who withdrew from the program or failed to complete the program's employment requirement; and

c. the effect of the program on filling vacant nursing faculty positions in the State and eliminating the need to turn away qualified nursing school applicants.

C.18A:71C-57 Rules, regulations.

8. The Higher Education Student Assistance Authority shall adopt, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as may be necessary to implement the provisions of this act.

C.18A:71C-58 Dedication of appropriated funds.

9. Of the funds annually appropriated for the Primary Care Practitioner Loan Redemption Program established in the Higher Education Student Assistance Authority pursuant to N.J.S.18A:71C-32 et seq., 25% shall be dedicated to the Nursing Faculty Loan Redemption Program established pursuant to this act. The program shall be administered directly by the Higher Education Student Assistance Authority.

10. This act shall take effect July 1, 2010; however, the authority may take such anticipatory administrative action in advance thereof as shall be necessary to implement the provisions of this act.

Approved January 16, 2010.

CHAPTER 237

AN ACT concerning the licensure of tree experts and tree care operators and the registration of certain employers, supplementing Title 45 of the Revised Statutes, and repealing P.L.1940, c.100 and sections 7 and 8 of P.L.1996, c.20.

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

C.45:15C-11 Short title.

1. This act shall be known and may be cited as the "Tree Experts and Tree Care Operators Licensing Act."

C.45:15C-12 Definitions relative to licensing of tree experts, care operators.

2. For the purposes of this act:

"Board" means the New Jersey Board of Tree Experts established pursuant to section 3 of this act.

"Licensed tree care operator" means a person licensed to provide tree care operator services in the State pursuant to subsection b. of section 7 of this act.

"Licensed tree expert" means a person licensed to provide tree expert services in this State pursuant to subsection a. of section 7 of this act.

"Tree care operator services" means and includes tree pruning, repairing, brush cutting or removal, tree removal, and stump grinding or removal.

"Tree care services" means tree care operator services and tree expert services as established by this act.

"Tree expert services" means and includes tree pruning, repairing, brush cutting or removal, tree removal, stump grinding or removal, tree establishment, fertilization, cabling and bracing, lightning protection, consulting, diagnosis, and treatment of tree problems or diseases, tree management during site planning and development, tree assessment and risk management, and application of pesticides or any other form of tree maintenance.

C.45:15C-13 New Jersey Board of Tree Experts.

3. There is established in the Department of Environmental Protection the New Jersey Board of Tree Experts. The board shall consist of nine members, including the Commissioner of the Department of Environmental Protection or the commissioner's designee, who shall serve ex officio, and eight members, appointed by the Governor with the advise and consent of

the Senate as follows: five shall be licensed tree experts, two shall be licensed tree care operators, and one shall possess knowledge of arboriculture or forestry, including urban forestry. However, of the public members first appointed, three of the five licensed tree expert memberships shall be appointed from the members of the board of tree experts established by P.L.1940, c.100 (C.45:15-1 et seq.), participating on the board on the date of enactment of this act, and the remaining tree experts first appointed shall be certified, on or before the date of enactment of this act, pursuant to the provisions of P.L.1940, c.100 (C.45:15C-1 et seq.). The initial members of the board, including the tree care operators first appointed, need not be licensed until 180 days following the promulgation of initial regulations by the board to carry out the provisions of this act. Thereafter, the members of the board subsequently appointed shall be licensed before appointment. The three members of the board of tree experts shall be appointed for a term of three years, and one of the initial tree care operators shall be appointed for a term of three years; the remaining two initial tree experts and the remaining initial tree care operator shall be appointed for a term of two years; and the initial member possessing knowledge of arboriculture or forestry shall be appointed for a term of one year. Thereafter, all members appointed shall serve for terms of three years or until their successors are appointed and qualified. Vacancies shall be filled for the unexpired terms only.

C.45:15C-14 Board, officers, meetings, compensation.

4. The board shall annually elect from among its members a chairman and a vice-chairman. The board shall meet at least four times per year and may hold additional meetings as necessary to discharge its duties. A majority of the total authorized membership of the board may exercise any of the powers of the board at any meeting. The members of the board shall serve without compensation, but the board may, within the limits of funds appropriated or otherwise made available to it, reimburse members for actual expenses necessarily incurred in the discharge of their official duties, according to rules and regulations promulgated by the Commissioner of the Department of Environmental Protection.

C.45:15C-15 Duties of board.

5. The board shall:

a. Review the qualifications of an applicant for licensure under the act;

b. Establish standards for examinations for licensure;

c. Issue and renew licenses and assess fees therefor;

d. Establish standards by regulation, which shall include, but not be limited to, the appropriate standards of the American National Standards Institute (ANSI), and any related standards and best management practices;

e. Suspend or revoke licenses or registrations for violations of the act;

f. Maintain a registry of licensees;

g. Adopt a canon of professional ethics;

h. Adopt such regulations as may be necessary to effectuate the purposes of the act;

i. Establish fees by regulation for examinations, applications for licensure, and license renewals. The fees shall be sufficient to defray expenses incurred by the board in the performance of its duties under the act;

j. Conduct such worksite inspections as may be necessary to enforce the provisions of this act; and

k. Maintain a registry of businesses engaged in tree care services, and charge a fee therefor.

C.45:15C-16 Development, designation of examinations to determine qualification.

6. The board shall develop an examination or designate examinations to evaluate the knowledge, ability, and fitness of applicants to perform as tree experts or tree care operators, respectively, and shall administer the examinations at least semi-annually at times and places to be determined by the board. The board shall provide for adequate written notice of the time and place of the examinations. An applicant who fails an examination may not retake the examination earlier than three months following the initial examination. There shall be no limitation on the number of times an examination may be taken. All licenses shall be issued on a biennial basis. A person may seek renewal of a license upon submission of a renewal application and the payment of a renewal fee established by the board. If a license expires without being renewed, the license may be renewed within one year of expiration upon the payment of a prorated fee. The determination of the board as to an applicant's qualifications for any examination shall constitute final agency action.

C.45:15C-17 Licensure required for tree expert, tree care operator.

7. a. No person shall present himself to the public as a licensed tree expert or use the designation "L.T.E.," without licensure by the board. A person shall not be eligible for licensure pursuant to this subsection until the final promulgation of initial regulations by the board to carry out the provisions of this act. A candidate for licensure shall:

(1) be at least 18 years of age;

(2) be of good moral character;

(3) (a) be a graduate from a four year college with a degree in forestry, arboriculture, ornamental horticulture, natural resources, or any other curriculum approved by the board; or

(b) have completed two years of college and passed courses approved by the board, and have been continuously employed in the practice of arboriculture for a period of at least three years preceding the date of his application for licensure; or

(c) be continuously employed in the practice of arboriculture for at least five years immediately preceding the date of application for licensure; and

(4) except as provided in subsection c. of this section, have passed an examination established or designated by the board.

b. No person shall present himself to the public as a licensed tree care operator or use the designation "L.T.C.O.," without licensure by the board. A person shall not be eligible for licensure pursuant to this subsection until the final promulgation of initial regulations by the board to carry out the provisions of this act. A candidate for licensure shall:

(1) be at least 18 years of age;

(2) be of good moral character;

(3) (a) be a graduate from a four year college with a degree in arboriculture or an equivalent major field of study, and have been continuously employed in the practice of arboriculture for a period of at least one year preceding the date of his application for licensure; or

(b) be a graduate from a two year college with a degree in arboriculture or an equivalent major field of study, and have been continuously employed in the practice of arboriculture for a period of at least two years preceding the date of his application for licensure; or

(c) be continuously employed in the practice of arboriculture for at least three years preceding the date of his application for licensure; and

(4) except as provided in subsection c. of this section, have passed an examination established by the board.

c. Notwithstanding the provisions of subsections a. and b., for 360 days after the date regulations are promulgated pursuant to the provisions of this act:

(1) any person of good moral character who has received certification as a tree expert pursuant to P.L.1940, c.100 (C.45:15C-1 et seq.) before the date of its repeal may, if in good standing with the board, acquire a license as a tree expert without sitting for an examination pursuant to subsection a. of this section pursuant to regulations established by the board; and

(2) any person of good moral character who has documented to the satisfaction of the board that he has been engaged in the practice of arboriculture for seven years preceding the effective date of this act may acquire a license as a tree care operator without sitting for an examination pursuant to subsection b. of this section, pursuant to regulations established by the board.

Licenses issued pursuant to this subsection shall be renewed biennially.

d. Persons licensed under this act shall receive a certificate evidencing their licensure.

e. Any person licensed as a tree care operator may subsequently apply for licensure as a tree expert upon meeting the qualifications for licensure.

C.45:15C-18 Form for application; maintenance of records.

8. a. Applications for licenses as a tree expert or a tree care operator shall be on forms prescribed and furnished by the board and shall contain statements under oath showing the applicant's education or other qualification for licensure. The application shall be accompanied by an application fee as established by the board by regulation. No license shall be issued in the name of a corporation, firm, partnership, or other form of business organization.

b. The board shall maintain a record of all individual applicants for licensure and all licensees, including the person's name, age, education, and other qualifications, the person's place of residence, the location in which the person is employed, and a record of the person's fulfillment of any continuing education requirements established by this act.

c. The board may, in its discretion, grant a tree expert license or a tree care operator license to any person who is not a resident of this State and who is the lawful holder of a substantially equivalent license or certification issued by another jurisdiction, as determined by the board.

C.45:15C-19 Continuing education requirement.

9. a. Every licensed tree expert and licensed tree care operator shall complete, as a condition for biennial license renewal, no less than 32 credits of continuing education in courses of study approved by the board. Each hour of instruction shall be equivalent to one credit. The board may waive requirements for continuing education on an individual basis for reasons of hardship such as illness or disability or other good cause. Evidence of the fulfillment of this requirement shall be submitted to the board in a form and manner established by the board.

b. The board shall review the content of courses of study offered by colleges, universities, and other institutions or organizations for the award-

ing of degrees or credits in subjects related to arboriculture and make the list available to the public. The board shall establish and maintain minimum requirements for courses to meet continuing education requirements by establishing a list of approved subjects and courses of study.

C.45:15C-20 Compliance with laws and regulations in rendering professional services.

10. In rendering professional services, a licensed tree expert or licensed tree care operator shall comply in all respects with the applicable laws and regulations pertaining to tree expert or tree care operator services and shall have the duty to make every reasonable effort to protect the safety, health, property, and welfare of the public. This shall include ensuring the safe operation of all equipment used in the performance of tree expert or tree care operator services, under guidelines established by the Department of Environmental Protection or by the board.

C.45:15C-21 Refusal to issue, renew, suspension, revocation of license.

11. The board may refuse to issue or renew or may suspend or revoke a license or may refuse to admit a person to an examination for licensure, after notice and hearing, upon a finding that an applicant or licensee:

a. Has obtained a license or authorization to sit for an examination through fraud, deception, or misrepresentation;

b. Has conducted work, or allowed work to be conducted under his supervision, in a manner not in compliance with standards approved by the board;

c. Has engaged in the use of dishonesty, fraud, deception, misrepresentation, false promise, or false pretense in the course of his business;

d. Has engaged in gross negligence or gross incompetence;

e. Has engaged in repeated acts of negligence or incompetence;

f. Has engaged in occupational misconduct, as determined by the board;

g. Has been convicted of any crime involving moral turpitude, any crime relating adversely to the activities regulated by the board, or any crime of the first, second, third, or fourth degree;

h. Has had his authority to engage in the activities regulated by the board revoked or suspended by any other state, agency, or authority;

i. Has failed to comply with the provisions of this act or any regulation promulgated pursuant thereto, including canons of ethics established by the board;

j. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the health, safety, and welfare of the public;

k. Has engaged in any form of false or misleading advertising or promotional activities, including, but not limited to, holding himself out to be a licensed tree expert, an arborist, licensed tree care operator, a tree surgeon, a tree care business, or any similar designation, or using the abbreviation "L.T.E." or "L.T.C.O." without being licensed as a tree expert or a tree care operator as provided for in this act; or

l. Has failed to maintain records required by the board.

C.45:15C-22 Biennial registration; required information.

12. Every business engaged in providing tree expert or tree care operator services shall register biennially with the board as a condition of doing business in this State and shall provide the following information:

a. The name and residence of the owner or owners of the tree care business;

b. The principal address of the tree care business, and any branch office or subsidiary of the business;

c. The names and addresses of every licensed tree expert or licensed tree care operator employed by the business and the location of each such licensee, if at a branch office other than the business' main office;

d. Proof of general liability insurance or a letter of credit of a type and amount required by the board by regulation;

e. Proof of workers' compensation insurance coverage required pursuant to chapter 15 of Title 34 of the Revised Statutes;

f. Proof that at least one employee of the tree care business, located at the principal office of the tree care business shall be licensed either as a tree expert or tree care operator, and at least one employee of the tree care business, located at each branch office of the tree care business shall be licensed either as a tree expert or tree care operator; and

g. Any other information required by the board.

C.45:15C-23 Instruction, training for employees.

13. Every tree care business shall provide instruction and training for its employees in the proper use, inspection and maintenance of tools and equipment and shall require that safe working practices are observed in accordance with the appropriate standards of the American National Standards Institute (ANSI), as well as any additional standards designated by the board by regulation. Every tree care business shall submit documentation of its training program for employees to the board annually, which shall include a model tree safety program checklist, proof of general liabil-

ity insurance coverage or a letter of credit in an amount established by the board, and proof of workers' compensation insurance.

C.45:15C-24 Revocation, suspension of registration.

14. The board may revoke or suspend a registration of any tree care business, after notice and hearing, that the business:

a. Has failed to demonstrate that the employer, or at least one employee in each principal office and branch location who is responsible for the supervision of workers in the performance of tree expert or tree care operator services, is in possession of a tree expert license or a tree care operator license;

b. Has failed to ensure the safe operation of all equipment used in the performance of tree expert or tree care operator services;

c. Has allowed work to be conducted in a manner not in compliance with standards approved by the board;

d. Has failed to provide instruction and training for its employees, as required by this act;

e. Has engaged in the use of dishonesty, fraud, deception, misrepresentation, false promise, or false pretense in the course of his business;

f. Has been found guilty of gross negligence or incompetence;

g. Has had the authority to engage in tree expert or tree care operator services revoked or suspended by any other state, agency, or authority;

h. Has failed to comply with the provisions of this act or any regulation promulgated pursuant thereto;

i. Has engaged in any form of false or misleading advertising or promotional activities; or

j. Has failed to maintain records required by the board.

C.45:15C-25 Cooperation with DEP, board.

15. In the performance of tree expert or tree care operator services, a licensed tree expert or licensed tree care operator and every tree care business shall cooperate fully with the Department of Environmental Protection and the board in an investigation or adjudication of an alleged violation of this law or any regulations promulgated pursuant thereto, and upon request, shall provide copies of any documents that shall be requested in connection therewith.

C.45:15C-26 Investigation of unlawful activity.

16. Whenever it shall appear to the board or the Department of Environmental Protection that a person has engaged in, or is engaging in, any

unlawful activity under the provisions of this act, the person may be required to file, on a form prescribed by regulation, a statement in writing under oath as to the facts and circumstances concerning the rendering of any service or other violation of this act. The board or the department may examine any person in connection with any act or practice subject to the act, inspect any premises upon which any violation is alleged to have taken place or premises that constitute the licensee's place of business, and examine any record, book, document, account or paper maintained by or for any licensee in the conduct of his business.

C.45:15C-27 Notice, hearing prior to suspension, revocation of license.

17. Suspension or revocation of a license by the board shall take place only following notice and a hearing, sent to the licensee at least 20 days prior to the hearing. No license shall be revoked or suspended until the conclusion of any hearing. The board shall render its judgment no later than 20 days following the conclusion of the hearing.

C.45:15C-28 Additional fines.

18. In addition to suspension or revocation of a license, the board may levy a fine, not to exceed $1,000 for a first violation and not to exceed $2,500 for a second or subsequent violation of this act. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense. The civil penalty shall be issued for and recovered by and in the name of the board, and shall be collected by summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), including reimbursement for the cost of investigation.

C.45:15C-29 Injunction prohibiting act, practice.

19. Whenever it shall appear to the board or the Department of Environmental Protection that a violation of this act has occurred, is occurring, or will occur, the Attorney General, in addition to any other proceeding authorized by law, may seek and obtain in a summary proceeding in the Superior Court an injunction prohibiting the act or practice. The court may assess a civil penalty in accordance with the provisions of this act, but the court shall not suspend or revoke any license issued by the board.

C.45:15C-30 Appeal.

20. Any person aggrieved by an order or finding by the board or the commissioner may appeal the order or finding to the Superior Court.

C.45:15C-31 Inapplicability of act.

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

a. Any public utility or any employee of a public utility while engaged in the actual performance of his duties as an employee;

b. Any employer under contract with a public utility who is engaged in tree trimming or any other utility vegetation management practice for purpose of line clearance, or any employee of the employer while engaged in the actual performance of duties in regard to tree trimming or other utility vegetation management practice or for the installation of underground facilities or associated site construction;

c. Any forestry activities that are conducted under the forest management and stewardship programs approved by the State Forester, provided that tree climbing is not performed, nor are aerial lifts, cranes, or rope and rigging operations used;

d. Landscape construction activities, including those performed by, or under the direction of, a landscape architect, or ground based landscape maintenance activities such as pruning, fertilization, insect and disease control, planting, transplanting and all other forms of ground based landscape maintenance, in compliance with the sections of the American National Standards Institute practice standards set forth by the board by regulation, with applicable safety standards and regulations promulgated by the federal Occupational Safety and Health Administration, and with any pesticide regulations promulgated by the Department of Environmental Protection. For the purposes of this subsection, ground based landscape maintenance means operations that do not involve climbing, the use of aerial lifts, cranes, rope and rigging operations, or the removal of trees over 6 inch D.B.H;

e. Any person or employer that does not offer tree care services for hire;

f. Any trees being removed pursuant to an approved site plan or subdivision approval, provided that the tree removal activities are performed in compliance with the sections of the American National Standards Institute practice standards set forth by the board by regulation, with applicable safety standards and regulations promulgated by the federal Occupational Safety and Health Administration, and with applicable safety standards of the American National Standards Institute as designated by the board by regulation; and

g. Any employee of a municipality or county while engaged in the actual performance of his duties as an employee.

C.45:15C-32 Deposit, use of fees and penalties.

22. All fees and penalties collected pursuant to this act shall be deposited with the board, and their use shall be authorized by the board for the purposes of carrying out the provisions of this act.

Repealer.

23. The following are repealed:
P.L.1940, c.100 (C.45:15C-1 et seq.); and
Sections 7 and 8 of P.L.1996, c.20 (C.45:15C-2.1 and -7.1).

24. This act shall take effect immediately, except for section 23, which shall take effect upon the final promulgation of initial regulations by the board necessary to carry out the provisions of this act.

Approved January 16, 2010.

CHAPTER 238

AN ACT concerning continuing education requirements for real estate brokers, broker-salespersons and salespersons and creating a new licensing category of referral agents, amending various parts of the statutory law, and supplementing chapter 15 of Title 45 of the Revised Statutes.

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

1. R.S.45:15-1 is amended to read as follows:

License required.

45:15-1. No person shall engage either directly or indirectly in the business of a real estate broker, broker-salesperson, salesperson or referral agent, temporarily or otherwise, and no person shall advertise or represent himself as being authorized to act as a real estate broker, broker-salesperson, salesperson or referral agent, or to engage in any of the activities described in R.S.45:15-3, without being licensed so to do as hereinafter provided.

2. R.S.45:15-3 is amended to read as follows:

Terms defined, license required for bringing action for compensation.

45:15-3. A real estate broker, for the purposes of R.S.45:15-1 et seq., is defined to be a person, firm or corporation who, for a fee, commission or other valuable consideration, or by reason of a promise or reasonable expectation thereof, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase or rental of real estate or an interest therein, or collects or offers or attempts to collect rent for the use of real estate or solicits for prospective purchasers or assists or directs in the procuring of prospects or the negotiation or closing of any transaction which does or is contemplated to result in the sale, exchange, leasing, renting or auctioning of any real estate or negotiates, or offers or attempts or agrees to negotiate a loan secured or to be secured by mortgage or other encumbrance upon or transfer of any real estate for others, or any person who, for pecuniary gain or expectation of pecuniary gain conducts a public or private competitive sale of lands or any interest in lands. In the sale of lots pursuant to the provisions of R.S.45:15-1 et seq., the term "real estate broker" shall also include any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange, of any such lot or parcel of real estate.

A real estate salesperson, for the purposes of R.S.45:15-1 et seq., is defined to be any natural person who, for compensation, valuable consideration or commission, or other thing of value, or by reason of a promise or reasonable expectation thereof, is employed by and operates under the supervision of a licensed real estate broker to sell or offer to sell, buy or offer to buy or negotiate the purchase, sale or exchange of real estate, or offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate, or to lease or rent, or offer to lease or rent any real estate for others, or to collect rents for the use of real estate, or to solicit for prospective purchasers or lessees of real estate, or who is employed by a licensed real estate broker to sell or offer to sell lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise to sell real estate, or any parts thereof, in lots or other parcels.

A real estate broker-salesperson, for the purposes of R.S.45:15-1 et seq., is defined to be any natural person who is qualified to be licensed as a real estate broker but who, for compensation, valuable consideration or commission, or other thing of value, or by reason of a promise or reason-

able expectation thereof, is employed by and operates under the supervision of a licensed real estate broker to perform the functions of a real estate salesperson as defined herein.

A real estate referral agent, for the purposes of R.S.45:15-1 et seq., is defined to be any natural person employed by and operating under the supervision of a licensed real estate broker whose real estate brokerage-related activities are limited to referring prospects for the sale, purchase, exchange, leasing or rental of real estate or an interest therein. Referral agent licensees shall only refer such prospects to the real estate broker through whom they are licensed as a referral agent and shall only accept compensation for their activity as a referral agent from that broker. A referral agent shall not be employed by or licensed with more than one real estate broker at any given time. No person may simultaneously be licensed as a referral agent and a real estate broker, broker-salesperson or salesperson and no person licensed as a referral agent may engage in the business of a real estate broker, broker-salesperson or salesperson to an extent beyond that authorized by their status as a licensed real estate agent.

No person, firm, partnership, association or corporation shall bring or maintain any action in the courts of this State for the collection of compensation for the performance of any of the acts mentioned in R.S.45:15-1 et seq. without alleging and proving that he was a duly licensed real estate broker at the time the alleged cause of action arose.

No person claiming to be entitled to compensation as a referral agent, salesperson or broker-salesperson for the performance of any of the acts mentioned in R.S.45:15-1 et seq. shall bring or maintain any action in the courts of this State for the collection of compensation against any person, firm, partnership or corporation other than the licensed broker with whom the referral agent, salesperson or broker-salesperson was employed at the time the alleged cause of action arose and no action shall be brought or maintained without the claimant alleging and proving that he was a duly licensed real estate referral agent, salesperson or broker-salesperson at the time the alleged cause of action arose.

3. R.S.45:15-9 is amended to read as follows:

Real estate licenses.

45:15-9. All persons desiring to become real estate brokers, broker-salespersons, salespersons or referral agents shall apply to the commission for a license under the provisions of R.S.45:15-1 et seq. Every applicant for a license as a broker, broker-salesperson, salesperson or referral agent

shall be of the age of 18 years or over, and in the case of an association or a corporation the directors thereof shall be of the age of 18 years or over. Application for a license, whether as a real estate broker, broker-salesperson, salesperson or referral agent, shall be made to the commission upon forms prescribed by it and shall be accompanied by an application fee of $50 which fee shall not be refundable. Every applicant for a license whether as a real estate broker, broker-salesperson, salesperson or referral agent shall have the equivalent of a high school education. The issuance of a license to an applicant who is a nonresident of this State shall be deemed to be his irrevocable consent that service of process upon him as a licensee in any action or proceeding may be made upon him by service upon the secretary of the commission or the person in charge of the office of the commission. The applicant shall furnish evidence of good moral character, and in the case of an association, partnership or corporation, the members, officers or directors thereof shall furnish evidence of good moral character. The commission may make such investigation and require such proof as it deems proper and in the public interest as to the honesty, trustworthiness, character and integrity of an applicant. Any applicant for licensure pursuant to this section and any officer, director, partner or owner of a controlling interest of a corporation or partnership filing for licensure pursuant to this section shall submit to the commission the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The commission is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations, for the purposes of facilitating determinations concerning licensure eligibility. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the commissioner in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed. Every applicant for a license as a broker or broker-salesperson shall have first been the holder of a New Jersey real estate salesperson's license and have been actively engaged on a full-time basis in the real estate brokerage business in this State as a real estate salesperson for three years immediately preceding the date of application, which requirement may be waived by the commission where the applicant has been the holder of a broker's license in another

state and actively engaged in the real estate brokerage business for at least three years immediately preceding the date of his application, meets the educational requirements and qualifies by examination. No license as a broker shall be granted to a general partnership or corporation unless at least one of the partners or officers of said general partnership or corporation qualifies as and holds a license as a broker to transact business in the name and on behalf of said general partnership or corporation as its authorized broker and no such authorized broker shall act as a broker on his own individual account unless he is also licensed as a broker in his individual name; the license of said general partnership or corporation shall cease if at least one partner or officer does not hold a license as its authorized broker at all times. A change in the status of the license of an authorized broker to an individual capacity or vice versa shall be effected by application to the commission accompanied by a fee of $50. No license as a broker shall be granted to a limited partnership unless its general partner qualifies as and holds a license as a broker to transact business in the name of and on behalf of the limited partnership. In the event that a corporation is a general partner of a limited partnership, no license as a broker shall be granted to the limited partnership unless the corporation is licensed as a broker and one of the officers of the corporation qualifies as and holds a license as the corporation's authorized broker.

An application for licensure as a referral agent and for any renewal thereof shall include a certification signed by the licensed real estate broker by whom the applicant is or will be employed, on a form and in a manner prescribed by the commission, which certification shall confirm that: the broker and the applicant or renewing referral agent have reviewed the restrictions imposed by law upon the activities of a referral agent; and the applicant or referral agent has acknowledged that he is aware that such activity is limited to referring prospective consumers of real estate brokerage services to that broker.

In the event that a person who held a broker, broker-salesperson or salesperson license fails to renew that license and then, in the two years immediately following the expiration date of the last license held, seeks to reinstate such license, the commission shall require, as a condition to such reinstatement during that two-year period, that the applicant submit proof of having completed the continuing education requirement applicable to that license type in the preceding license term.

In the event that any person to whom a broker's or broker-salesperson's license has been or shall have been issued shall fail to renew such license or obtain a new license for a period of more than two but less than five con-

secutive years after the expiration of the last license held, prior to issuing another broker or broker-salesperson license to the person, the commission shall require such person to complete the continuing education requirements applicable to salesperson licensees in the preceding license term, to work as a licensed salesperson on a full-time basis for one full year, to pass the broker's license examination, and to successfully complete a 90-hour general broker's pre-licensure course at a licensed real estate school, as the commission shall prescribe by regulation. In the event that any person to whom a broker's or broker-salesperson's license has been or shall have been issued fails to maintain or renew the license or obtain a new license for a period of more than five consecutive years after the expiration of the last license held, prior to issuing another broker or broker-salesperson license to the person the commission shall require the person to pass the salesperson's license examination and then to work as a licensed salesperson on a full-time basis for three years, to fulfill all of the educational requirements applicable to first time applicants for a broker or broker-salesperson license and to pass the broker's license examination. The commission may, in its discretion, approve for relicensure the former holder of a broker or broker-salesperson license who has not renewed the license or obtained a new license for two or more consecutive years upon a sufficient showing that the applicant was medically unable to do so. All applicants so approved shall pass the broker's license examination and complete the continuing education requirements applicable to broker licensees in the preceding licensure term prior to being relicensed. This paragraph shall not apply to a person reapplying for a broker's or broker-salesperson's license who was licensed as a broker or broker-salesperson and who allowed his license to expire due to subsequent employment in a public agency in this State with responsibility for dealing with matters relating to real estate if the person reapplying does so within one year of termination of that employment.

In the event that any person to whom a salesperson's or a referral agent's license has been or shall have been issued shall fail to maintain or renew such license or obtain a new license for a period of two consecutive years or more after the expiration of the last license held, the commission shall require such person to attend a licensed school and pass the State examination prior to issuance of a further license. The commission may, in its discretion, approve for relicensure a salesperson or a referral agent applicant who has not renewed his license or obtained a new license for two or more consecutive years upon a sufficient showing that the applicant was medically unable to do so. All salesperson or referral agent applicants so approved shall pass the salesperson's license examination and, with respect

to salespersons, complete the continuing education requirements applicable to salesperson licensees in the preceding licensure term prior to being relicensed. This paragraph shall not apply to a person reapplying for a salesperson's or referral agent's license who was a licensed salesperson or referral agent and who allowed his license to expire due to subsequent employment in a public agency in this State with responsibility for dealing with matters relating to real estate if the person reapplying does so within one year of termination of that employment.

A licensed referral agent who was not previously licensed as a broker, broker-salesperson, or salesperson and who has been licensed as a referral agent for the six immediately preceding years or any lesser period of time shall, in order to qualify for licensure as a salesperson, complete up to 30 hours of continuing education as prescribed by commission rule. A person who was previously licensed as a broker, broker-salesperson or salesperson and who has been licensed as a referral agent for the six immediately preceding years or any lesser period of time shall, in order to qualify for the reissuance of a broker, broker-salesperson or salesperson license, as applicable, complete up to 30 hours of continuing education as prescribed by commission rule.

A licensed referral agent who was not previously licensed as a broker, broker-salesperson or salesperson and who has been licensed as a referral agent for more than the six immediately preceding years shall, in order to qualify for licensure as a salesperson, be required to complete the prelicensure education requirement applicable to candidates for licensure as a salesperson and pass the State license examination. A person who was previously licensed as a broker, broker-salesperson or salesperson and who has been licensed as a referral agent for more than the six immediately preceding years shall, in order to qualify for relicensure as a broker, broker-salesperson or salesperson, as applicable, complete up to 30 hours of continuing education as prescribed by commission rule and pass the broker license examination or the salesperson license examination, as applicable.

Any referral agent seeking licensure as a real estate broker, broker-salesperson or salesperson shall make application for such license on a form as prescribed by the commission, pay all application and licensure fees as set forth herein, furnish to the commission evidence of the referral agent's good moral character, and be subject to investigation by and required to produce to the commission such proof of the referral agent's honesty, trustworthiness and integrity as the commission deems proper and in the public interest.

4. R.S.45:15-10 is amended to read as follows:

Examination required for initial licensure; term, renewal.

45:15-10. Before any such license shall be granted, the applicant, and in the case of a partnership, association or corporation, the partners, directors or officers thereof actually engaged in the real estate business as a broker, broker-salesperson, salesperson, or referral agent, shall submit to an examination to be conducted under the supervision of the commission which examination shall test the applicant's general knowledge of the statutes of New Jersey concerning real property, conveyancing, mortgages, agreements of sale, leases and of the provisions of R.S.45:15-1 et seq., the rules and regulations of the commission and such other subjects as the commission may direct. The commission may make rules and regulations for the conduct of such examinations. Upon satisfactorily passing such examination and fulfilling all other qualifications a license shall be granted by the commission to the successful applicant therefor as a real estate broker, broker-salesperson, salesperson, or referral agent and the applicant upon receiving the license is authorized to conduct in this State the business of a real estate broker, broker-salesperson, salesperson, or referral agent, as the case may be. Such license shall expire on the last day of a two-year license term as established by the commission; such license shall be renewed, without examination, biennially thereafter, upon the payment of the fee fixed by R.S.45:15-15, and in the case of a broker, broker-salesperson or salesperson license, upon completion of the continuing education requirements applicable to the holders of such licenses.

5. Section 1 of P.L.1966, c.227 (C.45:15-10.1) is amended to read as follows:

C.45:15-10.1 Educational requirements.

1. a. As a prerequisite to admission to an examination, every individual applicant for licensure as a real estate salesperson or a real estate referral agent shall give evidence of satisfactory completion of 75 hours in the aggregate of such courses of education in real estate subjects at a school licensed by the commission as the commission shall by regulation prescribe. At least three hours of that course of study shall be on the subject of ethics and ethical conduct in the profession of a real estate salesperson.

b. As a prerequisite to admission to an examination, every individual applicant for licensure as a real estate broker or broker-salesperson shall give evidence of satisfactory completion of 150 hours in the aggregate of

such courses of education in real estate and related subjects at a school licensed by the commission as the commission shall by regulation prescribe. Thirty hours of that course of study shall be on the subject of ethics and ethical conduct in the profession of a real estate broker.

The commission may approve courses in specialized aspects of the real estate brokerage business offered by providers who are not the holders of a real estate school license pursuant to section 47 of P.L.1993, c.51 (C.45:15-10.4), the completion of which may be recognized as fulfilling a portion of the total broker pre-licensure education requirements.

6. Section 54 of P.L.1993, c.51 (C.45:15-10.11) is amended to read as follows:

C.45:15-10.11 Grounds for suspension, revocation of real estate school instructor license.

54. The commission may suspend or revoke the license of any real estate school or instructor or impose fines as provided in R.S.45:15-17 upon satisfactory proof that the licensee is guilty of:

a. Making any false promise or substantial misrepresentation;

b. Pursuing a flagrant and continued course of misrepresentation or making false promises through agents, advertisements or otherwise;

c. Engaging in any conduct which demonstrates unworthiness, incompetency, bad faith or dishonesty;

d. Failing to provide a student with a copy of a written agreement which designates the total tuition charges for attendance at a real estate pre-licensure or continuing education course offered by a licensed school, or other charges imposed upon students who enroll in the course, and the refund policy of the school in regard to tuition and other charges;

e. Using any plan, scheme or method of attracting students to enroll in a real estate pre-licensure or continuing education course which involves a lottery, contest, game, prize or drawing;

f. Being convicted of a crime, knowledge of which the commission did not have at the time of last issuing a license to the licensee;

g. Procuring a real estate license for himself or anyone else by fraud, misrepresentation or deceit;

h. Making any verbal or written statement which falsely indicates that a person attended or successfully completed any real estate pre-licensure or continuing education course conducted by the licensee; or

i. Any other conduct whether of the same or of a different character than specified in this section which constitutes fraud or dishonest dealing.

7. R.S.45:15-11 is amended to read as follows:

Disabled war veterans; granting of licenses.

45:15-11. Any citizen of New Jersey who has served in the armed forces of the United States or who served as a member of the American Merchant Marine during World War II and is declared by the United States Department of Defense to be eligible for federal veterans' benefits, who has been honorably discharged, and who, having been wounded or disabled in the line of duty, has completed a program of courses in real estate approved by the New Jersey Real Estate Commission, and who has successfully passed an examination conducted by said commission qualifying him to operate as a real estate broker, broker-salesperson, salesperson or referral agent, may, upon presentation of a certificate certifying that he has completed such program of courses as aforesaid, obtain without cost from the commission and without qualification through experience as a salesperson, a license to operate as a real estate broker, broker-salesperson, real estate salesperson or referral agent, as the case may be, which licenses shall be the same as other licenses issued under R.S.45:15-1 et seq. Renewal of licenses may be granted under this section for each ensuing license term, upon request, without fees therefor.

8. R.S.45:15-14 is amended to read as follows:

License kept by employing broker.

45:15-14. All licenses issued to real estate brokers, broker-salespersons, salespersons and referral agents shall be kept by the broker by whom such real estate licensee is employed, and the pocket card accompanying the same shall be delivered by the broker to the licensee who shall have the card in his possession at all times when engaged in the business of a real estate broker, broker-salesperson, salesperson or referral agent. When any real estate licensee is terminated or resigns his employment with the real estate broker by whom he was employed at the time of the issuing of such license to him, notice of the termination shall be given in writing by the broker to the terminated licensee with the effective date of the termination reflected thereon, or notice of the resignation shall be given in writing by the resigning licensee to the broker with the effective date of the resignation reflected thereon. Upon the issuance of a written notice of termination by a broker or his authorized representative, or upon receipt of a written resignation by a broker or his authorized representative, such employer shall within five business days of the effective date of the termination or

resignation, either: a. deliver, or send by registered mail, to the commission, such real estate licensee's license and, at the same time, send a written communication to such real estate licensee at his last known residence, advising him that his license has been delivered or mailed to the commission. A copy of such communication to the licensee shall accompany the license when mailed or delivered to the commission; or, b. deliver to the departing licensee and to the commission any other materials as the commission may prescribe by regulation to accomplish the transfer of the licensee to another employing broker. No real estate licensee shall perform any of the acts contemplated by R.S.45:15-1 et seq., either directly or indirectly, under the authority of such license, from and after the effective date of the licensee's termination or resignation until authorized to do so by the commission. A new license may be issued to such licensee, upon the payment of a fee of $25, and upon the submission of satisfactory proof that he has obtained employment with another licensed broker. A broker-salesperson, salesperson or referral agent must be licensed under a broker; he cannot be licensed with more than one broker at the same time.

9. R.S.45:15-15 is amended to read as follows:

License fees.

45:15-15. The biennial fee for each real estate broker's license shall be $200, the biennial fee for each real estate broker-salesperson's license shall be $200 and the biennial fee for each real estate salesperson's license and each real estate referral agent's license shall be $100. The biennial fee for a branch office license shall be $100. Each license granted under R.S.45:15-1 et seq. shall entitle the licensee to perform all of the acts contemplated herein during the period for which the license is issued, as prescribed by R.S.45:15-1 et seq. If a licensee fails to apply for a renewal of his license prior to the date of expiration of such license, the commission may refuse to issue a renewal license except upon the payment of a late renewal fee in the amount of $20 for a referral agent, salesperson or broker-salesperson and $40 for a broker; provided, however, the commission may, in its discretion, refuse to renew any license upon sufficient cause being shown. The commission shall refuse to renew the license of any licensee convicted of any offense enumerated in section 6 of P.L.1953, c.229 (C.45:15-19.1) during the term of the last license issued by the commission unless the conviction was previously the subject of a revocation proceeding. Renewed licenses may be granted for each ensuing two years upon request of licensees and the payment of the full fee therefor as herein required. Upon application and

payment of the fees provided herein, initial licenses and licenses reinstated pursuant to R.S.45:15-9 may be issued, but the commission may, in its discretion, refuse to grant or reinstate any license upon sufficient cause being shown. The license fees for initial or reinstated licenses shall be determined based upon the biennial fees established herein, with a full biennial fee payable for the license term in which application is received. The revocation or suspension of a broker's license shall automatically suspend every real estate broker-salesperson's, salesperson's and referral agent's license granted to employees of the broker whose license has been revoked or suspended, pending a change of employer and the issuance of a new license. The new license shall be issued without additional charge, if the same is granted during the license term in which the original license was granted. Any renewal fee in this section shall be billed by the commission at or before the time of the submission of a renewal application by a licensee.

A real estate broker who maintains a main office or branch office licensed by the commission which is located in another state shall maintain a valid real estate broker's license in good standing in the state where the office is located and shall maintain a real estate license in that other state for each office licensed by the commission. Upon request, the real estate broker shall provide a certification of his license status in the other state to the commission. Any license issued by the commission to a real estate broker for a main or branch office located outside this State shall be automatically suspended upon the revocation, suspension or refusal to renew the real estate broker's license issued by the state where the office is located. The licenses issued by the commission to every broker-salesperson, salesperson or referral agent employed by the broker shall be automatically suspended pending a change of employer and the issuance of a new license. The new license shall be issued without additional charge if granted during the license term in which the original license was granted.

10. R.S.45:15-16 is amended to read as follows:

Acceptance of commission, valuable consideration.

45:15-16. No real estate salesperson, broker-salesperson or referral agent shall accept a commission or valuable consideration for the performance of any of the acts herein specified, from any person except his employer, who must be a licensed real estate broker.

11. R.S.45:15-17 is amended to read as follows:

Investigation of actions of licensees; suspension or revocation of licenses and causes therefor.

45:15-17. The commission may, upon its own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any real estate broker, broker-salesperson, salesperson, referral agent, or any person who assumes, advertises or represents himself as being authorized to act as a real estate broker, broker-salesperson, salesperson or referral agent or engages in any of the activities described in R.S.45:15-3 without being licensed so to do. The lapse or suspension of a license by operation of law or the voluntary surrender of a license by a licensee shall not deprive the commission of jurisdiction to proceed with any investigation as herein provided or prevent the commission from taking any regulatory action against such licensee, provided, however, that the alleged charges arose while said licensee was duly licensed. Each transaction shall be construed as a separate offense.

In conducting investigations, the commission may take testimony by deposition as provided in R.S.45:15-18, require or permit any person to file a statement in writing, under oath or otherwise as the commission determines, as to all the facts and circumstances concerning the matter under investigation, and, upon its own motion or upon the request of any party, subpoena witnesses, compel their attendance, take evidence, and require the production of any material which is relevant to the investigation, including any and all records of a licensee pertaining to his activities as a real estate broker, broker-salesperson, salesperson or referral agent. The commission may also require the provision of any information concerning the existence, description, nature, custody, condition and location of any books, documents, or other tangible material and the identity and location of persons having knowledge of relevant facts of any other matter reasonably calculated to lead to the discovery of material evidence. Upon failure to obey a subpoena or to answer questions posed by an investigator or legal representative of the commission and upon reasonable notice to all affected persons, the commission may commence an administrative action as provided below or apply to the Superior Court for an order compelling compliance.

The commission may place on probation, suspend for a period less than the unexpired portion of the license period, or may revoke any license issued under the provisions of R.S.45:15-1 et seq., or the right of licensure when such person is no longer the holder of a license at the time of hearing, or may impose, in addition or as an alternative to such probation, revocation or suspension, a penalty of not more than $5,000 for the first violation, and a penalty of not more than $10,000 for any subsequent violation, which

penalty shall be sued for and recovered by and in the name of the commission and shall be collected and enforced by summary proceedings pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), where the licensee or any person, in performing or attempting to perform any of the acts mentioned herein, is deemed to be guilty of:

a. Making any false promises or any substantial misrepresentation; or

b. Acting for more than one party in a transaction without the knowledge of all parties thereto; or

c. Pursuing a flagrant and continued course of misrepresentation or making of false promises through agents, broker-salespersons, salespersons or referral agents, advertisements or otherwise; or

d. Failure to account for or to pay over any moneys belonging to others, coming into the possession of the licensee; or

e. Any conduct which demonstrates unworthiness, incompetency, bad faith or dishonesty. The failure of any person to cooperate with the commission in the performance of its duties or to comply with a subpoena issued by the commission compelling the production of materials in the course of an investigation, or the failure to give a verbal or written statement concerning a matter under investigation may be construed as conduct demonstrating unworthiness; or

f. Failure to provide his client with a fully executed copy of any sale or exclusive sales or rental listing contract at the time of execution thereof, or failure to specify therein a definite terminal date which terminal date shall not be subject to any qualifying terms or conditions; or

g. Using any plan, scheme or method for the sale or promotion of the sale of real estate which involves a lottery, a contest, a game, a prize, a drawing, or the offering of a lot or parcel or lots or parcels for advertising purposes, provided, however, that a promotion or offer of free, discounted or other services or products which does not require that the recipient of any free, discounted or other services or products enter into a sale, listing or other real estate contract as a condition of the promotion or offer shall not constitute a violation of this subsection if that promotion or offering does not involve a lottery, a contest, a game, a drawing or the offering of a lot or parcel or lots or parcels for advertising purposes. A broker shall disclose in writing any compensation received for such promotion or offer in the form and substance as required by the federal "Real Estate Settlement Procedures Act of 1974," (Pub.L.93-533, 12 U.S.C. ss.2601 et seq.), except that, notwithstanding the provisions of that federal act, written disclosure shall be provided no later than when the promotion or offer is extended by the broker to the consumer; or

h. Being convicted of a crime, knowledge of which the commission did not have at the time of last issuing a real estate license to the licensee; or

i. Collecting a commission as a real estate broker in a transaction, when at the same time representing either party in a transaction in a different capacity for a consideration; or

j. Using any trade name or insignia of membership in any real estate organization of which the licensee is not a member; or

k. Paying any rebate, profit, compensation or commission to anyone not possessed of a real estate license, except that free, discounted or other services or products provided for in subsection g. of this section shall not constitute a violation of this subsection; or

l. Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing; or

m. Accepting a commission or valuable consideration as a real estate broker-salesperson, salesperson or referral agent for the performance of any of the acts specified in this act, from any person, except his employing broker, who must be a licensed broker; or

n. Procuring a real estate license, for himself or anyone else, by fraud, misrepresentation or deceit; or

o. Commingling the money or other property of his principals with his own or failure to maintain and deposit in a special account, separate and apart from personal or other business accounts, all moneys received by a real estate broker, acting in said capacity, or as escrow agent, or the temporary custodian of the funds of others, in a real estate transaction; or

p. Selling property in the ownership of which he is interested in any manner whatsoever, unless he first discloses to the purchaser in the contract of sale his interest therein and his status as a real estate broker, broker-salesperson, salesperson or referral agent; or

q. Purchasing any property unless he first discloses to the seller in the contract of sale his status as a real estate broker, broker-salesperson, salesperson or referral agent; or

r. Charging or accepting any fee, commission or compensation in exchange for providing information on purportedly available rental housing, including lists of such units supplied verbally or in written form, before a lease has been executed or, where no lease is drawn, before the tenant has taken possession of the premises without complying with all applicable rules promulgated by the commission regulating these practices; or

s. Failing to notify the commission within 30 days of having been convicted of any crime, misdemeanor or disorderly persons offense, or of having been indicted, or of the filing of any formal criminal charges, or of the suspension or revocation of any real estate license issued by another state, or of the initiation of formal disciplinary proceedings in another state affecting any real estate license held, or failing to supply any documentation available to the licensee that the commission may request in connection with such matter; or

t. The violation of any of the provisions of R.S.45:15-1 et seq. or of the administrative rules adopted by the commission pursuant to the provisions of R.S.45:15-1 et seq. The commission is expressly vested with the power and authority to make, prescribe and enforce any and all rules and regulations for the conduct of the real estate brokerage business consistent with the provisions of chapter 15 of Title 45 of the Revised Statutes.

If a licensee is deemed to be guilty of a third violation of any of the provisions of this section, whether of the same provision or of separate provisions, the commission may deem that person a repeat offender, in which event the commission may direct that no license as a real estate broker, broker-salesperson, salesperson or referral agent shall henceforth be issued to that person.

12. R.S.45:15-18 is amended to read as follows:

Notification to licensee of charges made in license suspension, revocation.

45:15-18. With the exception of a temporary suspension imposed by the commission pursuant to section 23 of P.L.1993, c.51 (C.45:15-17.1), the commission shall, before suspending or revoking any license, and at least ten days prior to the date set for the hearing, notify in writing the licensee of any charges made, and afford him an opportunity to be heard in person or by counsel. Such written notice may be served either personally or sent by certified mail to the last known business address of the licensee. If the licensee is a broker-salesperson, salesperson or referral agent, the commission shall also notify the broker employing him, specifying the charges made against such licensee, by sending a notice thereof by certified mail to the broker's last known business address. The commission shall have power to bring before it any licensee or any person in this State pursuant to subpoena served personally or by certified mail; or the commission may take testimony by deposition in the same manner as prescribed by law in judicial proceedings in the courts of this State. Any final decision or de-

termination of the commission shall be reviewable by the Appellate Division of the Superior Court.

13. R.S.45:15-19 is amended to read as follows:

Cause for revocation of license.

45:15-19. Any unlawful act or violation of any of the provisions of R.S.45:15-1 et seq., by any real estate broker-salesperson, salesperson or referral agent, shall not be cause for the revocation of any real estate broker's license, unless it shall appear to the satisfaction of the commission that the real estate broker employing such licensee had guilty knowledge thereof.

14. Section 6 of P.L.1953, c.229 (C.45:15-19.1) is amended to read as follows:

C.45:15-19.1 License revoked upon conviction.

6. When, during the term of any license issued by the commission, the licensee shall be convicted in a court of competent jurisdiction in the State of New Jersey or any state (including federal courts) of forgery, burglary, robbery, any theft or related offense with the exception of shoplifting, criminal conspiracy to defraud, or other like offense or offenses, or any crime involving, related to or arising out of the licensee's activities as a real estate broker, broker-salesperson, salesperson or referral agent, and a duly certified or exemplified copy of the judgment of conviction shall be obtained by the commission, the commission shall revoke forthwith the license by it theretofore issued to the licensee so convicted.

15. Section 7 of P.L.1953, c.229 (C.45:15-19.2) is amended to read as follows:

C.45:15-19.2 License suspended when licensee is indicted.

7. In the event that any licensee shall be indicted in the State of New Jersey or any state or territory (including federal courts) for murder, kidnapping, aggravated sexual assault, robbery, burglary, arson, any theft offense, bribery, racketeering, distribution of a controlled dangerous substance or conspiracy to distribute a controlled dangerous substance, forgery, criminal conspiracy to defraud, or other like offense or offenses, or any crime involving, related to or arising out of the licensee's activities as a real estate broker, broker-salesperson, salesperson or referral agent, and a certi-

fied copy of the indictment is obtained by the commission, or other proper evidence thereof be to it given, the commission shall have authority, in its discretion, to suspend the license issued to such licensee pending trial upon such indictment.

16. R.S.45:15-20 is amended to read as follows:

Nonresident licenses.

45:15-20. A nonresident may become a real estate broker, broker-salesperson, salesperson or referral agent by conforming to all of the provisions of R.S.45:15-1 et seq. All nonresident licenses issued by the commission prior to July 1, 1994 may be renewed upon payment of the renewal fees established pursuant to R.S.45:15-15. All nonresident licenses so renewed shall be issued by the commission in the same form as a resident license. In the event that any person to whom a nonresident license is issued fails to maintain or renew the license or to obtain a new license from the commission for a period of two or more consecutive years, the person shall be required to fulfill the requirements for initial licensure established pursuant to R.S.45:15-9 prior to the issuance of any further license.

A licensed broker whose main office is not located within this State shall only provide brokerage services concerning real estate located within this State either personally or through persons in the broker's employ who are the holders of real estate broker-salesperson, salesperson or referral agent licenses issued by the commission. In the event that a broker maintains one or more branch offices in this State, no person shall engage in the business of a real estate broker, broker-salesperson, salesperson or referral agent at those offices unless the person is a holder of a license issued by the commission authorizing him to do so.

17. Section 1 of P.L.1976, c.112 (C.45:15-34) is amended to read as follows:

C.45:15-34 Real estate guaranty fund established.

1. A real estate guaranty fund is established as a special trust fund to be maintained by the State Treasurer and administered by the New Jersey Real Estate Commission in accordance with the provisions of this act to provide a fund from which recovery may be obtained by any person aggrieved by the embezzlement, conversion or unlawful obtaining of money or property in a real estate brokerage transaction by a licensed real estate broker, broker-salesperson, salesperson or referral agent or an unlicensed

employee of a real estate broker; provided, however, that the amount of such recovery shall not exceed in the aggregate the sum of $10,000 in connection with any one transaction regardless of the number of claims, persons aggrieved, or parcels of, or interests in real estate involved in the transaction. The maximum amount recoverable per transaction shall be increased to $20,000 for claims filed on the basis of causes of action which accrue after the effective date of P.L.1993, c.51 (C.45:15-12.3 et al.).

18. Section 2 of P.L.1976, c.112 (C.45:15-35) is amended to read as follows:

C.45:15-35 Additional amount payable upon initial issuance of license.

2. Upon the initial issuance of a biennial license as a real estate broker, broker-salesperson, salesperson or referral agent the licensee shall pay to the commission, in addition to the license fee fixed by R.S.45:15-15, an additional amount to be forwarded by the commission to the State Treasurer and accounted for and credited by him to the real estate guaranty fund. The additional amount payable by a broker or broker-salesperson shall be $20 and by a salesperson or referral agent, $10.

19. Section 4 of P.L.1976, c.112 (C.45:15-37) is amended to read as follows:

C.45:15-37 Payments from real estate guaranty fund.

4. No claim shall be made for payment from the real estate guaranty fund except upon the reduction to final judgment, which shall include reasonable attorney fees and costs, of a civil action against the broker, broker-salesperson, salesperson, referral agent or unlicensed employee of a broker, and, where the judgment creditor has pursued all available remedies, made all reasonable searches, and has been unable to satisfy the judgment from the licensee's assets, the entry of a court order which directs the New Jersey Real Estate Commission to make payment from the fund. No such order shall authorize a payment to the spouse or personal representative of the spouse of the judgment debtor.

No order shall be entered unless the claimant, either at the time of filing the civil action or thereafter, files a certification affirming that a criminal complaint alleging the misappropriation of funds by the broker, broker-salesperson, salesperson, referral agent or unlicensed employee has been filed with a law enforcement agency of this State or of a county or municipality in this State. The criminal complaint shall refer to the same conduct

to which reference is made in the civil action as forming the basis for a claim against the real estate guaranty fund. The certification shall specify the date on which the criminal complaint was filed and the law enforcement agency with which it was filed. A copy of the certification shall be provided to the New Jersey Real Estate Commission upon its being filed. The requirement to file a certification shall apply prospectively only to claims seeking reimbursement from the fund filed on the basis of causes of action which accrue after the effective date of P.L.1993, c.51 (C.45:15-12.3 et al.).

Upon delivery by the New Jersey Real Estate Commission to the State Treasurer of a certified copy of the court order together with an assignment to the New Jersey Real Estate Commission of the judgment creditor's right, title and interest in the judgment to the extent of the amount of the court order, the State Treasurer shall make payment to the claimant from the real estate guaranty fund.

20. Section 6 of P.L.1976, c.112 (C.45:15-39) is amended to read as follows:

C.45:15-39 Secretary of commission constituted as agent.

6. Any person to whom is issued a license to be a real estate broker, broker-salesperson, salesperson or referral agent shall, by the securing of said license, make and constitute the secretary of the commission or the person in charge of the office of the commission as agent for the acceptance of process in any civil proceeding hereunder.

21. Section 7 of P.L.1976, c.112 (C.45:15-40) is amended to read as follows:

C.45:15-40 Insufficiency of funds; replenishment; excess amounts.

7. a. If at any time the funds available in the real estate guaranty fund are insufficient to satisfy in full court orders for payment therefrom, payment shall be made in the order in which such court orders were issued; and the New Jersey Real Estate Commission shall by regulation impose further additional amounts to be paid by brokers, broker-salespersons, salespersons and referral agents to replenish the guaranty fund. No such additional amount assessed at any one time shall exceed the amounts specified in section 2 of P.L.1976, c.112 (C.45:15-35).

b. If at any time the funds available in the real estate guaranty fund are, in the opinion of the New Jersey Real Estate Commission, in excess of amounts anticipated to be necessary to meet claims for a period of at least

two years, the commission may, with the approval of the Commissioner of Banking and Insurance, allocate and receive from the guaranty fund a specified amount thereof for research and educational projects to increase the proficiency and competency of real estate licensees.

22. Section 8 of P.L.1976, c.112 (C.45:15-41) is amended to read as follows:

C.45:15-41 Revocation of license upon issuance of court order for payment from fund.

8. Upon the issuance of a court order for payment from the real estate guaranty fund the license of the broker, broker-salesperson, salesperson or referral agent, whose acts gave rise to the claim, shall be revoked and no such broker, broker-salesperson, salesperson or referral agent shall be eligible for reinstatement of his license until he shall have satisfied the judgment in full including reimbursement of the real estate guaranty fund together with interest.

C.45:15-16.2a Continuing education required for licensure.

23. a. The New Jersey Real Estate Commission shall require each natural person licensed as a real estate broker, broker-salesperson or salesperson, as a condition of biennial license renewal pursuant to R.S.45:15-10, to complete not more than 16 hours of continuing education requirements imposed by the commission pursuant to this section and sections 24 through 28 of this amendatory and supplementary act.

b. The commission shall:

(1) (a) Approve continuing education courses, course providers, and instructors recommended to the commission by the Volunteer Advisory Committee created pursuant to subparagraph (b) of this paragraph. Schools licensed by the commission as real estate schools pursuant to section 47 of P.L.1993, c.51 (C.45:15-10.4) shall be deemed approved providers of continuing education courses. Persons licensed by the commission as real estate instructors pursuant to section 48 of P.L.1993, c.51 (C.45:15-10.5) shall be deemed approved instructors of continuing education courses in core topics as set forth in section 27 of P.L.2009, c.238 (C.45:15-16.2e). Real estate trade associations that qualify under the standards to be established by commission rule as approved providers may offer approved continuing education courses.

(b) There is hereby created a Volunteer Advisory Committee which shall consist of 14 members to be comprised of real estate licensees and other subject matter experts, whose members shall be appointed by and

serve at the pleasure of the Commissioner of Banking and Insurance. One real estate licensee shall be selected upon the recommendation of the President of the Senate and one real estate licensee shall be selected upon the recommendation of the Speaker of the General Assembly. Three members of the advisory committee shall be members of the commission or their designees, and not less than eight of the members, other than the commission members, shall be real estate licensees. Members shall be appointed to effect balanced geographic representation from the central, northern and southern areas of the State, with not less than three members serving from each of these areas at any time on the advisory committee.

Members shall be appointed by the Commissioner of Banking and Insurance no later than 60 days following the enactment date of this act. The first meeting of the advisory committee shall be held no later than 30 days from the date the commission adopts initial regulations for the effectuation of this act.

(2) Confer continuing education credits for courses completed in other states on topics approved by the commission as appropriate for elective courses, provided that such courses have been approved as continuing education courses by the agency exercising regulatory authority over the real estate licensees of another state and that satisfactory evidence of licensees' attendance at and completion of such courses is provided to the commission by the course provider.

(3) Confer continuing education credits for courses completed and offered in this State on topics deemed of a timely nature which have not been granted prior approval by the advisory committee, provided that such courses are advertised prior to the time of offering as not having been approved; that the course provider shall submit such course offering for approval and the course is subsequently approved as provided in subparagraph (a) of paragraph (1) of this subsection; and that satisfactory evidence of licensees' attendance at and completion of such courses is provided to the commission by the course provider.

(4) Set parameters for the auditing and monitoring of course providers.

(5) Establish, by regulation, the amounts of application fees payable by persons seeking approval as continuing education course providers, persons seeking approval of continuing education courses, and persons other than instructors of pre-licensure real estate education courses licensed by the commission pursuant to section 48 of P.L.1993, c.51 (C.45:15-10.5), seeking approval as instructors of continuing education courses. These fees shall be non-refundable and shall be in amounts which do not exceed the costs incurred by the commission to review these applications.

(6) Have the authority to waive continuing education requirements, in whole or in part, on the grounds of illness, emergency, hardship or active duty military service.

(7) Confer continuing education credits upon a person who is licensed by the commission as a real estate instructor or as a broker, broker-salesperson or salesperson for teaching an approved continuing education course offered by an approved provider. Regardless of the number of times during a biennial license term that the same approved course is taught by that person, the person shall receive credit toward the continuing education requirement for the renewal of the person's broker, broker-salesperson or salesperson license, as applicable, only in the number of credit hours conferred upon licensees who attend and complete that course one time during that biennial license term.

C.45:15-16.2b Delivery of continuing education courses.

24. Continuing education courses may be delivered in a classroom setting or via the Internet, distance learning, correspondence or video modalities, subject to the approval by the New Jersey Real Estate Commission of the providers and the content of such courses and of the measures utilized to ensure the security and integrity of the course delivery process. The commission may approve continuing education courses which include periodic progress assessments and the achievement of a satisfactory level of performance by the licensee on such progress assessments as a condition to continuing to a succeeding segment of the course. The commission shall not require, as a condition of the receipt of credit for attendance at any continuing education course that a licensee pass a comprehensive examination testing the licensee's knowledge of the entire course content.

C.45:15-16.2c Completion of continuing education requirements.

25. Continuing education requirements, as set forth by the New Jersey Real Estate Commission, shall be completed on or before April 30 of the year in which the biennial license expires. Any licensee required to complete continuing education requirements who fails to do so prior to May 1 of the second year of a biennial license term shall be subject to a reasonable processing fee, as determined by the commission, of not more than $200.

C.45:15-16.2d Fulfillment of continuing education requirement.

26. A person who, during a biennial licensing term, successfully completes one or more broker pre-licensure education courses as prescribed by the New Jersey Real Estate Commission shall be deemed to have fulfilled

the continuing education requirement applicable to the license that such a person may seek to renew upon the conclusion of that license term. A person who is initially licensed as a salesperson during the first year of a two-year license term shall complete all applicable continuing education requirements in order to renew that license upon the conclusion of that license term. A person who is initially licensed as a salesperson in the second year of the two-year license term shall not be required to fulfill any continuing education requirements in order to renew that license at the conclusion of that license term.

C.45:15-16.2e Core topics for continuing education courses.

27. a. Not less than 50 percent of the continuing education courses of study that a broker, broker-salesperson or salesperson are required to complete as a condition for license renewal shall be comprised of one or more of the following core topics:

(1) Agency;

(2) Disclosure;

(3) Legal issues;

(4) Ethics;

(5) Fair housing;

(6) Rules and regulations; and

(7) Any other core topics that the New Jersey Real Estate Commission may prescribe by rule.

In no event shall the commission require that courses in these core topics comprise more than 60 percent of the total continuing education hours required for the renewal of any license.

b. In the case of continuing education courses and programs, each hour of instruction shall be equivalent to one credit.

C.45:15-16.2f Maintenance of records by course providers.

28. Course providers shall maintain records of the successful completion of continuing education courses by licensees and shall transmit this data to the New Jersey Real Estate Commission or its designee in a manner as directed by the commission.

C.45:15-16.2g Rules, regulations.

29. The New Jersey Real Estate Commission shall adopt 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.

30. This act shall take effect July 1, 2011, but the New Jersey Real Estate Commission may take such anticipatory rulemaking and other administrative action in advance as shall be necessary for the implementation of this act.

Approved January 16, 2010.

CHAPTER 239

AN ACT creating the Solar and Wind Energy Commission to study solar and wind energy installation feasibility on State property.

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

1. a. There is established the "Solar and Wind Energy Commission." The purpose of the commission shall be to conduct a thorough and comprehensive study to examine State owned property and determine where solar and wind energy installations would be feasible. The commission shall make recommendations, including legislative and regulatory recommendations, regarding the potential for and the impact of solar and wind energy installations using State owned property, including buildings and land, as host sites of renewable energy generation. The study shall research the financial implications of installing and maintaining solar or wind energy and the projected energy and financial savings to the State, and include a discussion of the potential use of net metering. The study shall include a discussion of property values, land use, community impact, planning and development, and environmental factors related to the State owned property sites where solar or wind energy installations are feasible.

b. The commission shall consist of eleven members as follows:

(1) the State Treasurer, or the treasurer's designee;

(2) the Commissioner of Environmental Protection, or the commissioner's designee;

(3) the President of the Board of Public Utilities, or the president's designee;

(4) the Commissioner of Community Affairs, or the commissioner's designee; and

(5) seven members of the public appointed by the Governor, of whom: one shall represent the environmental community; one shall represent the land use community; one shall represent the planning community; one shall represent the renewable energy industry; one shall represent an electric public utility; and two shall be lawyers, one of whom is a lawyer for a local government and one of whom is a land use lawyer.

c. The seven members of the public shall be appointed by the Governor within 30 days after the date of enactment of this act.

d. Any vacancy in membership of the commission shall be filled in the same manner as the original appointment.

e. Members of the commission shall serve without compensation.

2. a. The Solar and Wind Energy Commission shall organize as soon as may be practicable after the appointment of its members, and shall select a chairperson from among its members and a secretary who need not be a member of the commission.

b. The commission shall meet regularly as it may determine, and shall also meet at the call of the chairperson of the commission or a majority of the membership.

c. A majority of the membership of the commission shall constitute a quorum for the transaction of commission business. Action may be taken and motions and resolutions adopted by the commission at any meeting thereof by the affirmative vote of a majority of the membership of the commission in attendance at the meeting.

d. The commission, within the limits of funds appropriated or otherwise made available to it, may employ such staff or experts and incur such traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties pursuant to this act.

e. The commission shall be entitled to call to its assistance and avail itself of the services of such employees of any State, county, or municipal department, authority, board, bureau, commission, agency, or entity, or of Rutgers, The State University, or any other public institution of higher education in the State, as it may require and as may be available to it for the purpose of carrying out its duties under this act.

f. If requested by the commission, the Department of Environmental Protection shall provide primary staff support to the commission.

3. The Solar and Wind Energy Commission shall prepare and submit a final report, including its findings, conclusions, and recommendations, to the Governor, the Legislature, pursuant to section 2 of P.L.1991, c.164

(C.52:14-19.1), and the State House Commission, within one year after its organization. Copies of the report shall also be provided to the public upon request and free of charge, and the report shall be posted on the Internet websites of the Department of Environmental Protection and the Board of Public Utilities.

4. This act shall take effect immediately and shall expire on the 30th day after the commission submits its final report as prescribed in section 3 of the act.

Approved January 16, 2010.

CHAPTER 240

AN ACT concerning on-site generation facilities, providing a sales and use tax exemption for the purchase of natural gas and utility service used for co-generation, amending and supplementing P.L.1999, c.23, and amending P.L.1997, c.162.

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 P.L.1999, c.23 (C.48:3-49 et al.), an assignee shall not be subject to the public utility requirements of Title 48 or any rules or regulations adopted pursuant thereto;

"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 P.L.1999, c.23 (C.48:3-57), 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 P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the board: (1) the cost of retiring existing debt or equity capital of the electric public utility, including accrued interest, premium and other fees, costs and charges relating thereto, with the proceeds of the financing of bondable transition property; (2) if requested by an electric public utility in its application for a bondable stranded costs rate order, federal, State and local tax liabilities associated with stranded costs recovery or basic generation service transition cost recovery or the transfer or financing of such property or both, including

taxes, whose recovery period is modified by the effect of a stranded costs recovery order, a bondable stranded costs rate order or both; and (3) the costs incurred to issue, service or refinance transition bonds, including interest, acquisition or redemption premium, and other financing costs, whether paid upon issuance or over the life of the transition bonds, including, but not limited to, credit enhancements, service charges, overcollateralization, interest rate cap, swap or collar, yield maintenance, maturity guarantee or other hedging agreements, equity investments, operating costs and other related fees, costs and charges, or to assign, sell or otherwise transfer bondable transition property;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Gas supplier" means a person that is duly licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and assume the contractual and legal obligation to provide gas supply service to retail customers, and includes, but is not limited to, marketers and brokers. A non-public utility affiliate of a public utility holding company may be a gas supplier, but a gas public utility or any subsidiary of a gas utility is not a gas supplier. In the event that a gas public utility is not part of a holding company legal structure, a related competitive business segment of that gas public

utility may be a gas supplier, provided that related competitive business segment is structurally separated from the gas public utility, and provided that the interactions between the gas public utility and the related competitive business segment are subject to the affiliate relations standards adopted by the board pursuant to subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58);

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

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

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

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

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

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

and then assumes the contractual and legal obligation to provide gas supply service to an end-use customer or customers;

"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;

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

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

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

"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 Commis-

sion, 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 P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited to, investments in management information systems, and which shall include expenses related to employees affected by restructuring which result in efficiencies and which result in benefits to

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

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

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

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

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

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

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

or contractual commitments in a competitive supply marketplace and the costs of buydowns or buyouts of power purchase contracts;

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

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

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

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

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

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

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

2. Section 28 of P.L.1999, c.23 (C.48:3-77) is amended to read as follows:

C.48:3-77 Charges for sale, delivery of power to off-site customer.

28. a. Whenever an on-site generation facility produces power that is not consumed by the on-site customer, and that power is delivered to an off-site end-use customer in this State, all the following charges shall apply to the sale or delivery of such power to the off-site customer:

(1) The societal benefits charge or its equivalent, imposed pursuant to section 12 of P.L.1999, c.23 (C.48:3-60);

(2) The market transition charge or its equivalent, imposed pursuant to section 13 of P.L.1999, c.23 (C.48:3-61); and

(3) The transition bond charge or its equivalent, imposed pursuant to section 18 of P.L.1999, c.23 (C.48:3-67).

b. None of the following charges shall be imposed on the electricity sold solely to the on-site customer of an on-site generating facility, except pursuant to subsection c. of this section:

(1) The societal benefits charge or its equivalent, imposed pursuant to section 12 of P.L.1999, c.23 (C.48:3-60);

(2) The market transition charge or its equivalent, imposed pursuant to section 13 of P.L.1999, c.23 (C.48:3-61); and

(3) The transition bond charge or its equivalent, imposed pursuant to section 18 of P.L.1999, c.23 (C.48:3-67).

c. Upon finding that generation from on-site generation facilities installed subsequent to the starting date of retail competition as provided in subsection a. of section 5 of P.L.1999, c.23 (C.48:3-53) has, in the aggregate, displaced customer purchases from an electric public utility by an amount such that the kilowatt hours distributed by the electric public utility have been reduced to an amount equal to 92.5 percent of the 1999 kilowatt hours distributed by the electric public utility, the board shall impose, except as provided in subsection d. of this section, the charges listed in subsections a., b., and c. of this section on the on-site customer. Such charges shall not be levied on any power consumption that is displaced by an on-site generation facility that is installed before the date of such finding:

(1) The societal benefits charge or its equivalent, imposed pursuant to section 12 of P.L.1999, c.23 (C.48:3-60);

(2) The market transition charge or its equivalent, imposed pursuant to section 13 of P.L.1999, c.23 (C.48:3-61); and

(3) The transition bond charge or its equivalent, imposed pursuant to section 18 of P.L.1999, c.23 (C.48:3-67).

d. Notwithstanding the provisions of subsection c. of this section, a charge shall not be imposed on power consumption by the on-site customer that is derived from an on-site generation facility:

(1) That the on-site customer or its agent installed on or before the effective date of P.L.1999, c.23 (C.48:3-49 et al.), including any expansion of such a facility for the continued provision of on-site power consumption by the same on-site customer that occurs after the effective date of P.L.1999, c.23; or

(2) For which the on-site customer or its agent has made, on or before the effective date of P.L.1999, c.23 (C.48:3-49 et al.), substantial financial and contractual commitments in planning and development, including having applied for any appropriate air permit from the Department of Environmental Protection, including any expansion of such a facility for the continued provision of on-site power consumption by the same on-site customer that occurs after the effective date of P.L.1999, c.23.

e. A societal benefits charge, market transition charge, transition bond charge, and transitional energy facilities assessment or their equivalent, shall be imposed on the sale or delivery of power to an off-site end use thermal energy services customer that is derived from the on-site generation facility serving that customer.

3. Section 26 of P.L.1997, c.162 (C.54:32B-8.46) is amended to read as follows:

C.54:32B-8.46 Receipts from sale, exchange, delivery, use of electricity; purchase or use of natural gas or utility service.

26. a. Receipts from the sale, exchange, delivery or use of electricity are exempt from the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) if the electricity:

(1) (a) Is sold by a municipal electric corporation in existence as of December 31, 1995 and used within its municipal boundaries except if the customer is located within a franchise area served by an electric public utility other than the municipal electric corporation. If a municipal electric corporation makes sales of electricity used outside of its municipal boundaries or within a franchise area served by an electric public utility other than the municipal electric corporation, then receipts from those sales of electricity by the municipal electric corporation shall be subject to tax under P.L.1966, c.30; or

(b) Is sold by a municipal electric utility in existence as of December 31, 1995, and used within its municipal boundaries. However, a municipal electric utility's receipts from the sale, exchange, delivery or use of electricity used by customers outside of its municipal boundaries and within its franchise area existing as of December 31, 1995 shall be subject to tax. If a

municipal electric utility makes sales of electricity used outside of its franchise area existing as of December 31, 1995, then receipts from those sales of electricity by the municipal electric utility shall be subject to tax under P.L.1966, c.30;

(2) Was generated by a facility located on the user's property or property purchased or leased from the user by the person owning the generation facility and such property is contiguous to the user's property, and the electricity was consumed by the one on-site end user on the user's property, and was not transported to the user over wires that cross a property line or public thoroughfare unless the property line or public thoroughfare merely bifurcated the user's or generation facility owner's otherwise contiguous property or the electricity was consumed by an affiliated user on the same site, or by a non-affiliated user on the same site with an electric distribution system which is integrated and interconnected with the user on or before March 10, 1997; the director may promulgate rules and regulations and issue guidance with respect to all issues related to affiliated users; or

(3) Is sold for resale.

For the purpose of electric sales by an on-site generation facility pursuant to this subsection, an end use customer's property shall be considered contiguous to the property on which the on-site generation facility serving that customer is located if the customer is purchasing thermal energy services produced by the facility, for use for heating or cooling, or both, regardless of any intervening property, public thoroughfare, or transportation or utility-owned right-of-way.

The State Treasurer shall monitor monies deposited into the Energy Tax Receipts Property Tax Relief Fund on an annual basis and may report the results of the State Treasurer's analysis on the fund to the Governor and the Legislature, along with any recommendations on the exemptions in this subsection.

b. Receipts from the purchase or use of the following are exempt from the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.):

(1) Natural gas or utility service that is used to generate electricity that is sold for resale or to an end user other than the end user upon whose property is located a co-generation facility or self-generation unit that generated the electricity or upon the property purchased or leased from the end user by the person owning the co-generation facility or self-generation unit if such property is contiguous to the user's property and is the property upon which is located a co-generation facility or self-generation unit that generated the electricity;

(2) Natural gas and utility service that is used for co-generation at any site at which a co-generation facility was in operation on or before March 10, 1997, or for which an application for an operating permit or a construction permit and a certificate of operation in order to comply with air quality standards under P.L.1954, c.212 (C.26:2C-1 et seq.) has been filed with the Department of Environmental Protection on or before March 10, 1997, to produce electricity for use on that site; and

(3) Natural gas and utility service that is used for co-generation at a co-generation facility that is constructed after January 1, 2010.

c. Notwithstanding any provisions of this section to the contrary, any co-generation facility that was in operation prior to January 1, 2010 and was subject to the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) for the purchase and use of natural gas and utility service for co-generation purposes shall continue to be subject to, and responsible for payment of, such tax after the effective date of P.L.2009, c.240 (C.48:3-77.1 et al.).

C.48:3-77.1 Utilization of locally franchised public utility electric distribution infrastructure.

4. In order to avoid duplication of existing public utility electric distribution infrastructure, and to maximize economic efficiency and electrical safety, delivery of electric power from an on-site generation facility to an off-site end use thermal energy services customer as defined in section 3 of P.L.1999, c.23 (C.48:3-51), shall utilize the existing locally franchised public utility electric distribution infrastructure. The New Jersey electric public utility having franchise rights to provide electric delivery services within the municipality shall provide electric delivery services at the standard prevailing tariff rate that is normally applicable to the individual off-site end use thermal energy services customer.

5. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 241

AN ACT concerning mental health services and supplementing Title 30 of the Revised Statutes.

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

C.30:4-177.60 DHS to develop procedures for transfer of certain patients to appropriate treatment setting.

1. a. The Department of Human Services shall develop the following procedures to enable emergency departments in general hospitals to obtain emergency relief from the department in the case of patients in need of behavioral health services who remain in the emergency department for 24 hours or longer awaiting placement in an appropriate behavioral health setting:

(1) designate staff in the department who shall be notified by a general hospital when the hospital has a patient who has been awaiting placement in an appropriate behavioral health setting for 24 hours or longer;

(2) provide for clinical facilitators whose purpose is to review the clinical needs of the patient awaiting placement so that the patient can be transferred to a behavioral health setting that best meets the clinical needs of the patient as determined by the psychiatric team that evaluated the patient;

(3) provide for a mechanism that will enable the department to conduct ongoing assessments of patient flow and access to care; and

(4) set forth objective criteria for identifying resources that are needed to ensure timely implementation of the procedures required under this subsection.

b. The Commissioner of Human Services shall establish a mechanism to coordinate the department's procedures and policies with the Department of Corrections, the Department of Health and Senior Services, and such other governmental agencies and task forces that address the needs of consumers of mental health services and their families, as the commissioner deems appropriate.

c. The commissioner shall consult with the New Jersey Hospital Association, the Hospital Alliance of New Jersey, the New Jersey Council of Teaching Hospitals, community mental health advocacy organizations, and a mental health consumer in developing the procedures required pursuant to this section. The commissioner shall also seek input for the procedures from Statewide organizations that advocate for persons with mental illness and their families.

d. The commissioner shall issue a report of his findings and recommendations, including a summary of the procedures developed pursuant to this section, to the Governor and to the Senate Health, Human Services and Senior Citizens Committee and the Assembly Human Services Committee no later than 12 months after the effective date of this act.

e. The provisions of this act shall not apply to any patient who is under 18 years of age.

2. This act shall take effect immediately and shall expire 18 months after the effective date.

Approved January 16, 2010.

CHAPTER 242

AN ACT concerning admission to certain psychiatric facilities and supplementing Titles 9 and 30 of the Revised Statutes.

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

C.30:4-177.61 Standardized admission protocols, medical clearance criteria for transfer of patients to psychiatric facilities.

1. a. The Commissioner of Human Services, in consultation with the Commissioner of Health and Senior Services, the State Board of Medical Examiners, the New Jersey Hospital Association, the Hospital Alliance of New Jersey, the New Jersey Council of Teaching Hospitals, the New Jersey Chapter of the American College of Emergency Physicians, and the New Jersey Psychiatric Association, and such other groups as deemed appropriate by the commissioner, shall develop standardized admission protocols and medical clearance criteria for transfer or admission of a hospital emergency department patient to a State or county psychiatric hospital or a short-term care facility.

The standardized admission protocols shall include, but not be limited to, the following elements:

(1) routine laboratory and diagnostic tests, based on nationally recognized standards of care, for patients whose clinical presentation warrant such testing. If there is a clinical disagreement about the testing between the examining physician at the emergency department and the assigned physician at the psychiatric hospital or facility, the physicians shall engage in direct physician-to-physician communication to resolve the disagreement;

(2) a medical clearance checklist form for transfer or admission to a State or county psychiatric hospital or a short-term care facility, including

contraindications for admission to a State or county psychiatric hospital or short-term care facility;

(3) guidelines for emergency medical services personnel when there is a delay in accepting patients at the receiving State or county psychiatric hospital or short-term care facility once patient transport has begun;

(4) each separate governing body for a hospital emergency department shall be responsible for reviewing the relevant internal medical clearance protocols consistent with the general parameters set forth in this act as well as provisions in the Emergency Medical Treatment and Active Labor Act, section 9121 of Pub.L.99-272 (42 U.S.C. s. 1395dd), to ensure that there is no conflict with the medical clearance procedures or transfer of a patient;

(5) procedures for requesting a transfer of a patient to a State or county psychiatric hospital or short-term care facility by emergency department personnel and procedures for accepting a transfer of a patient by a State or county psychiatric hospital or short-term care facility;

(6) procedures to contact the designated State or county psychiatric hospital or short-term care facility physician who is responsible for coordinating medical clearance of a patient, on a 24-hours per day, seven-days-a-week basis; and

(7) a mechanism for training emergency department hospital staff, screening center staff, State and county psychiatric hospital staff, short-term care facility staff, and emergency medical services staff in the standardized admission protocols established pursuant to this section.

b. The Commissioner of Human Services shall collect data from the hospital emergency departments and State and county psychiatric hospitals and short-term care facilities regarding the protocols established pursuant to this section and evaluate the effectiveness of the protocols on patient care one year after their implementation.

C.9:3A-7.4 Standardized admission protocols for transfer of child to psychiatric facility.

2. The Commissioner of Children and Families, after consultation with the State-designated Children's Crisis Intervention Services units and screening centers, the New Jersey Hospital Association, the Hospital Alliance of New Jersey, the New Jersey Council of Teaching Hospitals, the New Jersey Chapter of the American College of Emergency Physicians, the New Jersey Psychiatric Association, the New Jersey Association of Mental Health Agencies, and other groups as deemed appropriate by the commissioner, shall develop standardized admission protocols. The protocols shall include, but not be limited to, the following:

a. routine laboratory and diagnostic tests, based on nationally recognized standards of care, for patients whose clinical presentation warrant such testing. If there is a clinical disagreement about the testing between the examining physician at the emergency department and the assigned physician at the psychiatric hospital or facility, the physicians shall engage in direct physician-to-physician communication to resolve the disagreement; and

b. a medical clearance checklist form for transfer or admission to a Children's Crisis Intervention Services unit or screening center.

C.30:4-177.62 DHS rules, regulations.

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

C.9:3A-7.5 DCF rules, regulations.

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

5. This act shall take effect on the 180th day after enactment, but the Commissioners of Human Services and Children and Families may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 16, 2010.

CHAPTER 243

AN ACT concerning services for persons with mental illness and supplementing Title 30 of the Revised Statutes.

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

C.30:4-177.63 Duties of commissioners relative to identification of available mental health services, needs assessment.

1. The Commissioners of Human Services and Children and Families shall:

a. establish a mechanism through which an inventory of all county-based public and private inpatient, outpatient, and residential behavioral health services, by service area served, if applicable, including the number of treatment beds or treatment capacity of the service, is made available to the public;

b. establish and implement a methodology, based on nationally recognized criteria, to quantify the usage of and need for inpatient, outpatient, and residential behavioral health services throughout the State, taking into account projected patient care level needs;

c. based on the inventories, annually assess whether sufficient inpatient, outpatient, and residential behavioral health services are available in each service area of the State in order to ensure timely access to appropriate behavioral health services for persons who are voluntarily admitted or involuntarily committed to inpatient facilities for persons with mental illness in the State, and for persons who need behavioral health services provided by outpatient and community-based programs that support the wellness and recovery for these persons;

d. annually identify the funding for existing mental health programs;

e. consult with the Community Mental Health Citizens Advisory Board and the Mental Health Planning Council, the Divisions of Developmental Disabilities and Addiction Services in the Department of Human Services, the Department of Corrections, the Department of Health and Senior Services, and family consumer and other mental health constituent groups, to review the inventories and make recommendations to the Departments of Human Services and Children and Families regarding overall mental health services development and resource needs;

f. consult with the New Jersey Hospital Association, the Hospital Alliance of New Jersey, and the New Jersey Council of Teaching Hospitals in carrying out the purposes of this act. The commissioners shall also seek input from Statewide organizations that advocate for persons with mental illness and their families; and

g. annually report on departmental activities in accordance with this act to the Governor and to the Senate Health, Human Services and Senior Citizens Committee and the Assembly Human Services Committee, or their successor committees. The first report shall be provided no later than 18 months after the effective date of this act.

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

Approved January 16, 2010.

CHAPTER 244

AN ACT concerning small wind energy systems and supplementing Title 40 of the Revised Statutes.

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

C.40:55D-66.12 Municipal ordinances relative to small wind energy systems.

1. a. Ordinances adopted by municipalities to regulate the installation and operation of small wind energy systems shall not unreasonably limit such installations or unreasonably hinder the performance of such installations. An application for development or appeal involving a small wind energy system shall comply with the appropriate notice and hearing provisions otherwise required for the application or appeal pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

b. Unreasonable limits or hindrances to performance of a small wind energy system shall include the following:

(1) Prohibiting small wind energy systems in all districts within the municipality;

(2) Restricting tower height or system height through application of a generic ordinance or regulation on height that does not specifically address allowable tower height or system height of a small wind energy system;

(3) Requiring a setback from property boundaries for a tower that is greater than 150 percent of the system height. In a municipality that does not adopt specific setback requirements for small wind energy systems, any small wind energy system shall be set back from the nearest property boundary a distance at least equal to 150 percent of the system height; provided, however, that this setback requirement may be reduced by the zoning board of adjustment or, if otherwise appropriate, by the planning board upon application in an individual case if the applicant establishes the conditions for a variance under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) to the board's satisfaction;

(4) Setting a noise level limit lower than 55 decibels, as measured at the site property line, or not allowing for limit overages during short-term events such as utility outages and severe wind storms; and

(5) Setting electrical or structural design criteria that exceed applicable provisions of the State Uniform Construction Code promulgated pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-

119 et seq.) and technical bulletins issued pursuant to section 2 of P.L.2009, c.244 (C.40:55D-66.13).

c. If the Commissioner of Environmental Protection has issued a permit for the development of a small wind energy system under the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), prior to the effective date of P.L.2009, c.244 (C.40:55D-66.12 et seq.), provisions of subsection b. of this section shall not apply to an application for development for that small wind energy system if the provisions of that subsection would otherwise prohibit approval of the application or require the approval to impose restrictions or limitations on the small wind energy system, including but not limited to restrictions or limitations on tower height or system height, the setback of the system from property boundaries, and noise levels.

d. For the purposes of this section:

"Small wind energy system" means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity consistent with applicable provisions of the State Uniform Construction Code promulgated pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and technical bulletins issued pursuant to section 2 of P.L.2009, c.244 (C.40:55D-66.13), and which will be used primarily for onsite consumption;

"System height" means the height above grade of the tower plus the wind generator;

"Tower height" means the height above grade of the fixed portion of the tower, excluding the wind generator; and

"Wind generator" means blades and associated mechanical and electrical conversion components mounted on top of the tower.

C.40:55D-66.13 Issuance of technical bulletin.

2. Within 10 months of enactment of P.L.2009, c.244 (C.40:55D-66.12 et seq.), the Director of the Division of Codes and Standards in the Department of Community Affairs, in consultation with the Department of Environmental Protection, shall issue a technical bulletin which shall include model municipal ordinances for the construction of small wind energy systems. Prior to issuance of the technical bulletin, the director shall hold one or more public hearings and solicit comments from interested parties. The Division of Codes and Standards in the Department of Community Affairs shall post the technical bulletin on its Internet website.

C.40:55D-66.14 Compliance.

3. Small wind energy systems shall be built to comply with all applicable Federal Aviation Administration requirements, including 14 C.F.R. part 77, subpart B regarding installations close to airports, and all applicable airport zoning regulations.

C.40:55D-66.15 Conditions for deeming abandoned; legal action.

4. A small wind energy system that is out of service for a continuous 12-month period shall be deemed abandoned. The municipal zoning enforcement officer may issue a notice of abandonment to the owner of an abandoned small wind energy system. The owner shall have the right to respond to the notice of abandonment within 30 days from the receipt date. The municipal zoning enforcement officer shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn if the owner provides the municipal zoning enforcement officer with information demonstrating the small wind energy system has not been abandoned. If the small wind energy system is determined to be abandoned, the owner of the small wind energy system shall remove the wind generator from the tower at the owner's sole expense within three months of receipt of notice of abandonment. If the owner fails to remove the wind generator from the tower, the municipality may pursue a legal action to have the wind generator removed at the owner's expense.

5. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 245

AN ACT establishing the "New Jersey Scenic and Historic Highways Program," and supplementing Title 27 of the Revised Statutes.

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

C.27:5K-1 Findings, declarations relative to scenic, historic highways.

1. The Legislature finds and declares that:

a. Certain portions of the State highway system are notable for their scenic, historic, recreational, cultural, and archaeological value and are

worthy of official designation as scenic and historic highways to provide special consideration of their unique features and special role in the highway system;

b. The public interest would be served by the creation of a coordinated scenic and historic highways program to enhance recreation, preserve and protect scenic, historic, recreational, cultural, and archaeological resources, encourage economic development through tourism, and educate the public about the history and culture of this State;

c. New Jersey lags behind other states around the country in terms of preserving roadways which have scenic, historic, and other intrinsic qualities; and

d. It is altogether fitting and proper for the Legislature to establish a "New Jersey Scenic and Historic Highways Program" in the Department of Transportation which will encourage the promotion and preservation of the scenic, historic, recreational, cultural, and archaeological qualities of certain roadways, and areas surrounding such roadways, throughout the State.

C.27:5K-2 Definitions relative to scenic, historic highways.

2. As used in this act:

"Commissioner" means the Commissioner of Transportation.

"Department" means the Department of Transportation.

"Program" means the New Jersey Scenic and Historic Highways Program established by section 3 of P.L.2009, c.245 (C.27:5K-3).

"Public entity" means the State, any county, municipality, district, public authority, public agency, and any other political subdivision or public body in the State.

C.27:5K-3 "New Jersey Scenic and Historic Highways Program."

3. a. There is hereby established a "New Jersey Scenic and Historic Highways Program" to be administered by the commissioner in accordance with the provisions of this act. The program is established to encourage the State and counties and municipalities throughout the State to preserve the unique and intrinsic qualities of roadways deemed to have scenic, historic, recreational, cultural, or archaeological value.

b. Any roadway in this State, including the surrounding area thereof, which has scenic, historic, recreational, cultural, or archaeological value may be designated through an act of the Legislature for inclusion in the program.

c. Once a roadway has been designated for inclusion in the program, the department and all other public entities with jurisdiction over the road-

way or the surrounding area are encouraged to preserve and promote the scenic, historic, recreational, cultural, or archaeological qualities, or any combination of the foregoing, that served as the basis for the roadway's inclusion in the program. The department and public entities with jurisdiction over a roadway which has been included in the program are encouraged not to make any physical changes to the roadway, or its surrounding area, that would degrade any of its scenic, historic, recreational, cultural, or archaeological qualities. The preservation and promotion of a roadway that has been designated for inclusion in the program shall include, but not be limited to, the following activities:

(1) Making safety improvements to the roadway to the extent that such improvements are necessary to accommodate increased traffic and changes in the types of vehicles using the roadway due to its inclusion in the program;

(2) Constructing rest areas, turnouts, highway shoulder improvements, passing lanes, overlooks, interpretive facilities, and other facilities for use by pedestrians and bicyclists along the roadway;

(3) Making improvements that will enhance access to recreational areas in the vicinity of the roadway;

(4) Protecting scenic, historical, recreational, cultural, and archaeological resources in areas adjacent to the roadway; and

(5) Developing and promoting tourist information to the public, including interpretive information about the program and the specific roadways that have been designated for inclusion in the program.

C.27:5K-4 Roadways designated for inclusion.

4. The following roadways are designated for inclusion in the New Jersey Scenic and Historic Highways Program:

a. "Quaker Road Scenic and Historic Highway," which consists of the entire length of Quaker Road beginning at the road's intersection with Province Line Road in the township of Princeton, county of Mercer, extending in a general northerly direction, and ending at the intersection of Quaker Road and Lawrenceville Road in the township of Princeton, county of Mercer;

b. "Closter Dock Road Scenic and Historic Highway," which consists of the entire length of Closter Dock Road beginning at the road's intersection with Harrington Avenue in the borough of Closter, county of Bergen, extending in a general easterly direction, and ending at the intersection of Closter Dock Road and U.S. Route 9W in the borough of Alpine, county of Bergen;

c. "Huyler's Landing Road Scenic and Historic Highway," which consists of the entire length of Huyler's Landing Road beginning at the road's intersection with East Madison Avenue in the borough of Cresskill, county of Bergen, extending in a general easterly direction, and ending at the intersection of Huyler's Landing Road and Vaccaro Drive in the borough of Cresskill, county of Bergen;

d. "Kinderkamack Road Scenic and Historic Highway," which consists of the entire length of roadway beginning at the road's intersection with Johnson Avenue in the city of Hackensack, county of Bergen, extending in a general northerly direction and becoming North Kinderkamack Road, continuing in a general northerly direction, and ending at the New York state line in the vicinity of the borough of Montvale, county of Bergen;

e. "Franklin Avenue Scenic and Historic Highway," which consists of the entire length of Franklin Avenue beginning at the road's intersection with Ramapo Valley Road in the borough of Oakland, county of Bergen, extending in a general easterly direction, and ending at the intersection of Franklin Avenue and Van Blarcom Lane in the township of Wyckoff, county of Bergen;

f. "Dunkerhook Road Scenic and Historic Highway," which consists of the entire length of Dunkerhook Road beginning at the road's intersection with Saddle River Road in the borough of Fair Lawn, county of Bergen, extending in a general northeasterly direction, and ending at the intersection of Dunkerhook Road and Paramus Road in the borough of Paramus, county of Bergen;

g. "Piermont and Rockleigh Roads Scenic and Historic Highway," which consists of the following portions of roadway:

(1) The entire length of Piermont Road beginning at the road's intersection with County Road and East Clinton Avenue in the borough of Tenafly, county of Bergen, extending in a general northerly direction, and ending at the New York state line in the vicinity of the borough of Northvale, county of Bergen, and

(2) The entire length of Rockleigh Road beginning at the road's intersection with Piermont Road in the borough of Northvale, county of Bergen, extending in a general northerly direction, and ending at the New York state line in the vicinity of the borough of Rockleigh, county of Bergen; and

h. "Grand Avenue Scenic and Historic Highway," which consists of the entire length of Grand Avenue beginning at the road's intersection with East Palisade Avenue in the city of Englewood, Bergen County, extending in a general southerly direction, and ending at the intersection of Grand Avenue and Broad Avenue in the borough of Ridgefield, Bergen County.

C.27:5K-5 Signage permitted.

5. The department or any other public entity with jurisdiction over a roadway which has been designated for inclusion in the program may erect signs along the roadway indicating that it has been granted such a designation.

6. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 246

AN ACT concerning the membership of the New Jersey Presidents' Council and its executive board and amending P.L.1994, c.48.

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

1. Section 7 of P.L.1994, c.48 (C.18A:3B-7) is amended to read as follows:

C.18A:3B-7 "New Jersey Presidents' Council" established.

7. There is established a body corporate and politic, with corporate succession, to be known as the "New Jersey Presidents' Council." Each president of a public institution of higher education in the State and of an independent institution which receives direct State aid shall be a member of the council and shall serve ex officio. The presidents of the proprietary schools which have been authorized to offer licensed degree programs shall also serve as members of the council, ex officio. The presidents of the two institutions primarily involved in the preparation of professional persons in the field of religion which enroll the largest number of pupils in State licensed degree programs shall also serve as members of the council, ex officio, to represent the interests of all such schools.

2. Section 12 of P.L.1994, c.48 (C.18A:3B-12) is amended to read as follows:

C.18A:3B-12 Executive board.

12. a. There shall be established an executive board which performs such duties as determined by the council. The executive board shall be composed of 15 members as follows:

The president of Rutgers, The State University;

The president of the University of Medicine and Dentistry of New Jersey;

The president of New Jersey Institute of Technology;

Three presidents of State Colleges who shall be selected by the presidents of this sector;

Five presidents of county colleges who shall be selected by the presidents of this sector;

Three presidents of independent institutions who shall be selected by the presidents of this sector;

One president of the proprietary schools which have been authorized to offer licensed degree programs who shall be selected by the presidents of these proprietary schools.

b. The chair of the executive board shall be rotated among the following: one of the presidents of Rutgers, The State University of New Jersey, the president of the University of Medicine and Dentistry of New Jersey, and the president of New Jersey Institute of Technology; a president selected by the presidents of the State Colleges; a president selected by the presidents of the county colleges; and a president selected by the presidents of the independent institutions. The chair of the executive board shall serve for a two-year period. Biennially, the executive board shall select the chair in the manner provided above, but not necessarily in the order provided above.

c. The chair of the executive board shall also serve as the chair of the council.

3. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 247

AN ACT concerning the procurement of apparel by the State and supplementing Title 34 of the Revised Statutes.

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

C.34:6-158 Findings, declarations relative to procurement of apparel.

1. The Legislature finds and declares that:

a. A significant portion of the apparel industry has a history of poor conditions for its workers;

b. The largest part of the apparel purchases of the State of New Jersey are for State employee uniforms, which should project a positive image for the State and help to instill pride on the part of State employees;

c. The State of New Jersey has, as a market participant, a compelling interest in guaranteeing that these uniforms and all of the other apparel it acquires are produced in the United States of America in conditions which are conducive to the reliable provision of high quality apparel and of which the State, its citizens, and its employees may be proud; and

d. It is, therefore, an appropriate policy to establish an Apparel Procurement Board to ensure that the State's interests as a market participant are protected with respect to apparel contracts entered into by the State and its instrumentalities.

C.34:6-159 Definitions relative to procurement of apparel.

2. For the purpose of this act:

"Apparel" means any clothing, headwear, linens or fabric.

"Apparel contracts" shall include all purchases, rentals or other acquisitions 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.

"Apparel production" shall include the cutting and 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.

"Bidder" means any person making a bid with a public body to serve as a vendor to a public body.

"Board" means the Apparel Procurement Board established by this act.

"Commissioner" means the Commissioner of Labor and Workforce Development.

"Poverty line" means the official poverty line based on family size, established and adjusted under section 673 (2) of Subtitle B of the "Community Services Block Grant Act," Pub.L.97-35 (42 U.S.C. s.9902 (2)).

"Public body" means the State of New Jersey, any agency of the State or any authority created by the Legislature.

"Vendor" means any person or business selling or otherwise providing apparel to or for 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.

C.34:6-160 Apparel production in compliance with certain requirements.

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 is in compliance with each of the following requirements, except in the case of a requirement that is adjudicated to be unenforceable because of preemption by federal law:

a. All apparel production under the contract shall be performed in the United States, except in cases in which the commissioner determines that it is not possible for the public body to obtain apparel produced in the United States which meets the necessary requirements of the public body;

b. Apparel production workers employed to produce the apparel shall be provided a work environment that is safe, healthy, and free of discrimination on the basis of race, national origin, religion, sex and sexual preference;

c. Apparel production workers employed to produce the apparel shall be provided non-poverty compensation at an hourly rate determined by the commissioner to be not less than the poverty line for a family of three, based on 40 hours of work a week for 50 weeks a year;

d. Apparel production workers employed to produce the apparel shall 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;

e. 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;

f. The facilities where the apparel production occurs shall be open to inspection by the commissioner, the board, or any political subdivision of this State, any other state or other governmental or intergovernmental unit with which the commissioner or the board cooperates or by any appropriate consortia in which the board or the commissioner participates pursuant to section 5 of this act; and

g. No contractor or sub-contractor involved in the providing or production of apparel has a pattern or practice of violation of legal employment protections, including laws and regulations governing wages and hours, discrimination, occupational safety and health, child labor, industrial homework, workers' compensation, and occupational safety and health.

Every apparel contract and bid application shall contain a provision or provisions detailing the requirements of this act, and compliance with this act shall be made a binding part of all apparel contracts.

C.34:6-161 Information provided to public body by bidder for apparel contract.

4. Every bidder for an apparel contract with a public body shall inform the public body in writing of the following information, which shall be made available by the public body to the public as soon as possible, but in no case less than 30 days before a decision is made to award an apparel contract to a bidder:

a. Every location where apparel production is to take place, including any sub-contractor locations;

b. 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; and

c. An affidavit that each apparel production location meets the requirements of this act.

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, which shall make the information available upon request to the public.

C.34:6-162 Apparel Procurement Board.

5. a. The Apparel Procurement Board is established and shall be composed of seven individuals as follows: three individuals selected by the New Jersey State AFL-CIO who represent unions of uniformed personnel of the State; three individuals selected by the Governor who represent agencies that employ uniformed personnel of the State; and one individual selected by the commissioner to represent the commissioner. After the effective date of this act, members shall be appointed to serve for terms of three years. Each member appointed pursuant to this act shall hold office for the term of appointment and until he is reappointed or a successor is appointed and qualified. Each member serving upon the effective date who was selected prior to the effective date of this act shall hold office until a successor is appointed and qualified or the member is appointed pursuant to this act, after which he will hold office for the term of appointment. A member appointed to fill a vacancy occurring in the membership of the board for any reason other than the expiration of the term shall have a term of appointment for the unexpired term only. Each vacancy shall be filled in

the same manner as the original appointment. Any appointed member may be removed from office by the Governor, for cause, after a hearing and may be suspended by the Governor pending the completion of the hearing. Members of the board shall serve without compensation.

b. The Apparel Procurement Board shall be administered by the commissioner and shall have the power to receive complaints that any bidder or contractor is not in compliance with this act, and recommend an investigation into the merits of such complaints. If the commissioner determines, upon a hearing after notice, that a vendor, sub-contractor or bidder has not complied with any requirement of this act, including any finding of failure to provide truthful information as required by this act, the commissioner may terminate an existing apparel contract at the earliest feasible date, and may bar the vendor or bidder from receiving pending or subsequent apparel contracts for a period determined by the commissioner, but there shall be a period of debarment of not less than three years if the contractor or subcontractor demonstrates a pattern of repeated serious noncompliance with the provisions of this act.

c. The commissioner and the board shall give priority to coordinating enforcement, monitoring and information collection activities with any political subdivision of this State, with any other state or its political subdivisions and with any other governmental and intergovernmental units and shall give priority to participating in any appropriate consortia which assist in enforcement, monitoring and information collection activities and are independent of the monitored industries.

6. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 248

AN ACT concerning medical malpractice liability insurance, amending and supplementing P.L.1982, c.114, and amending P.L.1993, c.240.

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

1. Section 3 of P.L.1982, c.114 (C.17:29AA-3) is amended to read as follows:

C.17:29AA-3 Definitions.

3. As used in this act:

a. "Commercial lines insurance" includes all insurance policies issued by a licensed insurer pursuant to Title 17 of the Revised Statutes, except:

(1) Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine insurance policies;

(2) Title insurance;

(3) Mortgage guaranty insurance;

(4) Workers' compensation and employers' liability insurance;

(5) Any policy or contract of reinsurance, other than joint reinsurance to the extent provided for under section 22 of P.L.1982, c.114 (C.17:29AA-22);

(6) Insurance written through the New Jersey Medical Malpractice Reinsurance Association established pursuant to P.L.1975, c.301 (C.17:30D-1 et seq.);

(7) Insurance written through the New Jersey Insurance Underwriting Association established pursuant to P.L.1968, c.129 (C.17:37A-1 et seq.);

(8) Insurance issued by hospital service corporations, medical service corporations and health service corporations; and

(9) Insurance issued for personal, family or household purposes, as determined by the commissioner.

b. "Commissioner" means the Commissioner of Banking and Insurance.

c. "Department" means the Department of Banking and Insurance.

d. "Insurer" means any person, corporation, association, joint underwriting association subject to section 22 of P.L.1982, c.114 (C.17:29AA-22), partnership or company licensed under the laws of this State to transact the business of insurance in this State.

e. "Premium" means the consideration paid or to be paid to an insurer for the issuance and delivery of any binder or policy of insurance.

f. "Rate" means the unit charge by which the measure of exposure or the amount of insurance specified in a policy of insurance or covered thereunder is multiplied to determine the premium.

g. "Rate-making" means the examination and analysis of every factor and influence related to and bearing upon the hazard and risk made the subject of insurance; the collection and collation of such factors and influences into rating systems; and the application of such rating systems to individual risks.

h. "Rating system" means every schedule, class, classification, rule, guide, standard, manual, table, rating plan, or compilation by whatever name described, containing the rates used by any rating organization or by any insurer, or used by any insurer or by any rating organization in determining or ascertaining a rate.

i. "Reasonable degree of competition" means that degree of competition which would tend to produce rates that are not excessive, inadequate, or unfairly discriminatory, or forms that are not unfair, inequitable, misleading or contrary to law, as determined by the commissioner.

j. "Risk," as the context may require, means (1) as to fire insurance or any other kind of insurance which, by law, may be embraced in a policy of fire insurance as part thereof or as supplemental thereto, any property, real or personal, described in a policy, exposed to any hazard or peril named in such policy; and (2) as to all other kinds of insurance not specifically included in clause (1) of this subsection, the hazard or peril named in a policy of insurance.

k. "Special risks" mean (1) those commercial lines insurance risks as specified on a list promulgated by the commissioner, which are of an unusual nature or high loss hazard or are difficult to place or rate or which are excess or umbrella or which are eligible for export; (2) commercial lines insurance risks, other than medical malpractice liability insurance risks, which produce minimum annual premiums in excess of $10,000; (3) inland marine insurance; or (4) fidelity, surety or forgery bonds. Additions or deletions to the list promulgated may be made by the commissioner without a hearing upon notice to all licensed insurers.

l. "Supplementary rate information" includes any manual or plan of rates, statistical plan, classification, rating schedule, rating rule and any other rule used by an insurer in making rates.

2. Section 5 of P.L.1982, c.114 (C.17:29AA-5) is amended to read as follows:

C.17:29AA-5 Filing of rates, supplementary rate information changes, amendments.

5. a. Notwithstanding any other law to the contrary, every authorized and admitted insurer and every rating organization shall file with the commissioner all rates and supplementary rate information and all changes and amendments thereof made by it for use in this State not later than 30 days after becoming effective, except with respect to medical malpractice liability insurance rate changes as set forth in section 3 of P.L.2009, c.248 (C.17:29AA-5.1).

b. This section shall not apply to special risks except as provided in section 12 of P.L.1982, c.114 (C.17:29AA-12).

C.17:29AA-5.1 Annual rate change for medical malpractice liability insurance.

3. a. With respect to medical malpractice liability insurance, the commissioner shall prescribe by regulation a designated range of annual rate change, which shall be an increase or decrease of between not less than 5% and not more than 15%, and within which any rate, supplementary rate information, or change or amendment thereof, filed by an insurer or rating organization shall become effective not less than 30 days after the filing.

(1) The commissioner may determine, pursuant to regulation, the categories, subcategories, specialties, and subspecialties of health care provider to which the application of the designated range shall apply.

(2) Only one filing by an insurer or rating organization of a proposed rate change within the designated range may take effect within any 12-month period without the express approval of the commissioner, as set forth in subsection c. of this section.

b. In prescribing the designated range of annual rate change, the commissioner may consider the availability and affordability of medical malpractice liability insurance for different categories, subcategories, specialties, and subspecialties of health care provider in relation to the capitalization and reserve requirements necessary to ensure the solvency of the insurers. The commissioner may also consider current data relating to the frequency and severity of medical malpractice claims, and trends in the cost of investigating, defending and settling claims.

c. Any filing by an insurer or rating organization proposing a rate change which exceeds the designated range established pursuant to subsection a. of this section, or proposing an additional rate change within this range during any 12-month period, shall be subject to approval by the commissioner pursuant to section 14 of P.L.1944, c.27 (C.17:29A-14).

4. Section 13 of P.L.1982, c.114 (C.17:29AA-13) is amended to read as follows:

C.17:29AA-13 Order from commissioner relative to compliance with standards.

13. a. If the commissioner finds, after a hearing, that a rate or policy form in effect for any rating organization or insurer, whether or not a member or subscriber of a rating organization, is not in compliance with the standards of this act, he shall issue an order specifying in what respects it so fails, and stating when, within a reasonable period thereafter, such rate or

form shall be deemed no longer effective. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

b. (Deleted by amendment, P.L.2009, c.248)

5. Section 2 of P.L.1993, c.240 (C.17:47A-2) is amended to read as follows:

C.17:47A-2 Definitions.

2. As used in this act:

"Commissioner" means the Commissioner of Banking and Insurance.

"Completed operations liability" means liability arising out of the installation, maintenance or repair of any product at a site which is not owned or controlled by any person who performs that work or any person who hires an independent contractor to perform that work, and includes liability for activities which are completed or abandoned before the date of the occurrence which gives rise to the liability.

"Deductible" means any arrangement under which an insurer pays claims and then seeks reimbursement from the insured, except that the insurer's obligation to pay claims is not contingent upon reimbursement from the insured.

"Doing business in this State" means solicitation in this State, having group members in this State, or having an office in this State.

"Domicile" means, with respect to a purchasing group: for a corporation, the state in which the purchasing group is incorporated; for an unincorporated entity, the state of its principal place of business.

"Hazardous financial condition" means that, based on its present or reasonably anticipated financial condition, a risk retention group, although not yet financially impaired or insolvent, is unlikely to be able to meet obligations to policyholders with respect to known claims and reasonably anticipated claims or to pay other obligations in the normal course of business.

"Insurance" means primary insurance, excess insurance, reinsurance, surplus lines insurance and any other arrangement for shifting and distributing risk which is determined to be insurance pursuant to the laws of this State.

"Liability" means legal liability for damages, including the cost of defense, legal costs and fees, and other claims expenses, because of injuries to other persons, damage to their property, or other damage or loss to such other persons resulting from or arising out of: any profit or non-profit business, trade, product, services, including professional services, premises, or operations; or any activity of any state or local government or any agency

or political subdivision thereof, but does not include personal risk liability or an employer's liability with respect to its employees other than legal liability under the federal "Employers' Liability Act," 45 U.S.C. s.51 et seq.

"Personal risk liability" means liability for damages because of injury to any person, damage to property or other loss or damage resulting from any personal, familial or household responsibilities or activities, rather than from the responsibilities or activities referred to under the definition of "liability" in this section.

"Plan of operation" or a "feasibility study" means an analysis which presents the expected activities and results of the risk retention group, including: information sufficient to verify that its members are engaged in business or activities similar or related with respect to the liability to which such members are exposed by virtue of any related, similar or common business, trade, product, services, premises or operations; for each state in which it intends to operate, the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the group intends to offer; historical and expected loss experience of the proposed members and national experience of similar exposures to the extent that this experience is reasonably available; pro forma financial statements and projections; appropriate opinions by a qualified actuary, including the determination of minimum premium or participation levels and capitalization required to commence operations and to prevent a hazardous financial condition, which shall be in the format and otherwise satisfy all requirements established by the commissioner for loss reserve actuarial opinions required to be submitted by licensed property and casualty insurers in this State; identification of management, underwriting and claims procedures, marketing methods, managerial oversight methods, investment policies and reinsurance agreements; identification of each state in which the risk retention group has obtained, or sought to obtain, a charter and license, and a description of its status in each such state; and such other matters as may be prescribed by the commissioner of the state in which the risk retention group is chartered for liability insurance companies authorized by the insurance laws of that state.

"Product liability" means liability for damages because of any personal injury, death, emotional harm, consequential economic damage, or property damage, including damages resulting from the loss of use of property, arising out of the manufacture, design, importation, distribution, packaging, labeling, lease or sale of a product. "Product liability" does not include the liability of any person for those damages if the product involved was in the possession of that person when the incident giving rise to the claim occurred.

"Purchasing group" means any group which: has as one of its purposes the purchase of liability insurance on a group basis; purchases such insurance only for its group members and only to cover their similar or related liability exposure; is composed of members whose businesses or activities are similar or related with respect to the liability to which members are exposed by virtue of any related, similar or common business, trade, product, services, premises or operations; and is domiciled in this or any other state.

"Retrospectively rated" means a rating plan or system, whereby the premium payable by an insured is subject to a contractual adjustment after the expiration of the policy based upon actual incurred experience.

"Risk retention group" means any corporation or other limited liability association: which is organized for the primary purpose of, and whose primary activity consists of, assuming and spreading all, or any portion, of the liability exposure of its group members; which is chartered and licensed as a liability insurance company and is authorized to engage in the business of insurance under the laws of any state, or prior to January 1, 1985, was chartered or licensed and authorized to engage in the business of insurance under the laws of Bermuda or the Cayman Islands, and before that date, certified to the commissioner of insurance, or other appropriate official, of at least one state that it satisfied the capitalization requirements of that state, except that any such group shall be considered to be a risk retention group only if it has been engaged in business continuously since that date and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability, as defined in the federal "Product Liability Risk Retention Act of 1981," Pub.L.97-45 (15 U.S.C. s.3901 et seq.), before October 27, 1986; which does not exclude any person from membership in the group solely to provide for members of that group a competitive advantage over such a person; which has as its owners only persons who comprise the membership of the risk retention group and who are provided insurance by such group, or has as its sole owner an organization which has as its members only persons who comprise the membership of the risk retention group and its owners are the only persons who comprise the membership of the risk retention group and who are provided insurance by such group; whose members are engaged in businesses or activities similar or related with respect to the liability to which those members are exposed by virtue of any related, similar or common business, trade, product, services, premises or operations; whose activities do not include the provision of insurance, other than liability insurance for assuming and spreading all or any portion of the liability of its group members, and reinsurance with respect to the similar or related liability exposure of any

other risk retention group, or any member of any other group, which is engaged in businesses or activities so that this group or member meets the requirement that members are engaged in businesses or activities similar or related with respect to the liability to which those members are exposed by virtue of any related, similar or common business, trade, product, services, premises or operations for membership in the risk retention group which provides the reinsurance; and the name of which includes the phrase "risk retention group."

"Self-insured retention" means any fund or other arrangement to pay claims other than by an insurer, or any arrangement under which an insurer has no obligation to pay claims on behalf of an insured if it is not reimbursed by the insured.

"Similar insurance source" means an insurer authorized or admitted to do business in this State or a non-authorized surplus lines insurer eligible to do business in this State.

"Special risk" means a commercial lines insurance risk as specified on a list promulgated by the commissioner, which is of an unusual nature or high loss hazard or is difficult to place or rate, or which is excess or umbrella, or which is eligible for export; or a commercial lines insurance risk, other than a medical malpractice liability insurance risk as set forth under P.L.1982, c.114 (C.17:29AA-1 et seq.), which produces a minimum annual premium in excess of $10,000. Additions or deletions to the list promulgated may be made by the commissioner without a hearing upon notice to all licensed insurers.

"State" means this State, any other state of the United States or the District of Columbia.

6. This act shall take effect on the first day of the seventh month next following enactment, but the Commissioner of Banking and Insurance may take any anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 16, 2010.

CHAPTER 249

AN ACT concerning the prevailing wage with respect to certain maintenance-related projects and amending P. L.1963, c.150.

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

1. Section 2 of P.L.1963, c.150 (C.34:11-56.26) is amended to read as follows:

C.34:11-56.26 Definitions.

2. As used in this act:

(1) "Department" means the Department of Labor and Workforce Development of the State of New Jersey.

(2) "Locality" means any political subdivision of the State, combination of the same or parts thereof, or any geographical area or areas classified, designated and fixed by the commissioner from time to time, provided that in determining the "locality," the commissioner shall be guided by the boundary lines of political subdivisions or parts thereof, or by a consideration of the areas with respect to which it has been the practice of employers of particular crafts or trades to engage in collective bargaining with the representatives of workers in such craft or trade.

(3) "Maintenance work" means the repair of existing facilities when the size, type or extent of such facilities is not thereby changed or increased. "Maintenance work" also means any work on a maintenance-related project that exceeds the scope of work and capabilities of in-house maintenance personnel, requires the solicitation of bids, and has an aggregate value exceeding $50,000.

(4) "Public body" means the State of New Jersey, any of its political subdivisions, any authority created by the Legislature of the State of New Jersey and any instrumentality or agency of the State of New Jersey or of any of its political subdivisions.

(5) "Public work" means construction, reconstruction, demolition, alteration, custom fabrication, or repair work, or maintenance work, including painting and decorating, done under contract and paid for in whole or in part out of the funds of a public body, except work performed under a rehabilitation program. "Public work" shall also mean construction, reconstruction, demolition, alteration, custom fabrication, or repair work, done on any property or premises, whether or not the work is paid for from public funds, if, at the time of the entering into of the contract the property or premises is owned by the public body or:

(a) Not less than 55% of the property or premises is leased by a public body, or is subject to an agreement to be subsequently leased by the public body; and

(b) The portion of the property or premises that is leased or subject to an agreement to be subsequently leased by the public body measures more than 20,000 square feet.

(6) "Commissioner" means the Commissioner of Labor and Workforce Development or his duly authorized representatives.

(7) "Workman" or "worker" includes laborer, mechanic, skilled or semi-skilled, laborer and apprentices or helpers employed by any contractor or subcontractor and engaged in the performance of services directly upon a public work, regardless of whether their work becomes a component part thereof, but does not include material suppliers or their employees who do not perform services at the job site. For the purpose of P.L.1963, c.150 (C.34:11-56.25 et seq.), contractors or subcontractors engaged in custom fabrication shall not be regarded as material suppliers.

(8) "Work performed under a rehabilitation program" means work arranged by and at a State institution primarily for teaching and upgrading the skills and employment opportunities of the inmates of such institutions.

(9) "Prevailing wage" means the wage rate paid by virtue of collective bargaining agreements by employers employing a majority of workers of that craft or trade subject to said collective bargaining agreements, in the locality in which the public work is done.

(10) "Act" means the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) and the rules and regulations issued hereunder.

(11) "Prevailing wage contract threshold amount" means:

(a) In the case of any public work paid for in whole or in part out of the funds of a municipality in the State of New Jersey or done on property or premises owned by a public body or leased or to be leased by the municipality, the dollar amount established for the then current calendar year by the commissioner through rules and regulations promulgated pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which amount shall be equal to $9,850 on July 1, 1994 and which amount shall be adjusted on July 1 every five calendar years thereafter in direct proportion to the rise or fall in the average of the Consumer Price Indices for Urban Wage Earners and Clerical Workers for the New York metropolitan and the Philadelphia metropolitan regions as reported by the United States Department of Labor during the last full calendar year preceding the date upon which the adjustment is made; and

(b) In the case of any public work other than a public work described in paragraph (a) of this subsection, an amount equal to $2,000.

(12) "Custom fabrication" means the fabrication of plumbing, heating, cooling, ventilation or exhaust duct systems, and mechanical insulation.

2. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 250

AN ACT establishing the New Jersey Special Education and Traumatic Brain Injury Task Force.

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

1. The Legislature finds and declares that:

a. A traumatic brain injury is an acquired injury to the brain caused by an external physical force or insult to the brain, resulting in total or partial functional disability or psychosocial impairment, or both;

b. According to the New Jersey Department of Health and Senior Service's Center for Health Statistics, in 2007 approximately 1,231 children in New Jersey under the age of 18 were hospitalized with moderate to severe traumatic brain injury, and an additional 22,436 children under 18 were seen in hospital emergency departments with mild traumatic brain injury which may result in reduced concentration, attention, and other performance problems;

c. In 1998, the category of traumatic brain injury was added to the list of disabilities included in State Board of Education regulations for which a student may be eligible for special education and related services, and currently 1,260 students are receiving special education services under this classification;

d. A marked discrepancy exists between the number of students receiving special education services under the classification of traumatic brain injury and the number of children who sustain a brain injury each year;

e. At the time that the State Board of Education adopted the classification category of traumatic brain injury, at least 36 states offered in-service professional development on traumatic brain injury to accompany the introduction of this special education classification. However, no formal training has ever been offered to assist New Jersey educators on how to recognize, classify, and educate students with a traumatic brain injury, resulting in inappropriate classification for many students suffering from such

injury and a lack of educational programs for students who are appropriately classified; and

f. It is therefore in the public interest of the students in this State to establish a New Jersey Special Education and Traumatic Brain Injury Task Force to study instructional practices and strategies that improve recognition of, and benefit students with, a traumatic brain injury and examine the ways in which current State policies affect this population.

2. a. There is hereby established the New Jersey Special Education and Traumatic Brain Injury Task Force. The purpose of the task force shall be to: develop best practices and processes for education professionals working with students with a traumatic brain injury; address the needs of students with a traumatic brain injury; study and evaluate practices for recognizing and educating children with traumatic brain injuries of all types, ranging from mild to severe; prepare students with a traumatic brain injury for entry into college or the work force; and examine how current statutes and regulations affect these students in order to develop recommendations to be presented to the Governor and the Legislature. The task force shall also focus upon recognition by all educational professionals of the signs and symptoms of mild traumatic brain injury in order to promote cognitive rest until the student recovers and to help avoid re-injury. The task force shall examine the correlation between traumatic brain injury and psychiatric illness and potential future incarceration.

b. The task force shall consist of 18 members as follows:

(1) the Commissioners of Education and Human Services, or their designees, who shall serve ex officio; and

(2) 16 members who shall be appointed no later than the 30th day after the effective date of this act, as follows:

(a) 14 persons appointed by the Governor, who shall include: one representative of the Department of Education, one representative of the Department of Human Services, one representative of the Department of Health and Senior Services, two representatives of the Brain Injury Association of New Jersey, two parents of children who have suffered a traumatic brain injury, two pediatric rehabilitation professionals with knowledge of traumatic brain injury, one school social worker, one school nurse, one special education teacher, one director of special education services for a school district, and one representative of the Athletic Trainers' Society of New Jersey; and

(b) two members of the public, one selected by the President of the Senate and one selected by the Speaker of the General Assembly, with demonstrated expertise in issues relating to the work of the task force.

Vacancies in the membership of the task force shall be filled in the same manner as the original appointments were made.

c. The Commissioner of Education, or the commissioner's designee, shall serve as chairperson of the task force. The task force shall organize as soon as practicable following the appointment of its members and shall select a vice-chairperson from among its members. The chairperson shall appoint a secretary who need not be a member of the task force.

d. The public members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties and within the limits of funds available to the task force.

e. The Department of Education shall provide such stenographic, clerical and other administrative assistants, and such professional staff, as the task force requires to carry out its work. The task force shall also be entitled to call to its assistance and avail itself of the services of the employees of any State, county, or municipal department, board, bureau, commission, or agency as it may require and as may be available to it for its purposes.

3. The task force shall report its findings and recommendations to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), along with any legislative bills that it desires to recommend for adoption by the Legislature, no later than 12 months after the initial meeting of the task force.

4. This act shall take effect immediately and shall expire upon the issuance of the task force report.

Approved January 16, 2010.

CHAPTER 251

AN ACT concerning the assessment of real property and appeals of assessed valuations, amending R.S.54:3-21 and R.S.54:4-23.

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

1. R.S.54:3-21 is amended to read as follows:

Appeal by taxpayer or taxing district; petition; complaint; exception.

54:3-21. a. Except as provided in subsection b. of this section a taxpayer feeling aggrieved by the assessed valuation of the taxpayer's property, or feeling discriminated against by the assessed valuation of other property in the county, or a taxing district which may feel discriminated against by the assessed valuation of property in the taxing district, or by the assessed valuation of property in another taxing district in the county, may on or before April 1, or 45 days from the date the bulk mailing of notification of assessment is completed in the taxing district, whichever is later, appeal to the county board of taxation by filing with it a petition of appeal; provided, however, that any such taxpayer or taxing district may on or before April 1, or 45 days from the date the bulk mailing of notification of assessment is completed in the taxing district, whichever is later, file a complaint directly with the Tax Court, if the assessed valuation of the property subject to the appeal exceeds $1,000,000. In a taxing district where a municipal-wide revaluation or municipal-wide reassessment has been implemented, a taxpayer or a taxing district may appeal before or on May 1 to the county board of taxation by filing with it a petition of appeal or, if the assessed valuation of the property subject to the appeal exceeds $1,000,000, by filing a complaint directly with the State Tax Court. Within ten days of the completion of the bulk mailing of notification of assessment, the assessor of the taxing district shall file with the county board of taxation a certification setting forth the date on which the bulk mailing was completed. If a county board of taxation completes the bulk mailing of notification of assessment, the tax administrator of the county board of taxation shall within ten days of the completion of the bulk mailing prepare and keep on file a certification setting forth the date on which the bulk mailing was completed. A taxpayer shall have 45 days to file an appeal upon the issuance of a notification of a change in assessment. An appeal to the Tax Court by one party in a case in which the Tax Court has jurisdiction shall establish jurisdiction over the entire matter in the Tax Court. All appeals to the Tax Court hereunder shall be in accordance with the provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

If a petition of appeal or a complaint is filed on April 1 or during the 19 days next preceding April 1, a taxpayer or a taxing district shall have 20 days from the date of service of the petition or complaint to file a cross-petition of appeal with a county board of taxation or a counterclaim with the Tax Court, as appropriate.

b. No taxpayer or taxing district shall be entitled to appeal either an assessment or an exemption or both that is based on a financial agreement

subject to the provisions of the "Long Term Tax Exemption Law" under the appeals process set forth in subsection a. of this section.

2. R.S.54:4-23 is amended to read as follows:

Assessment of real property; conditions for reassessment.

54:4-23. All real property shall be assessed to the person owning the same on October 1 in each year. The assessor shall ascertain the names of the owners of all real property situate in his taxing district, and after examination and inquiry, determine the full and fair value of each parcel of real property situate in the taxing district at such price as, in his judgment, it would sell for at a fair and bona fide sale by private contract on October 1 next preceding the date on which the assessor shall complete his assessments, as hereinafter required; provided, however, that in determining the full and fair value of land which is being assessed and taxed under the Farmland Assessment Act of 1964, chapter 48, laws of 1964, the assessor shall consider only those indicia of value which such land has for agricultural or horticultural use as provided by said act; and provided further however, that when the assessor has reason to believe that property comprising all or part of a taxing district has been assessed at a value lower or higher than is consistent with the purpose of securing uniform taxable valuation of property according to law for the purpose of taxation, or that the assessment of property comprising all or part of a taxing district is not in substantial compliance with the law and that the interests of the public will be promoted by a reassessment of such property, the assessor shall, after due investigation, make a reassessment of the property in the taxing district that is not in substantial compliance, provided that (1) the assessor has first notified, in writing, the mayor, the municipal governing body, the county board of taxation, and the county tax administrator of the basis of the assessor's determination that a reassessment of that property in the taxing district is warranted and (2) the assessor has submitted a copy of a compliance plan to the county board of taxation for approval. Following a reassessment of a portion of the taxing district pursuant to an approved compliance plan, the assessor shall certify to the county board of taxation, through such sampling as the county board of taxation deems adequate, that the reassessment is in substantial compliance with the portions of the taxing district that were not reassessed. For the purposes of assessment, the assessor shall compute and determine the taxable value of such real property at the level established for the county pursuant to law.

3. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 252

AN ACT revising the organization and powers of the Capital City Redevelopment Corporation, amending and supplementing P.L.1987, c.58 amending P.L.1992, c.79, and repealing section 15 of P.L.1987, c.58.

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

1. Section 2 of P.L.1987, c.58 (C.52:9Q-10) is amended to read as follows:

C.52:9Q-10 Findings, declarations.

2. The Legislature finds and declares that:

a. The city of Trenton is of unique significance to the State and the nation both as the State capital and center of State governmental operations, and as the site of the battle which in the nation's memory turned the tide toward American independence;

b. The historic and public importance of the city, once contemplated as the site of the nation's capital has too long been neglected in a State which lacks a demographic or commercial center of sufficient magnitude to serve as a focus for State identity and pride, and, as a result, the city is in great need of redevelopment and revitalization;

c. The actions and decisions of the State government are vitally connected to the redevelopment and revitalization of those portions of the city which serve as the commercial center of the community and in which public buildings and historic sites are located;

d. It is a public purpose of this State to establish a capital district within the city and to create a redevelopment corporation operating within the boundaries of the district, which will plan, coordinate and promote the public and private development of the district in a manner which enhances the vitality of the district as a place of commerce, recreation and culture and as an area in which to conduct public business and visit historic sites and thereby restores the prominence and prestige of the seat of State government for the benefit of all of the citizens of this State;

e. In the exercise of its powers toward this public purpose, the Capital City Redevelopment Corporation will plan, coordinate and encourage an appropriate balance of governmental and nongovernmental facilities and activities in the district, and assist in the provision of public, recreational and cultural facilities, in the preservation and restoration of historic structures and sites, and in the stimulation of private investment in the district in order to establish it as a source of State pride equal in standard to the best of State capitals in the country; and

f. To facilitate the redevelopment of the city of Trenton and provide for increased cooperation between the city and the State, it is necessary to provide the Capital City Redevelopment Corporation with additional powers, including the authority to act as a municipal redevelopment entity, create subsidiaries, enter into partnerships with private developers, hold its own funds and to issue bonds, notes and other obligations paid for from non-State sources to fund redevelopment projects, and to expand the composition of its board.

2. Section 4 of P.L.1987, c.58 (C.52:9Q-12) is amended to read as follows:

C.52:9Q-12 Capital City Redevelopment Corporation.

4. a. There is established in the Executive Branch of the State Government a public body corporate and politic, with corporate succession, to be known as the Capital City Redevelopment Corporation. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the corporation is allocated within the Department of the Treasury, but, notwithstanding that allocation the corporation shall be independent of any supervision or control by the department or by the State Treasurer or any officer or employee thereof. The corporation is 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 or any other act shall be deemed to be an essential governmental function of the State.

b. The board of directors of the corporation shall consist of the following: the Commissioner of Community Affairs, the Commissioner of Transportation, and the State Treasurer who shall all serve ex officio and may each designate, by written notification to the board, an alternate who shall act in their place with the authority to attend, vote and perform any duty or function assigned to them in their absence; the mayor of the city of Trenton, ex officio; and seven public members, four of whom shall be appointed by the

mayor of the city of Trenton and three of whom shall be appointed by the Governor with the three gubernatorial appointed members being subject to the advice and consent of the Senate, one of whom shall be a business owner in the city of Trenton, and at least one of whom shall be a business owner in the county of Mercer. The three directors appointed by the Governor shall be residents of the State and shall have knowledge and expertise in the areas of economic development, urban planning, community affairs or finance.

c. Each public member shall serve for a term of four years and until the appointment and qualification of a successor. All vacancies shall be filled in the same manner as the original appointment but for the unexpired term only. The directors shall receive no compensation for their services, but may be reimbursed for their expenses in performing their official duties.

d. Each director, before entering upon the duties of office, shall take and subscribe an oath to perform the duties of the office faithfully, impartially and justly to the best of their ability. A record of these oaths shall be filed in the Office of the Secretary of State. Each director 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 the hearing.

e. The Governor shall appoint a chairman from among the members of the board. The vice chairman shall be one of the seven public members and shall be elected by majority vote of all the directors. The directors shall elect a secretary and a treasurer from among their number, and the same person may be elected to serve both as secretary and treasurer. Six directors shall constitute a quorum at any meeting of the board. Action may be taken and motions and resolutions adopted by the board at any meeting thereof by the affirmative vote of at least six directors. No vacancy in a directorship shall impair the right of a quorum to exercise all the powers and perform all the duties of the board.

f. Each director shall execute a bond to be conditioned upon the faithful performance of their respective duties 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. The bonds shall be filed in the office of the Secretary of State. At all times thereafter the directors shall maintain these bonds in full force. All costs of the bonds shall be borne by the corporation.

g. The corporation may be dissolved by act of the Legislature if it has no debts or obligations outstanding or if adequate provision has been made for the payment or retirement of any outstanding debts or obligations. Upon dissolution of the corporation all property, funds and assets thereof shall be

vested in the State, the city or the county, subject to the terms of the act of dissolution.

h. A true copy of the minutes of every meeting of the corporation shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at such meeting by the corporation shall have force or effect until 10 days, Saturdays, Sundays, and public holidays excepted, after a copy of the minutes shall have been so delivered unless during that 10-day period the Governor shall approve the same in which case such action shall become effective upon approval. If, within the 10-day period, the Governor returns the copy of the minutes with a veto of any action taken by the corporation or any member thereof at the meeting, that action shall be null and void and of no effect. The powers conferred in this subsection upon the Governor shall be exercised with due regard for the rights of the holders of bonds and notes of the corporation at any time outstanding, and nothing in or done pursuant to this subsection shall in any way limit, restrict or alter the obligation or powers of the corporation or any representative or officer of the corporation 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 corporation with respect to its bonds or notes or for the benefit, protection or security of the holders thereof. The Governor may approve all or part of the action taken at such meeting prior to the expiration of the 10-day period.

i. No member, officer, employee or agent of the corporation shall be interested, either directly or indirectly, in any school facilities project, or in any contract, sale, purchase, lease, or transfer of real or personal property to which the corporation is a party.

3. Section 5 of P.L.1987, c.58 (C.52:9Q-13) is amended to read as follows:

C.52:9Q-13 General powers.

5. The corporation shall have the following general powers:

a. To sue and be sued;

b. To adopt an official seal and alter it;

c. To make and alter bylaws for its organization and internal management and to make rules and regulations with respect to its projects, operations, properties and facilities;

d. To make and enter into all contracts, leases, as lessee or lessor, and agreements necessary or incidental to the performance of its duties and the exercise of its powers under this act, and consent to any modification,

amendment or revision of any contract, lease or agreement to which it is a party;

e. To enter into agreements or other transactions with, and to accept grants, appropriations or the cooperation of the United States or any agency thereof or the State or any agency thereof in furtherance of the purposes of this act;

f. To receive and accept aid or contributions from any public or private source of money, property, labor or other thing of value, to be held, used and applied to carry out the purposes of this act subject to the conditions upon which that aid or contribution may be made, including, but not limited to, gifts or grants from the United States or any agency thereof or the State or any agency thereof for any purpose consistent with this act;

g. To invest any funds held in reserve or sinking funds, or any moneys not required for immediate use and disbursement, at the discretion of the corporation, in investments in which other State funds may be invested;

h. To acquire or contract to acquire from any individual, partnership, trust, association or corporation, or any public agency, by grant, purchase or otherwise, real or personal property or any interest therein; to own, hold, clear, improve and rehabilitate, and to sell, assign, exchange, transfer, convey, lease, mortgage or otherwise dispose of or encumber the same;

i. To sell, lease, assign, transfer, convey, exchange, mortgage, or otherwise dispose of or encumber any project, and in the case of the sale of any project, to accept a purchase money mortgage in connection therewith, and to lease, repurchase or otherwise acquire and hold any project which the corporation has theretofore sold, leased or otherwise conveyed, transferred or disposed of;

j. To grant options to purchase any project or to renew any leases entered into by it in connection with any of its projects, on such terms and conditions as it may deem advisable;

k. To manage any project, whether then owned or leased by the corporation, and to enter into agreements with any individual, partnership, trust, association or corporation, or with any public agency, for the purpose of causing any project to be managed;

l. To consent to the modification, with respect to rate of interest, time of payment or any installment of principal or interest, security, or any other terms, of any loan, mortgage, commitment, contract or agreement of any kind to which the corporation is a party;

m. In connection with any property on which it has made a mortgage loan, to foreclose on the property or commence any action to protect or enforce any right conferred upon it by any law, mortgage, contract or other

agreement, and to bid for or purchase the property at any foreclosure or at any other sale, or acquire or take possession of the property; and in such event the corporation may complete, administer, pay the principal of and interest on any obligations incurred in connection with the property, dispose of and otherwise deal with the property, in such manner as may be necessary or desirable to protect the interests of the corporation therein;

n. To procure insurance against any loss in connection with its property and other assets and operations in any amounts and from any insurers it deems desirable;

o. To arrange or contract with any county or municipal government, or instrumentality thereof, with jurisdiction within the Capital City District, for the planning, opening, grading or closing of streets, roads or other places or for the construction or reconstruction of improvements, or public works necessary or convenient to carry out its purposes;

p. To appoint an executive director and any other officers, employees and agents as it may require for the performance of its duties. The executive director, and any employees appointed as personal staff to the executive director, shall be appointed by the corporation, which shall determine their qualifications, terms of office, duties, fix their compensation, and promote and discharge them, all without regard to the provisions of Title 11A of the New Jersey Statutes;

q. To engage the services of attorneys, accountants, architects, building contractors, engineers, urban planners, and any other advisors, consultants and agents as may be necessary in its judgment for the performance of its duties and fix their compensation;

r. To provide advisory, consultative, training and educational services, technical assistance and advice to any person, firm, association, partnership or corporation, either public or private, in order to carry out the purposes of this act;

s. To do any and all things necessary or convenient to the exercise of the foregoing powers or reasonably implied therefrom;

t. To borrow money and to issue bonds and notes and other obligations of the corporation, for which neither the members of the corporation nor any person executing bonds issued pursuant to this subsection shall be liable personally by reason of the issuance thereof, and to provide for the rights of the holders thereof, and which obligations shall not have a pledge of an annual appropriation as the ways and means to pay the principal of, redemption premium, if any, and interest on such bonds, notes, or other obligations;

u. To charge and collect from local units, the State, and any other person any fees and charges in connection with the corporation's actions undertaken with respect to projects, including but not limited to fees and charges for the corporation's administrative, organization, insurance, operating, and other expenses incident to projects;

v. To market any project undertaken within the district;

w. To enter into partnerships or joint ventures with private developers, the New Jersey Economic Development Authority or any other public entity, for the purpose of community redevelopment, and establish fees therefor; and

x. To act as a municipal redevelopment entity or redeveloper, with all powers conferred pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.).

4. Section 11 of P.L.1987, c.58 (C.52:9Q-19) is amended to read as follows:

C.52:9Q-19 Capital City Redevelopment Loan and Grant Fund.

11. a. There is established in the corporation a nonlapsing, revolving fund to be known as the Capital City Redevelopment Loan and Grant Fund, and which shall be at the disposal of the corporation for carrying out the provisions of P.L.1987, c.58 (C.52:9Q-9 et seq.), and for no other purpose.

b. The corporation may from time to time invest and reinvest those portions of the fund in investments in which other State funds may be invested. Net earnings received from the deposit of moneys in the fund shall be used only for the purposes of the fund.

c. There shall be included in the fund (1) all moneys appropriated and made available by the Legislature for inclusion therein, (2) any other moneys made available to the corporation from any source or sources, for its purposes, (3) any moneys repaid by persons pursuant to loan agreements under the terms of P.L.1987, c.58 (C.52:9Q-9 et seq.), which payments shall be transmitted to the corporation for inclusion in the fund, and (4) any income, increment or interest derived from investment or reinvestment.

5. Section 16 of P.L.1987, c.58 (C.52:9Q-24) is amended to read as follows:

C.52:9Q-24 Acquisition of real property.

16. a. If, in order to implement any of the goals and objectives set forth in the plan, the corporation shall find it necessary or convenient to acquire

any real property within its jurisdiction, or if for any of its authorized purposes the corporation shall find it necessary to acquire any real property beyond its jurisdiction, whether for immediate or future use, the corporation may find and determine that such property, whether a fee simple absolute or a lesser interest, is required for public use, and, upon such determination, the property shall be deemed to be required for a public use until otherwise determined by the corporation; and the determination shall not be affected by the fact that the property has heretofore been taken for, or is then devoted to, a public use of the State or any municipality, county, school district, or other local or regional district, authority or agency, but the public use in the hands or under the control of the corporation shall be deemed superior.

b. If the corporation is unable to agree with the owner or owners thereof upon terms for the acquisition of any real property, for any reason whatsoever, then the corporation may acquire that property, whether a fee simple absolute or a lesser interest, in the manner provided in the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

c. Notwithstanding the provisions of subsections a. and b. of this section, the corporation shall not acquire or exercise control over any property in the custody of the State House Commission pursuant to R.S.52:20-1 et seq. without the written consent of that commission.

d. For the purposes of any State surplus property located within the district, the corporation is authorized to act as the redevelopment entity on behalf of the State as provided in section 4 of P.L.1992, c.79 (C.40A:12A-4) pursuant to a memorandum of understanding with the State Treasurer.

6. Section 17 of P.L.1987, c.58 (C.52:9Q-25) is amended to read as follows:

C.52:9Q-25 Annual budget; plan for expenditures.

17. a. On or before February 1 of each year, the board shall adopt a budget for the corporation. The board shall file a copy of the budget with the State Treasurer and the governing body of the city of Trenton within 30 days of its adoption. The board shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants, and the cost thereof shall be considered an expense of the corporation and a copy thereof shall be filed with the State Treasurer, the Director of the Division of Budget and Accounting, and the State Auditor.

b. The executive director shall submit with the corporation's annual budget a plan for expenditures from the Capital City Redevelopment Loan and Grant Fund for the upcoming fiscal year. This plan shall include, but

not be limited to: performance evaluation of the expenditures made from the fund to date; a description of the various projects to be funded for the upcoming fiscal year; relocation assistance for the upcoming fiscal year; a copy of procedures developed by the corporation governing the operation of the loan and grant fund; a complete financial statement on the status of the fund to date; and an estimate of expenditures from the fund for the upcoming fiscal year.

C.52:9Q-13.1 Additional powers of corporation.

7. a. In addition to the powers set forth in section 5 of P.L.1987, c.58 (C.52:9Q-13), the corporation shall have the authority to form, purchase or assume control of one or more subsidiaries, in the manner and for the purposes set forth in this section.

b. The corporation may form a subsidiary by filing with the Secretary of State a certificate of incorporation, which may be amended from time to time and which shall set forth the name of the subsidiary, its duration, the location of its principal office, the joint owners thereof, and the purposes of the subsidiary.

c. The directors of the subsidiary shall be members or employees of the corporation, who shall constitute at least a majority, and such other persons representing any joint owner or owners as may be provided for in the agreement in connection with the incorporation of the subsidiary.

d. The subsidiary shall have all the powers vested in the corporation which the corporation may delegate to it by terms of the certificate of incorporation, except that it shall not have the power to contract indebtedness independently of the corporation. The subsidiary and any of its properties, functions and activities shall have all the privileges, immunities, tax exemptions, and other exemptions as the corporation and its property, functions and activities. The subsidiary shall also be subject to the restrictions and limitations to which the corporation is subject. The subsidiary shall be subject to suit as if it were the corporation itself.

e. Whenever the State or any municipality, commission, public authority, agency, officer, department, board, or division is authorized and empowered to cooperate and enter into agreements with the corporation, or to grant any consent to the corporation, or to grant, convey, lease or otherwise transfer any property to the corporation, or to execute any document, the State or such municipality, commission, public authority, agency, officer, department, board, or division shall have the same authorization and power for any of such purposes to cooperate and enter into agreements with the subsidiary, to grant consents to the subsidiary, to grant, convey, lease, or

otherwise transfer property to the subsidiary, and to execute documents for the subsidiary.

f. Among the powers that shall be granted to a subsidiary corporation established by the corporation are:

(1) the power to participate as a co-owner or co-venturer in any activity financed by a loan from the corporation or the subsidiary corporation; and

(2) the power to issue non-voting stock and employ the proceeds of such sales for capital investment in, or other expenses in connection with, the projects of the subsidiary, upon authorization by the corporation.

C.52:9Q-13.2 Issuance of bonds by corporation.

8. For the purpose of providing funds to pay all or any part of the cost of any project or projects, to make loans in accordance with the provisions of P.L.1987, c.58 (C.52:9Q-9 et seq.), and for the funding or refunding of any bonds, the corporation shall have the power to authorize or provide for the issuance of bonds pursuant to P.L.2009, c.252 (C.52:9Q-13.1 et al.).

C.52:9Q-13.3 Powers of corporation relative to bonds.

9. By resolution, the corporation shall have power to incur indebtedness, borrow money and issue its bonds for the purposes stated in section 7 of P.L.2009, c.252 (C.52:9Q-13.1); provided, however, that the corporation shall not issue more than $100 million of bonds in any one year. Except as may otherwise be expressly provided by the corporation, every issue of its bonds shall be general obligations of the corporation payable from any revenues or moneys of the corporation or any other contracted with or agreed upon source, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or moneys, provided, however, that notwithstanding anything to the contrary contained herein or in any other law or regulation, any bonds, notes or other obligations issued by the corporation shall not have a pledge of an annual appropriation as the ways and means to pay the principal of, redemption premium if any, and interest on such bonds, notes or other obligations. Bonds shall be authorized by resolution and may be issued in one or more series and shall bear that date or those dates, mature at that time or those times not exceeding 40 years from the date thereof, bear interest at a rate or rates, be in that denomination or those denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources in such medium of payment at such place or places within or without the State, and be subject to such terms of redemption (with or without

premium) as the resolution may provide. Bonds of the corporation may be sold by the corporation at public or private sale at such price or prices as the corporation shall determine.

C.52:9Q-13.4 Bonds negotiable.

10. Any provision of any law to the contrary notwithstanding, any bond, note or other obligation issued pursuant to P.L.2009, c.252 (C.52:9Q-13.1 et al.) shall be fully negotiable within the meaning and for all purposes of Title 12A, Commercial Transactions, of the New Jersey Statutes, and each holder or owner of such a bond or other obligation, or of any coupon appurtenant thereto, by accepting such bond or coupon, shall be conclusively deemed to have agreed that such bond, obligation, or coupon is and shall be fully negotiable within the meaning and for all purposes of Title 12A of the New Jersey Statutes.

C.52:9Q-13.5 Covenants, agreements with bond holders.

11. In order to secure the payment of such bonds, notes and other obligations, and in addition to its other powers, the corporation shall have power by resolution to covenant and agree with the several holders of such bonds, as to:

a. The custody, security, use, expenditure or application of the proceeds of the bonds, notes or other obligations;

b. The use, regulation, operation, maintenance, insurance or disposition of all or any part of any project or projects;

c. Payment of the principal of, redemption premium if any or interest on the bonds, notes or any other obligations, and the sources and methods thereof, the rank or priority of any such bonds, notes or other obligations as to any lien or security, or the acceleration of the maturity of any such bonds, notes or other obligations;

d. The use and disposition of any moneys of the corporation, including all revenues or other moneys derived or to be derived from any project or projects;

e. Pledging, setting aside, depositing or trusteeing all or any part of the revenues or other moneys of the corporation to secure the payment of the principal of, redemption premium if any, or interest on the bonds, notes, or any other obligations and the powers and duties of any trustee with regard thereto;

f. The setting aside out of the revenues or other moneys of the corporation of reserves and sinking funds, and the source, custody, security, regulation, application, and disposition thereof;

g. The rents, fees or other charges for the use of any project or projects, including any parts thereof theretofore constructed or acquired and any parts, replacements or improvements thereof thereafter constructed or acquired, and the fixing, establishment, collection and enforcement of the same;

h. The limitation on the issuance of additional bonds, notes or any other obligations, or on the incurrence of indebtedness of the corporation;

i. The vesting in a trustee or trustees, fiscal or escrow agent or agents within or without the State such property, rights, powers and duties in trust as the corporation may determine and limiting the rights, duties and powers of such trustee or agent;

j. The payment of costs or expenses incident to the enforcement of the bonds, notes or other obligations or of the provisions of the resolution or of any covenant or contract with the holders of the bonds, notes, or other obligations;

k. The procedure, if any, by which the terms of any covenant or contract with, or duty to, the holders of bonds, notes or other obligations may be amended or abrogated, the amount of bonds, notes or other obligations the holders of which must consent thereto, and the manner in which such consent may be given or evidenced; or

l. Any other matter or course of conduct which, by recital in the resolution, is declared to further secure the payment of the principal of, redemption premium if any, or interest on the bonds, notes or other obligations.

All such provisions of the resolution and all such covenants and agreements shall constitute valid and legally binding contracts between the corporation and the several holders of the bonds, notes or other obligations regardless of the time of issuance of such bonds, notes, or other obligations and shall be enforceable by any such holder or holders by appropriate action, suit or proceeding in any court of competent jurisdiction, or by proceeding in lieu of prerogative writ.

C.52:9Q-13.6 Pledge of revenues, other moneys valid, binding.

12. Any pledge of revenues or other moneys made by the corporation shall be valid and binding from the time that the pledge is made. The revenues or other moneys so pledged and thereafter received by the corporation 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. Neither the resolution nor any other instrument by which a pledge is created need be filed or recorded except in the records of the corporation.

C.52:9Q-13.7 No liability for bonds.

13. The members of the corporation or any person executing bonds, notes or other obligations issued pursuant to P.L.2009, c.252 (C.52:9Q-13.1 et al.) shall not be liable personally on the bonds by reason of the issuance thereof. Bonds, notes or other obligations issued by the corporation pursuant to P.L.2009, c.252 (C.52:9Q-13.1 et al.) shall not be in any way a debt or liability of the State or of any political subdivision thereof and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision, either legal, moral or otherwise, and nothing contained in P.L.2009, c.252 (C.52:9Q-13.1 et al.) 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, and all such bonds, notes or other obligations shall contain on the face thereof a statement to that effect.

14. Section 4 of P.L.1992, c.79 (C.40A:12A-4) is amended to read as follows:

C.40A:12A-4 Powers of municipal governing body, planning board.

4. In exercising the redevelopment and rehabilitation functions provided for in this act:

a. A municipal governing body shall have the power to:

(1) Cause a preliminary investigation to be made pursuant to subsection a. of section 6 of P.L.1992, c.79 (C.40A:12A-6) as to whether an area is in need of redevelopment;

(2) Determine pursuant to subsection b. of section 6 of P.L.1992, c.79 (C.40A:12A-6) that an area is in need of redevelopment;

(3) Adopt a redevelopment plan pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7);

(4) Determine pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14) that an area is in need of rehabilitation.

b. A municipal planning board shall have the power to:

(1) Conduct, when authorized by the municipal governing body, a preliminary investigation and hearing and make a recommendation pursuant to subsection b. of section 6 of P.L.1992, c.79 (C.40A:12A-6) as to whether an area is in need of redevelopment;

(2) Make recommendations concerning a redevelopment plan pursuant to subsection e. of section 7 of P.L.1992, c.79 (C.40A:12A-7), or prepare a redevelopment plan pursuant to subsection f. of that section;

(3) Make recommendations concerning the determination of an area in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14).

c. The municipality shall be responsible for implementing redevelopment plans and carrying out redevelopment projects pursuant to section 8 of P.L.1992, c.79 (C.40A:12A-8). The municipality may execute these responsibilities directly, or in addition thereto or in lieu thereof, through either a municipal redevelopment agency, or a municipal housing authority authorized to exercise redevelopment powers pursuant to section 21 of P.L.1992, c.79 (C.40A:12A-21), but there shall be only one redevelopment entity responsible for each redevelopment project. A county improvement authority authorized to undertake redevelopment projects pursuant to the "county improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.) may also act as a redevelopment entity pursuant to this act. Within a municipality that has been designated the capital of the State, the Capital City Redevelopment Corporation, established pursuant to P.L.1987, c.58 (C.52:9Q-9 et seq.) may also act as a redevelopment entity pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.). The redevelopment entity, so authorized, may contract with any other public body, in accordance with the provisions of section 8 of P.L.1992, c.79 (C.40A:12A-8), for the carrying out of a redevelopment project or any part thereof under its jurisdiction. Notwithstanding the above, the governing body of the municipality may, by ordinance, change or rescind the designation of the redevelopment entity responsible for implementing a redevelopment plan and carrying out a redevelopment project and may assume this responsibility itself, but only the redevelopment entity authorized to undertake a particular redevelopment project shall remain authorized to complete it, unless the redevelopment entity and redeveloper agree otherwise, or unless no obligations have been entered into by the redevelopment entity with parties other than the municipality. This shall not diminish the power of the municipality to dissolve a redevelopment entity pursuant to section 24 of P.L.1992, c.79 (C.40A:12A-24), and section 20 of the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-20).

15. For purposes of effectuating the changes in the composition of the membership of public members of the board of the Capital City Redevelopment Corporation as prescribed by the provisions of section 2 of P.L.2009, c.252 amending section 4 of P.L.1987, c.58 (C.52:9Q-12):

a. The Governor shall, on or before the 30th day following the effective date of P.L.2009, c.252 (C.52:9Q-13.1 et al.), file with the Secretary of State a written statement designating two memberships among those public members as henceforth to be filled through appointment by the mayor of the city of Trenton. Upon such filing, the term of a member holding such a

membership, or the continuance in office of a member following expiration of the term of such a membership, shall terminate, and the Secretary of State shall promptly notify the member in writing of the termination; and

b. Of the four public members first appointed by the mayor of the city of Trenton following the effective date of P.L.2009, c.252 (C.52:9Q-13.1 et al.), two shall be designated to serve for terms of four years and two shall be designated to serve for terms of two years, from the date of appointment.

16. Section 15 of P.L.1987, c.58 (C.52:9Q-23) is repealed.

17. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 253

AN ACT concerning disclosure statements and certain other requirements for the licensing of solid waste and hazardous waste operations, and amending and supplementing P.L.1983, c.392.

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

1. Section 2 of P.L.1983, c.392 (C:13:1E-127) is amended to read as follows:

C.13:1E-127 Definitions.

2. As used in the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.) and P.L.1991, c.269 (C.13:1E-128.1 et al.):

a. "Applicant" means any business concern which has filed a disclosure statement with the department and the Attorney General and is seeking an initial license, provided that the business concern has furnished the department and the Attorney General with any information required pursuant to P.L.1991, c.269 (C.13:1E-128.1 et al.).

b. "Application" means the forms and accompanying documents filed in connection with an applicant's or permittee's request for a license.

c. "Business concern" means any corporation, association, firm, partnership, sole proprietorship, trust or other form of commercial organization.

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

e. "Disclosure statement" means a statement submitted to the department and the Attorney General by an applicant or a permittee, which statement shall include:

(1) The full name, business address and social security number of the applicant or the permittee, as the case may be, and of any officers, directors, partners, or key employees thereof and all persons holding any equity in or debt liability of that business concern, or, if the applicant or permittee is a publicly traded corporation, all persons holding more than 5% of the equity in or the debt liability of that business concern, except that where the debt liability is held by a chartered lending institution, the applicant or permittee need only supply the name and business address of the lending institution;

(2) The full name, business address and social security number of all officers, directors, or partners of any business concern disclosed in the disclosure statement and the names and addresses of all persons holding any equity in or the debt liability of any business concern so disclosed, or, if the business concern is a publicly traded corporation, all persons holding more than 5% of the equity in or the debt liability of that business concern, except that where the debt liability is held by a chartered lending institution, the applicant or permittee need only supply the name and business address of the lending institution;

(3) The full name and business address of any business concern which collects, transports, treats, stores, transfers or disposes of solid waste or hazardous waste in which the applicant or the permittee holds an equity interest;

(4) A description of the experience and credentials in, including any past or present licenses for, the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste possessed by the applicant or the permittee, as the case may be, and by the key employees, officers, directors, or partners thereof;

(5) A listing and explanation of any notices of violation or prosecution, administrative orders or license revocations issued by this State or any other state or federal authority, in the 10 years immediately preceding the filing of the application or disclosure statement, whichever is later, which are pending or have resulted in a finding or a settlement of a violation of any law or rule and regulation relating to the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste by the applicant or the permittee, as the case may be, or by any key employee, officer, director, or partner thereof;

(6) A listing and explanation of any judgment of liability or conviction which was rendered, pursuant to the laws of this State, or any other state or federal statute or local ordinance, against the applicant or the permittee, as the case may be, or against any key employee, officer, director, or partner thereof, except for any violation of Title 39 of the Revised Statutes other than a violation of the provisions of P.L.1983, c.102 (C.39:5B-18 et seq.), P.L.1983, c.401 (C.39:5B-25 et seq.) or P.L.1985, c.415 (C.39:5B-30 et seq.);

(7) A listing of all labor unions and trade and business associations in which the applicant or the permittee was a member or with which the applicant or the permittee had a collective bargaining agreement during the 10 years preceding the date of the filing of the application or disclosure statement, whichever is later;

(8) A listing of any agencies outside of New Jersey which had regulatory responsibility over the applicant or the permittee, as the case may be, in connection with the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste; and

(9) Any other information the Attorney General or the department may require that relates to the competency, reliability or integrity of the applicant or the permittee.

The provisions of paragraphs (1) through (9) of this subsection to the contrary notwithstanding, if an applicant or a permittee is a secondary business activity corporation, "disclosure statement" means a statement submitted to the department and the Attorney General by an applicant or a permittee, which statement shall include:

(a) The full name, primary business activity, office or position held, business address, home address, date of birth and federal employer identification number of the applicant or the permittee, as the case may be, and of all officers, directors, partners, or key employees of the business concern; and of all persons holding more than 5% of the equity in or debt liability of that business concern, except that where the debt liability is held by a chartered lending institution, the applicant or permittee need only supply the name and business address of the lending institution. The Attorney General or the department may request the social security number of any individual identified pursuant to this paragraph;

(b) The full name, business address and federal employer identification number of any business concern in any state, territory or district of the United States, which collects, transports, treats, stores, recycles, brokers, transfers or disposes of solid waste or hazardous waste on a commercial basis, in which the applicant or the permittee holds an equity interest of

25% or more, and the type, amount and dates of the equity held in such business concern;

(c) A listing of every license, registration, permit, certificate of public convenience and necessity, uniform tariff approval or equivalent operating authorization held by the applicant or permittee within the last five years under any name for the collection, transportation, treatment, storage, recycling, processing, transfer or disposal of solid waste or hazardous waste on a commercial basis in any state, territory or district of the United States, and the name of every agency issuing such operating authorization;

(d) If the applicant or the permittee is a subsidiary of a parent corporation, or is the parent corporation of one or more subsidiaries, or is part of a group of companies in common ownership, as the case may be, a chart, or, if impractical or burdensome, a list showing the names, federal employer identification numbers and relationships of all parent, sister, subsidiary and affiliate corporations, or members of the group;

(e) A listing and explanation of any notices of violation or prosecution, administrative orders or license revocations issued by this State or any other state or federal authority to the applicant or permittee in the 10 years immediately preceding the filing of the application or disclosure statement, whichever is later, which are pending or have resulted in a finding or a settlement of a violation of any law or rule or regulation relating to the collection, transportation, treatment, storage, recycling, processing, transfer or disposal of solid waste or hazardous waste by the applicant or permittee;

(f) A listing and explanation of any judgment, decree or order, whether by consent or not, issued against the applicant or permittee in the 10 years immediately preceding the filing of the application, and of any pending civil complaints against the applicant or permittee pertaining to a violation or alleged violation of federal or state antitrust laws, trade regulations or securities regulations;

(g) A listing and explanation of any conviction issued against the applicant or permittee for a felony resulting in a plea of nolo contendere, or any conviction in the 10 years immediately preceding the filing of the application, and of any pending indictment, accusation, complaint or information for any felony issued to the applicant or the permittee pursuant to any state or federal statute; and

(h) A completed personal history disclosure form shall be submitted to the department and the Attorney General by every person required to be listed in this disclosure statement, except for those individuals who are exempt from the personal history disclosure requirements pursuant to paragraph (5) of subsection a. of section 3 of P.L.1983, c.392 (C.13:1E-128).

f. "Key employee" means any individual employed by the applicant, the permittee or the licensee in a supervisory capacity or empowered to make discretionary decisions with respect to the solid waste or hazardous waste operations of the business concern but shall not include employees exclusively engaged in the physical or mechanical collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste.

g. "License" means the initial approval and first renewal by the department of any registration statement or engineering design pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) or P.L.1981, c.279 (C.13:1E-49 et seq.), for the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste in this State.

A "license" shall not include any registration statement or engineering design approved for:

(1) Any State department, division, agency, commission or authority, or county, municipality or agency thereof;

(2) Any person solely for the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste generated by that person;

(3) Any person for the operation of a hazardous waste facility, if at least 75% of the total design capacity of that facility is utilized to treat, store or dispose of hazardous waste generated by that person;

(4) Any person for the operation of a hazardous waste facility which is considered as such solely as the result of the reclamation, recycling or refining of hazardous wastes which are or contain any of the following precious metals: gold, silver, osmium, platinum, palladium, iridium, rhodium, ruthenium, or copper;

(5) Any person solely for the transportation of hazardous wastes which are or contain precious metals to a hazardous waste facility described in paragraph (4) of this subsection for the purposes of reclamation.

A "license" shall include any registration statement approved for any person who transports any other hazardous waste in addition to hazardous wastes which are or contain precious metals;

(6) Any person solely for the collection, transportation, treatment, storage or disposal of granular activated carbon used in the adsorption of hazardous waste; or

(7) Any regulated medical waste generator for the treatment or disposal of regulated medical waste at any noncommercial incinerator or noncommercial facility in this State that accepts regulated medical waste for disposal.

h. "Licensee" means any business concern which has completed the requirements of section 3 of P.L.1983, c.392 (C.13:1E-128) and whose ap-

plication for the issuance or renewal of a license has been approved by the department pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133).

i. "Permittee" means and shall include:

(1) Any business concern which has filed a disclosure statement with the department and the Attorney General and to which a valid registration statement or engineering design approval for the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) or P.L.1981, c.279 (C.13:1E-49 et seq.) has been given by the department prior to June 14, 1984;

(2) Any business concern which has filed a disclosure statement with the department and the Attorney General and to which a temporary license has been approved, issued or renewed by the department pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135), but which has not otherwise completed the requirements of section 3 of P.L.1983, c.392 (C.13:1E-128) and whose application for a license has not been approved by the department pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133), provided that the temporary license remains valid, and provided further that the business concern has furnished the department and the Attorney General with any information required pursuant to P.L.1991, c.269 (C.13:1E-128.1 et al.);

(3) Any business concern which has filed a disclosure statement with the department and the Attorney General and to which a valid registration statement or engineering design approval for the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) or P.L.1981, c.279 (C.13:1E-49 et seq.) has been given by the department between February 20, 1985 and January 23, 1986, inclusive, provided that the registration statement or engineering design approval remains valid, and provided further that the business concern has furnished the department and the Attorney General with any information required pursuant to P.L.1991, c.269 (C.13:1E-128.1 et al.); or

(4) Any business concern to which a temporary approval of registration has been given by the department at any time after January 23, 1986 pursuant to statute or rule and regulation, provided that such temporary approval of registration, statute, or rule and regulation remains valid, and provided further that the business concern has furnished the department and the Attorney General with any information required pursuant to P.L.1991, c.269 (C.13:1E-128.1 et al.) and filed a disclosure statement with the department and the Attorney General.

j. "Person" means any individual or business concern.

k. "Secondary business activity corporation" means any business concern which has derived less than 5% of its annual gross revenues in each of

the three years immediately preceding the one in which the application for a license is being made from the collection, transportation, treatment, storage, recycling, processing, transfer or disposal of solid waste or hazardous waste, whether directly or through other business concerns partially or wholly owned or controlled by the applicant or the permittee, as the case may be, and which (1) has one or more classes of security registered pursuant to section 12 of the "Securities Exchange Act of 1934," as amended (15 U.S.C. s.78l), or (2) is an issuer subject to subsection (d) of section 15 of the "Securities Exchange Act of 1934," as amended (15 U.S.C. s.78o).

l. "Institutional investor" means a retirement fund administered by a public agency for the exclusive benefit of federal, state, or local public employees; government or government-owned entity; investment company registered under the "Investment Company Act of 1940" (15 U.S.C. s.80a-1 et seq.); collective investment trust organized by banks under Part Nine of the Rules of the Comptroller of the Currency; closed end investment trust; chartered or licensed life insurance company or property and casualty insurance company; banking or other chartered or licensed lending institution; partnerships, funds or trusts managed by or directed in conjunction with an investment adviser registered under the "Investment Advisers Act of 1940" (15 U.S.C. s.80b-1 et seq.) or an institutional investment manager required to make filings under subsection (f) of section 13 of the "Securities Exchange Act of 1934," as amended (15 U.S.C. s.78m); institutional buyer, as defined pursuant to section 2 of the "Uniform Securities Law (1997)," P.L.1967, c.93 (C.49:3-49); small business investment company licensed by the United States Small Business Administration under subsection (c) of section 301 of the "Small Business Investment Act of 1958," as amended (15 U.S.C. s.681); private equity or venture capital entity having or managing aggregate capital commitments in excess of $25,000,000; and other persons as the department may determine for reasons consistent with the policies of P.L.1983, c.392 (C.13:1E-126 et seq.).

m. "Publicly traded corporation" means a corporation or other legal entity, except a natural person, which:

(1) has one or more classes of security registered pursuant to section 12 of the "Securities Exchange Act of 1934," as amended (15 U.S.C. s.78l);

(2) is an issuer subject to subsection (d) of section 15 of the "Securities Exchange Act of 1934," as amended (15 U.S.C. s.78o); or

(3) has one or more classes of securities traded in an open market in any foreign jurisdiction, provided that the department determines that the foreign exchange provides openness, integrity and oversight in its

operations sufficient to meet the intent of P.L.1983, c.392 (C.13:1E-126 et seq.), or that the securities traded on the foreign exchange are regulated pursuant to a statute of a foreign jurisdiction that is substantially similar, both in form and effect, to section 12 or subsection (d) of section 15 of the "Securities Exchange Act of 1934," as amended.

C.13:1E-128.2 Disclosure, submission requirements.

2. Notwithstanding any provision of section 2 of P.L.1983, c.392 (C.13:1E-127) or section 3 of P.L.1983, c.392 (C.13:1E-128), or any rules or regulations adopted pursuant thereto, to the contrary, a business concern that is a secondary business activity corporation which is listed in the disclosure statement of an applicant or a permittee as required pursuant to P.L.1983, c.392 (C.13:1E-126 et seq.), and that is not the applicant or permittee, shall not be required to disclose or submit any more information than that which is required of a secondary business activity corporation that is an applicant or a permittee, as provided pursuant to paragraphs (a) through (h) of subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127), and, as applicable, subsections b. and d. of section 3 of P.L.1983, c.392 (C.13:1E-128) and sections 4 and 5 of P.L.1983, c.392 (C.13:1E-129 and C.13:1E-130).

3. Section 3 of P.L.1983, c.392 (C.13:1E-128) is amended to read as follows:

C.13:1E-128 Disclosure.

3. In addition to any other procedure, condition or information required pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1981, c.279 (C.13:1E-49 et seq.) or any other law:

a. (1) Every applicant and permittee shall file a disclosure statement with the department and the Attorney General;

(2) Except as otherwise provided in this subsection, any person required to be listed in the disclosure statement shall be fingerprinted for identification and investigation purposes in accordance with procedures therefor established by the Attorney General;

(3) The Attorney General shall, upon the receipt of the disclosure statement from an applicant for an initial license or from a permittee, prepare and transmit to the department an investigative report on the applicant or the permittee, as the case may be, based in part upon the disclosure statement. In preparing this report, the Attorney General may request and receive criminal history information from the State Commission of Investigation or the Federal Bureau of Investigation;

(4) In conducting a review of the application, the department shall include a review of the disclosure statement and investigative report;

(5) An applicant or permittee may file a limited disclosure statement pursuant to the provisions of paragraphs (a) through (h) of subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127); and a person required to be listed in the disclosure statement is exempt from the fingerprint and personal history disclosure requirements; if:

(a) The applicant or permittee is a secondary business activity corporation; and

(b) The person required to be listed in the disclosure statement is (i) a director or chief executive officer; or (ii) an individual who does not have any responsibility for, or control of, the commercial solid waste or hazardous waste operations of the applicant, permittee or licensee conducted in New Jersey, and who will not exercise any such responsibility or control upon the issuance of a license by the department;

(6) (a) A person who is a director or chief executive officer of a business concern that is a secondary business activity corporation, a publicly traded corporation or an institutional investor, including limited partnership interests, that is not the applicant or permittee but which is listed in the disclosure statement of an applicant or permittee, pursuant to subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127), shall be exempt from the fingerprint and personal history disclosure requirements; and

(b) An individual who is an officer or partner of, or who holds any equity in or debt liability of, a business concern that is a secondary business activity corporation, a publicly traded corporation or an institutional investor, including limited partnership interests, that is not the applicant or permittee but which is listed in the disclosure statement of an applicant or permittee, pursuant to subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127), shall be exempt from the fingerprint and personal history disclosure requirements, provided that the person or secondary business activity corporation or publicly traded corporation or institutional investor does not and will not have any responsibility for, or control of, the commercial solid waste or hazardous waste operations of the applicant or permittee conducted in New Jersey.

b. All applicants, permittees and licensees shall have the continuing duty to provide any assistance or information requested by the department or the Attorney General, and to cooperate in any inquiry or investigation conducted by the Attorney General or the State Commission of Investigation and any inquiry, investigation, or hearing conducted by the department. Except as otherwise determined by the Superior Court pursuant to subsec-

tion d. of this section, if, upon issuance of a formal request to answer any inquiry or produce information, evidence or testimony, any applicant, permittee or licensee refuses to comply, the application of the business concern for a license may be denied, or the license of that business concern may be revoked by the department.

c. If any of the information required to be included in the disclosure statement changes, or if any information provided concerning the applicability of an exemption under subsection d. of this section changes, or if any additional information should be added to the disclosure statement after it has been filed, the applicant, permittee or licensee shall provide that information to the department and the Attorney General, in writing, within 30 days of the change or addition.

d. The provisions of paragraphs (5) and (6) of subsection a. of this section to the contrary notwithstanding, the Attorney General may at any time require any person required to be listed in the disclosure statement to file a completed personal history disclosure form and a full disclosure statement with the department and the Attorney General pursuant to paragraphs (1) through (9) of subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127), or to be fingerprinted for identification and investigation purposes pursuant to paragraph (2) of subsection a. of this section, if the Attorney General determines that there exists a reasonable suspicion that the additional information is likely to lead to information relevant to a determination regarding the approval of a license pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133), the revocation of a license pursuant to section 9 of P.L.1983, c.392 (C.13:1E-134), or the severance of a disqualifying person pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135).

If the Attorney General requires any or all of this information, a written request for the additional information shall be served upon the applicant, permittee or licensee. Within 60 days of receipt of a written request for additional information, the applicant, permittee or licensee may seek review of the Attorney General's determination in the Superior Court. If the applicant, permittee or licensee fails to provide the additional information to the Attorney General within 60 days of receipt of the written request, the Attorney General may file with the Superior Court a petition for an order requiring the applicant, permittee or licensee to provide the additional information. In a proceeding brought by either party, the applicant, permittee or licensee shall demonstrate that the additional information requested is not likely to lead to information relevant to a determination regarding the approval of a license pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133), the revocation of a license pursuant to section 9 of P.L.1983, c.392

(C.13:1E-134), or the severance of a disqualifying person pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135). For good cause shown, the court may review in camera the submission of the Attorney General or the applicant, permittee or licensee, or any part thereof.

4. This act shall take effect immediately.

Approved January 16, 2010.

CHAPTER 254

AN ACT concerning criminal history records for certain persons working with children and amending P.L.1988, c.45 and P.L.1999, c.358.

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

1. Section 2 of P.L.1988, c.45 (C.30:4-3.5) is amended to read as follows:

C.30:4-3.5 Criminal history record checks.

2. a. A facility shall not employ any individual unless the Commissioner of Human Services 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 in the State Bureau of Identification in the Division of State Police, which would disqualify that individual from being employed at the facility. A criminal history record background check shall be conducted at least once every two years for an individual employed at the facility. An individual shall be disqualified from employment under this act if that individual'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

(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.

b. Notwithstanding the provisions of subsection a. of this section, no individual shall be disqualified from employment under this act on the basis of any conviction disclosed by a criminal history record background check performed pursuant to this act if the individual has affirmatively demonstrated to the Commissioner of Human Services clear and convincing evidence of his rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

(1) The nature and responsibility of the position which the convicted individual would hold;

(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 individual 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 persons who have had the individual under their supervision.

c. If a prospective employee of a facility refuses to consent to, or cooperate in, the securing of a criminal history record background check, the commissioner shall direct the principal administrator not to consider the person for employment at the facility. The prospective employee shall, however, retain any available right of review by the Civil Service Commission in the Department of Labor and Workforce Development.

d. If a current employee of a facility refuses to consent to, or cooperate in, the securing of a criminal history record background check, the commissioner shall direct the principal administrator to immediately remove the person from his position at the facility and to terminate the person's employment at the facility. The employee shall, however, retain any available right of review by the Civil Service Commission in the Department of Labor and Workforce Development.

e. Notwithstanding the provisions of subsection a. of this section to the contrary, a facility may provisionally employ an individual for a period

not to exceed six months if that individual's State Bureau of Identification criminal history record background check does not contain any information that would disqualify the individual from employment at the facility and if the individual submits to the commissioner a sworn statement attesting that the individual has not been convicted of any crime or disorderly persons offense as described in this act, pending a determination that no criminal history record background information which would disqualify the individual exists on file in the Federal Bureau of Investigation, Identification Division. An individual who is provisionally employed pursuant to this subsection shall perform his duties at the facility under the direct supervision of a superior who acts in a supervisory capacity over that individual until the determination concerning the federal information is complete.

f. A conviction of a crime or disorderly persons offense against children as set forth in N.J.S.2C:24-4 adversely relates to a position in a facility that involves or would involve working directly with a person under 18 years of age. Individuals convicted of such crimes or disorderly persons offenses are permanently disqualified from such employment at a facility.

2. Section 2 of P.L.1999, c.358 (C.30:6D-64) is amended to read as follows:

C.30:6D-64 Contract with community agency.

2. a. The department shall not contract with any community agency for the provision of services unless it has first been determined, consistent with the requirement and standards 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, which would disqualify the community agency head or the community agency employees from such employment. The determination shall be made by the community agency board with regard to the agency head and the determination shall be made by the agency head with regard to all agency employees.

A criminal history record background check shall be conducted at least once every two years for a community agency head and community agency employees; except that the department, in lieu of conducting criminal history record background checks every two years, may determine whether an individual has been convicted of a crime or disorderly persons offense which would disqualify that person from employment by an alternative means, including, but not limited to, a match of a person's Social Security number or other identifying information with records of criminal proceed-

ings in this and other states. If the department elects to implement an alternative means of determining whether an individual has been convicted of a crime or disorderly persons offense which would disqualify that individual from employment, the department shall report to the Governor and the Legislature prior to its implementation on the projected costs and procedures to be followed with respect to its implementation and setting forth the rationale therefor.

b. An individual shall be disqualified from employment under this act if that individual'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) A crime or offense involving the manufacture, transportation, sale, possession, or habitual use of a controlled dangerous substance as defined in the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et seq.).

(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.

c. If a prospective employee refuses to consent to, or cooperate in, securing of a criminal history record background check, the person shall not be considered for employment.

d. If a current employee refuses to consent to, or cooperate in, the securing of a criminal history record background check, the person shall be immediately removed from his position and the person's employment shall be terminated.

e. Notwithstanding the provisions of subsection b. of this section to the contrary, provisional employment of an individual is authorized for a period not to exceed six months if the individual submits to the appointing authority a sworn statement attesting that the individual has not been convicted of any crime or disorderly persons offense as described in this act, pending a determination that no criminal history record background information which would disqualify the individual exists on file in the State Bureau of Identification in the Division of State Police or in the Federal Bureau of Investigation, Identification Division. An individual who is provisionally employed pursuant to this subsection shall perform his duties un-

der the supervision of a superior who acts in a supervisory capacity over that individual until the determination concerning the federal and State information is complete, where possible.

f. Notwithstanding the provisions of subsection b. of this section to the contrary, no individual shall be disqualified from employment on the basis of any conviction disclosed by a criminal history record background check performed pursuant to sections 2 through 7 of P.L.1999, c.358 (C.30:6D-64 through 69) if the individual has affirmatively demonstrated to the community agency head, or the community agency board if the individual is the community agency head, clear and convincing evidence of the individual's rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

(1) the nature and responsibility of the position which the convicted individual 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 individual 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 individual under their supervision.

g. A conviction of a crime or disorderly persons offense against children as set forth in N.J.S.2C:24-4 adversely relates to a position in a community agency that involves or would involve working directly with a person under 18 years of age. Individuals convicted of such crimes or disorderly persons offenses are permanently disqualified from such employment at a community agency.

3. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 255

AN ACT concerning public information about the "New Jersey Safe Haven Infant Protection Act" and amending P.L.2000, c.58 (C.30:4C-15.9).

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

1. Section 6 of P.L.2000, c.58 (C.30:4C-15.9) is amended to read as follows:

C.30:4C-15.9 Educational public information program, toll free hotline.

6. a. The Commissioner of Children and Families, in consultation with the Commissioner of Health and Senior Services, shall establish an educational and public information program to promote safe placement alternatives for newborn infants, the confidentiality offered to birth parents and information regarding adoption procedures. This campaign shall include the establishment of a 24-hour, toll free hotline to assist in making information about the safe haven procedures established by P.L.2000, c.58 (C.30:4C-15.5 et al.) as widely available as possible.

b. The Department of Children and Families shall provide to licensed general hospitals in this State and State, county or municipal police stations information about relevant social service agencies which may be made available to any person voluntarily delivering a child as provided in section 4 of P.L.2000, c.58 (C.30:4C-15.7).

c. The Department of Children and Families shall notify relevant county and municipal government agencies, agencies that deliver social services administered by the Departments of Children and Families, Human Services, and Health and Senior Services, physicians, pregnancy crisis centers, adoption agencies, and colleges and universities about the availability of information concerning the "New Jersey Safe Haven Infant Protection Act," including the pamphlets, posters, and other materials available on the department's Internet site.

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

Approved January 17, 2010.

CHAPTER 256

AN ACT concerning forest stewardship, supplementing Title 13 of the Revised Statues, amending and supplementing P.L.1964, c.48, and amending P.L.2004, c.120 and P.L.2005, c.367.

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

C.13:1L-29 Findings, declarations relative to forest stewardship.

1. a. The Legislature finds and declares that forest lands are critical to the environmental welfare of the State; that forest lands help clean and refresh the air by filtering dust and particulates; that forest lands absorb carbon dioxide and release oxygen, helping to reduce global warming; that forest lands help clean and protect the waters of the State, promote replenishment of aquifers, stabilize soils, provide shade, and provide habitat essential to sustaining New Jersey's native biodiversity, including habitat critical for endangered and threatened species and species of special concern; and that it is proper to consider the management of forests in a sustainable manner as an agricultural or horticultural use which yields public benefits.

b. The Legislature further finds and declares that forest lands are critical to the social welfare of the State; that forest lands are a necessary and important part of community and urban environments, and are essential to the maintenance of quality of life in the State; that forest lands afford outdoor recreational opportunities and irreplaceable aesthetic benefits; and that forest lands promote the health of the citizenry by contributing to the availability of clean air and water.

c. The Legislature further finds and declares that forest lands contribute to the economic well being of the State through increased property values, ecotourism, business opportunities, and forest products, and through helping to preserve New Jersey as a place where both employers and skilled and talented employees choose to reside.

d. The Legislature further finds and declares that forest lands are an irreplaceable component of the environment worthy of conservation and stewardship and that they must be nurtured to guarantee sustained and improved yields of forest benefits; that the State's publicly and privately owned forest lands are now seldom managed effectively due to a lack of guidance, resources, and incentives for improved forest stewardship; and that care and management of forest lands could be enhanced through the establishment of a forest stewardship program.

e. The Legislature therefore determines that it is in the public interest to establish a forest stewardship program to develop and promote the long-term active management of the State's forest resources in order to preserve and enhance those resources and realize the benefits thereof.

C.13:1L-30 Definitions relative to forest stewardship.

2. As used in sections 1 through 8 of P.L.2009, c.256 (C.13:1L-29 through C.13:1L-36):

"Department" means the Department of Environmental Protection.

"Forest stewardship plan" means a plan prepared and implemented by an owner of forest land, and approved by the department, pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31).

"Local government unit" means a municipality, county, or other political subdivision of the State, or any agency, board, commission, utilities authority or other authority, or other entity thereof.

"Owner" means an owner of forest land.

"Sustainability" means, with respect to forest land, having the ability to: (1) maintain its ecological processes, biodiversity, resource productivity, regeneration capacity, and vitality; and promote forest health, preclude the spread of invasive non-native species, maintain forest integrity and contiguity, preserve New Jersey's native biodiversity, and protect endangered and threatened species and species of special concern and the habitat that sustains them; and (2) realize the potential to fulfill now and for future generations, relevant ecological, environmental, economic, and social functions, including but not limited to protection and improvement of air quality and of water supply and water quality, stabilization of soils, prevention and suppression of uncontrolled wildfires, service of markets for forest products, provision of recreational opportunities, and improvement of quality of life.

"Sustainable manner" means employing practices for the use and care of forest land that promote sustainability and do not cause damage to other ecosystems, and avoiding acts and omissions that undermine sustainability.

C.13:1L-31 Forest stewardship program, plan.

3. a. The department shall establish a forest stewardship program under which an owner, in conjunction with a forester or other professional selected by the owner from a list of foresters approved by the department, or from a list of other professionals authorized by the department in consultation with the forest stewardship advisory committee established pursuant to section 8 of P.L.2009, c.256 (C.13:1L-36), may prepare a forest stewardship plan for land, five acres or greater in area, submit the plan to the de-

partment for approval, and implement the plan as approved, or as subsequently amended with the approval of the department.

A forest stewardship plan, at a minimum, shall:

(1) conform with the rules and regulations adopted pursuant to section 8 of P.L.2009, c.256 (C.13:1L-36) designed to ensure the sustainability of forest lands;

(2) list the owner's long term stewardship goals for the forest land; and, for each year that the plan applies, list the activities to be implemented that year, including the activities designed to ensure the sustainability of the forest land as well as activities designed to eliminate excessive and unnecessary cutting, and provide the rationale for each activity listed; and

(3) establish the monitoring, recordkeeping, and reporting necessary to document implementation of the forest stewardship plan, including documentation of activities and inspections performed.

Notwithstanding the provisions of section 6 of P.L.2009, c.256 (C.13:1L-34), a forest stewardship plan submitted for land in the pinelands area shall comply with the standards of the comprehensive management plan for the pinelands area adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.).

b. The department may elect to inspect the forest land, prior to determining whether to approve a forest stewardship plan, in order to assess the appropriateness and sufficiency of the proposed plan.

After the department approves a forest stewardship plan, the forest land shall be subject to inspection by the department during one of the first three years following approval and at least once every three years following the first inspection.

c. A forest stewardship plan shall be valid for a period of 10 years, unless sooner terminated by the owner or revoked by the department. To continue, without interruption, participation in the forest stewardship program, an owner shall prepare a new or revised forest stewardship plan pursuant to subsection a. of this section and, in accordance with procedures established by the department, obtain the department's approval of the new or revised forest stewardship plan prior to the expiration date of the current forest stewardship plan.

d. A forest stewardship plan approved pursuant to this section shall be considered to be a woodland management plan pursuant to section 3 of the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.3) when the approved forest stewardship plan is submitted as part of an application for valuation, assessment and taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

C.13:1L-32 Forest certification program.

4. a. For the purposes of section 1 of P.L.2005, c.367 (C.52:32-45), the department shall establish a forest certification program under which the department may certify that forest land is managed in a sustainable manner, provided that:

(1) the owner has obtained a forest stewardship plan approved by the department pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31); and

(2) the owner and a forester or other professional selected by the owner from a list of foresters approved by the department, or from a list of other professionals authorized by the department in consultation with the forest stewardship advisory committee established pursuant to section 8 of P.L.2009, c.256 (C.13:1L-36), has annually attested to full compliance with the forest stewardship plan for at least two years.

b. Certification pursuant to subsection a. of this section, or renewal thereof, shall be in accordance with procedures established by the department and shall be valid for five years, except that the department may withdraw certification if the department determines that the owner has failed to maintain full implementation of the forest stewardship plan. To maintain in good standing the certification of forest land beyond the date that a forest stewardship plan expires, the owner shall obtain the department's approval of a new or revised forest stewardship plan pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31) prior to the expiration date of the current forest stewardship plan.

C.13:1L-33 "Forest Stewardship Incentive Fund."

5. a. There is established in the General Fund a special nonlapsing fund, to be known as the "Forest Stewardship Incentive Fund." Moneys in the fund shall be dedicated to:

(1) providing grants to persons for the purpose of developing and implementing a forest stewardship plan pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31);

(2) paying the costs of the department to develop, implement, and administer the provisions of P.L.2009, c.256 (C.13:1L-29 et al.); and

(3) providing for the stewardship and management of State forests.

b. The fund shall be credited with:

(1) the amount allocated for programs that enhance the stewardship and restoration of the State's forests pursuant to section 7 of P.L.2007, c.340 (C.26:2C-51) from the "Global Warming Solutions Fund," established pursuant to section 6 of P.L.2007, c.340 (C.26:2C-50);

(2) any other moneys as may be appropriated to the fund by the Legislature or otherwise provided to the fund; and

(3) any return on the investment of moneys deposited in the fund.

c. In each State fiscal year, the amount credited to the Forest Stewardship Incentive Fund shall be appropriated to the fund for the purposes set forth in this section.

d. The department may award individual grants of up to $1,500 from the fund to pay for the cost of developing a forest stewardship plan pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31). If the cost of developing a forest stewardship plan exceeds $1,500, the department may also award 80 percent of the cost that exceeds $1,500 to the owner, up to a maximum grant of $2,500. Grants from the fund may be made to local government units, nonprofit organizations, and private owners of forest land. Notwithstanding the provisions of this subsection to the contrary, the amount of the grants prescribed by this subsection may be adjusted annually by the department in direct proportion to the increase in the Consumer Price Index for all urban consumers in the New York City area as reported by the United States Department of Labor.

e. The department may award individual grants through a cost-sharing program established pursuant to subsection c. of section 8 of P.L.2009, c.256 (C.13:1L-36) to private owners who have obtained a forest stewardship plan approved by the department pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31). The department shall expend no more than $150,000 in any State fiscal year for grants awarded through the cost-sharing program.

C.13:1L-34 Enactment of conflicting ordinance, rule, regulation prohibited.

6. No local government unit may enact, on or after the date of enactment of P.L.2009, c.256 (C.13:1L-29 et al.), any ordinance, rule, or resolution, as appropriate, that conflicts with, prevents or impedes the implementation of a forest stewardship plan approved pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31) or impose a fee in excess of $100 in any calendar year for the cutting of trees on any land that is the subject of an approved forest stewardship plan. The provisions of P.L.2009, c.256 (C.13:1L-29 et al.) supersede any such ordinance, rule, or resolution, as appropriate, enacted or adopted on or prior to the date of enactment of P.L.2009, c.256 (C.13:1L-29 et al.).

C.13:1L-35 Forest sustainability criteria, indicators.

7. a. The department, utilizing guidance provided by the United States Forest Service and in consultation with the forest stewardship advisory

committee established pursuant to subsection d. of section 8 of P.L.2009, c.256 (C.13:1L-36), and with the benefit of public comment, shall develop and establish forest sustainability criteria and indicators appropriate to the circumstances encountered in New Jersey, as a basis for monitoring, recording, and assessing the extent, condition, and sustainability of all New Jersey forests, whether publicly or privately owned. The department shall prepare a report setting forth the findings and assessments based on these forest sustainability criteria and indicators by February 1 of the third year after the date of enactment of P.L.2009, c.256 (C.13:1L-29 et al.), and every seven years thereafter, which report shall include any recommendations for legislative or administrative action. The Commissioner of Environmental Protection shall transmit the report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

b. The department shall consider the findings and assessments set forth in the forest sustainability criteria and indicators report prepared pursuant to subsection a. of this section to determine how to adapt the rules and regulations adopted pursuant to section 8 of P.L.2009, c.256 (C.13:1L-36) to ensure the sustainability of forest lands, to set priorities for the management of State-owned forest lands, and to assist in establishing priorities for the use of State funds for the acquisition of forest lands.

C.13:1L-36 Rules, regulations.

8. The department shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary for the implementation of P.L.2009, c.256 (C.13:1L-29 et al.), including rules and regulations:

a. setting forth policies, guidelines and best management practices that establish standards designed to ensure the sustainability of forest lands, which may be applicable to any publicly and privately owned forest land;

b. establishing, in consultation with the forest stewardship advisory committee established pursuant to subsection d. of this section, professional standards and requirements of persons in addition to foresters on the list approved by the department, authorized to prepare forest stewardship plans pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31);

c. establishing, in consultation with the forest stewardship advisory committee established pursuant to subsection d. of this section, a cost-sharing program modeled upon the federal forest land enhancement program established pursuant to 16 U.S.C. s.2103 to provide individual grants to private owners to assist with a portion of the costs associated with the implementation of forest stewardship plans approved by the department

pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31); and identifying eligibility criteria, establishing the reimbursement rate, and developing a priority ranking system for grant applications; and

d. establishing a forest stewardship advisory committee, consistent with the federal requirements for the establishment of a State Forest Stewardship Coordinating Committee pursuant to 16 U.S.C. s.2113, to advise the department (1) on issues related to forest stewardship and recommend programs, actions and standards, including rules and regulations, policies, guidelines and best management practices, for the conservation and stewardship of forest lands, and (2) with respect to the standards and requirements to be established pursuant to subsection b. of this section.

C.54:4-23.7a Definitions applicable to C.54:4-23.7a and C.54:4-23.7b.

9. As used in this section and section 10 of P.L.2009, c.256 (C.54:4-23.7a and C.54:4-23.7b):

"Forest stewardship plan" means a plan prepared and implemented by an owner of forest land, and approved by the Department of Environmental Protection, pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31).

"Owner" means an owner of forest land.

"Woodland management plan" means a plan prepared and implemented by an owner of forest land or woodland pursuant to section 3 of the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.3) and any rule or regulation adopted pursuant thereto.

C.54:4-23.7b Provision of plan with application.

10. a. Notwithstanding any provision of the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, an owner who annually submits an application pursuant to subsection c. of section 3 of P.L.1964, c.48 (C.54:4-23.3) may provide a forest stewardship plan or a woodland management plan to accompany the application.

b. When a forest stewardship plan is submitted with an application pursuant to subsection a. of this section, the forest land shall not be deemed to be actively devoted to agricultural or horticultural use for the two successive years immediately preceding the tax year in issue if the forest stewardship plan has expired during those two years and a new forest stewardship plan has not been approved prior to the expiration date of the current forest stewardship plan.

c. In the case where a forest stewardship plan was approved more than two years preceding the tax year in issue, the forest land shall be

deemed to be actively devoted to agricultural or horticultural use and to have been so devoted for at least the two successive years immediately preceding the tax year in issue if the owner has implemented in full the approved forest stewardship plan for at least the two successive years immediately preceding the tax year in issue.

d. In the case where a forest stewardship plan was approved less than two years preceding the tax year in issue, the forest land shall be deemed to be actively devoted to agricultural or horticultural use and to have been so devoted for at least two successive years immediately preceding the tax year in issue if:

(1) the owner has implemented in full the forest stewardship plan once it was approved; and

(2) for at least the remaining portion of the two-year period immediately preceding the tax year in issue, prior to the approval of the forest stewardship plan, the forest land qualifies, pursuant to sections 5 and 6 of the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.5 and C.54:4-23.6), to be deemed to have been actively devoted to agricultural or horticultural use. Additionally, if the land was devoted exclusively to the production for sale of tree and forest products, other than Christmas trees, and is not appurtenant woodland, the owner must have established a woodland management plan more than two years preceding the tax year in issue and complied with that plan until such time as a forest stewardship plan was approved pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31).

e. The Department of Environmental Protection, in consultation with the Department of Agriculture and the Department of the Treasury, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations necessary for the implementation of this section.

11. Section 30 of P.L.2004, c.120 (C.13:20-28) is amended to read as follows:

C.13:20-28 Exemptions.

30. a. The following are exempt from the provisions of this act, the regional master plan, any rules or regulations adopted by the Department of Environmental Protection pursuant to this act, or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit to specifically conform them with the regional master plan:

(1) the construction of a single family dwelling, for an individual's own use or the use of an immediate family member, on a lot owned by the indi-

vidual on the date of enactment of this act or on a lot for which the individual has on or before May 17, 2004 entered into a binding contract of sale to purchase that lot;

(2) the construction of a single family dwelling on a lot in existence on the date of enactment of this act, provided that the construction does not result in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more;

(3) a major Highlands development that received on or before March 29, 2004:

(a) one of the following approvals pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.):

(i) preliminary or final site plan approval;

(ii) final municipal building or construction permit;

(iii) minor subdivision approval where no subsequent site plan approval is required;

(iv) final subdivision approval where no subsequent site plan approval is required; or

(v) preliminary subdivision approval where no subsequent site plan approval is required; and

(b) at least one of the following permits from the Department of Environmental Protection, if applicable to the proposed major Highlands development:

(i) a permit or certification pursuant to the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.);

(ii) a water extension permit or other approval or authorization pursuant to the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.);

(iii) a certification or other approval or authorization issued pursuant to the "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.); or

(iv) a treatment works approval pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.); or

(c) one of the following permits from the Department of Environmental Protection, if applicable to the proposed major Highlands development, and if the proposed major Highlands development does not require one of the permits listed in subsubparagraphs (i) through (iv) of subparagraph (b) of this paragraph:

(i) a permit or other approval or authorization issued pursuant to the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.); or

(ii) a permit or other approval or authorization issued pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.).

The exemption provided in this paragraph shall apply only to the land area and the scope of the major Highlands development addressed by the qualifying approvals pursuant to subparagraphs (a) and (b), or (c) if applicable, of this paragraph, shall expire if any of those qualifying approvals expire, and shall expire if construction beyond site preparation does not commence within three years after the date of enactment of this act;

(4) the reconstruction of any building or structure for any reason within 125% of the footprint of the lawfully existing impervious surfaces on the site, provided that the reconstruction does not increase the lawfully existing impervious surface by one-quarter acre or more. This exemption shall not apply to the reconstruction of any agricultural or horticultural building or structure for a non-agricultural or non-horticultural use;

(5) any improvement to a single family dwelling in existence on the date of enactment of this act, including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool, or septic system;

(6) any improvement, for non-residential purposes, to a place of worship owned by a nonprofit entity, society or association, or association organized primarily for religious purposes, or a public or private school, or a hospital, in existence on the date of enactment of this act, including but not limited to new structures, an addition to an existing building or structure, a site improvement, or a sanitary facility;

(7) an activity conducted in accordance with an approved woodland management plan pursuant to section 3 of P.L.1964, c.48 (C.54:4-23.3) or a forest stewardship plan approved pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31), or the normal harvesting of forest products in accordance with a forest management plan or forest stewardship plan approved by the State Forester;

(8) the construction or extension of trails with non-impervious surfaces on publicly owned lands or on privately owned lands where a conservation or recreational use easement has been established;

(9) the routine maintenance and operations, rehabilitation, preservation, reconstruction, or repair of transportation or infrastructure systems by a State entity or local government unit, provided that the activity is consistent with the goals and purposes of this act and does not result in the construction of any new through-capacity travel lanes;

(10) the construction of transportation safety projects and bicycle and pedestrian facilities by a State entity or local government unit, provided that the activity does not result in the construction of any new through-capacity travel lanes;

(11) the routine maintenance and operations, rehabilitation, preservation, reconstruction, repair, or upgrade of public utility lines, rights of way, or systems, by a public utility, provided that the activity is consistent with the goals and purposes of this act;

(12) the reactivation of rail lines and rail beds existing on the date of enactment of this act;

(13) the construction of a public infrastructure project approved by public referendum prior to January 1, 2005 or a capital project approved by public referendum prior to January 1, 2005;

(14) the mining, quarrying, or production of ready mix concrete, bituminous concrete, or Class B recycling materials occurring or which are permitted to occur on any mine, mine site, or construction materials facility existing on June 7, 2004;

(15) the remediation of any contaminated site pursuant to P.L.1993, c.139 (C.58:10B-1 et seq.);

(16) any lands of a federal military installation existing on the date of enactment of this act that lie within the Highlands Region; and

(17) a major Highlands development located within an area designated as Planning Area 1 (Metropolitan), or Planning Area 2 (Suburban), as designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as of March 29, 2004, that on or before March 29, 2004 has been the subject of a settlement agreement and stipulation of dismissal filed in the Superior Court, or a builder's remedy issued by the Superior Court, to satisfy the constitutional requirement to provide for the fulfillment of the fair share obligation of the municipality in which the development is located. The exemption provided pursuant to this paragraph shall expire if construction beyond site preparation does not commence within three years after receiving all final approvals required pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

b. The exemptions provided in subsection a. of this section shall not be construed to alter or obviate the requirements of any other applicable State or local laws, rules, regulations, development regulations, or ordinances.

c. Nothing in this act shall be construed to alter the funding allocation formulas established pursuant to the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.).

d. Nothing in this act shall be construed to repeal, reduce, or otherwise modify the obligation of counties, municipalities, and other municipal and public agencies of the State to pay property taxes on lands used for the purpose and for the protection of a public water supply, without regard to any buildings or other improvements thereon, pursuant to R.S.54:4-3.3.

12. Section 1 of P.L.2005, c.367 (C.52:32-45) is amended to read as follows:

C.52:32-45 Preference in contracts for wood, paper products derived from sustainably managed forests, procurement systems.

1. a. Notwithstanding the provisions of any other law to the contrary, the Director of the Division of Purchase and Property in the Department of the Treasury, the Director of the Division of Property Management and Construction in the Department of the Treasury, or any State agency having authority to contract for the purchase of goods or services, shall whenever possible give preference to wood or paper products derived from sustainably managed forests or procurement systems when entering into or renewing a contract for the purchase of such goods or related services. Any preference provided pursuant to this subsection may not supersede any preference given to recycled paper and paper products pursuant to P.L.1987, c.102 (C.13:1E-99.11 et seq.).

In preparing the specifications for any contract for the purchase of goods and services the Director of the Division of Purchase and Property, the Director of the Division of Property Management and Construction, or any State agency having authority to contract for the purchase of goods or services shall include in the invitation to bid, where relevant, a statement that any response to the invitation that proposes or calls for the use of wood or paper products derived from sustainably managed forests or procurement systems shall receive preference whenever possible.

b. The provisions of subsection a. of this section shall not apply:

(1) To any binding contractual obligations for the purchase of goods or services entered into prior to the effective date of P.L.2005, c.367 (C.52:32-45 et seq.);

(2) To bid packages advertised and made available to the public, or to any competitive and sealed bids received by the State, prior to the effective date of P.L.2005, c.367 (C.52:32-45 et seq.); or

(3) To any amendment, modification, or renewal of a contract, which contract was entered into prior to the effective date of P.L.2005, c.367 (C.52:32-45 et seq.) where the application would delay timely completion of a project or involve an increase in the total moneys to be paid by the State under that contract.

c. For the purposes of P.L.2005, c.367 (C.52:32-45 et seq.), "derived from sustainably managed forests or procurement systems" means the source of the wood or paper product is a forest or system for procuring wood or paper products that is certified by the Department of Environmental Pro-

tection under the forest certification program established pursuant to section 4 of P.L.2009, c.256 (C.13:1L-32) or by an independent third party using one or more of the following certification programs or standards:

(1) The Sustainable Forestry Initiative program;

(2) The American Forest Foundation American Tree Farm System program;

(3) The sustainable forest management system standards of the Canadian Standards Association;

(4) The Forest Stewardship Council certification program;

(5) The Pan-European forest certification system;

(6) The Finnish Forest Certification System;

(7) The United Kingdom Woodland Assurance Standard;

(8) The International Organization for Standardization (ISO) standard 14001; or

(9) Any other certification program or standard that the State Treasurer or the Commissioner of Environmental Protection determines may be used to certify that wood or paper products are derived from sustainably managed forests or procurement systems.

13. Section 3 of P.L.1964, c.48 (C.54:4-23.3) is amended to read as follows:

C.54:4-23.3 Agricultural use of land.

3. Land shall be deemed to be in agricultural use when devoted to the production for sale of plants and animals useful to man, including but not limited to: forages and sod crops; grains and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding, boarding, raising, rehabilitating, training or grazing of any or all of such animals, except that "livestock" shall not include dogs; bees and apiary products; fur animals; trees and forest products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government, except that land which is devoted exclusively to the production for sale of tree and forest products, other than Christmas trees, or devoted as sustainable forestland, and is not appurtenant woodland, shall not be deemed to be in agricultural use unless the landowner fulfills the following additional conditions:

a. The landowner establishes and complies with the provisions of a forest stewardship plan for this land, approved by the Department of Envi-

ronmental Protection pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31), or a woodland management plan for this land, prepared in accordance with policies, guidelines and practices approved by the Division of Parks and Forestry in the Department of Environmental Protection, in consultation with the Department of Agriculture and the Dean of Cook College at Rutgers, The State University, which policies, guidelines and practices are designed to eliminate excessive and unnecessary cutting;

b. The landowner, and a forester from a list of foresters approved by the Department of Environmental Protection or other professional from a list of other professionals authorized by the department in consultation with the forest stewardship advisory committee established pursuant to section 8 of P.L.2009, c.256 (C.13:1L-36), annually attest to compliance with subsection a. of this section; and

c. The landowner annually submits an application, as prescribed in section 13 of P.L.1964, c.48 (C.54:4-23.13), to the assessor, accompanied by a copy of the plan established pursuant to subsection a. of this section; written documentation of compliance with subsection b. of this section; a supplementary woodland data form setting forth woodland management actions taken in the pre-tax year, the type and quantity of tree and forest products sold, and the amount of income received or anticipated for same; a map of the land showing the location of the activity and the soil group classes of the land; and other pertinent information required by the Director of the Division of Taxation as part of the application for valuation, assessment and taxation, as provided in P.L.1964, c.48 (C.54:4-23.1 et seq.). The landowner shall, at the same time, submit to the Commissioner of the Department of Environmental Protection an exact copy of the application and accompanying information submitted to the assessor pursuant to this subsection. For the purposes of this amendatory and supplementary act, "appurtenant woodland" means a wooded piece of property which is contiguous to, part of, or beneficial to a tract of land, which tract of land has a minimum area of at least five acres devoted to agricultural or horticultural uses other than the production for sale of trees and forest products, exclusive of Christmas trees, to which tract of land the woodland is supportive and subordinate.

For the purposes of section 7 of P.L.2009, c.213 and P.L.1964, c.48 (C.54:4-23.1 et seq.):

(1) agricultural use shall also include biomass, solar, or wind energy generation, provided that the biomass, solar, or wind energy generation is consistent with the provisions of P.L.2009, c.213 (C.4:1C-32.4 et al.), as applicable, and the rules and regulations adopted therefor; and

(2) "biomass" means an agricultural crop, crop residue, or agricultural byproduct that is cultivated, harvested, or produced on the farm, or directly obtained from a farm where it was cultivated, harvested, or produced, and which can be used to generate energy in a sustainable manner, except with respect to preserved farmland, "biomass" means the same as that term is defined in section 1 of P.L.2009, c.213 (C.4:1C-32.4).

14. Section 5 of P.L.1964, c.48 (C.54:4-23.5) is amended to read as follows:

C.54:4-23.5 Land deemed actively devoted to agricultural or horticultural use.

5. a. Except as otherwise provided in subsection b. of this section, land, five acres in area, shall be deemed to be actively devoted to agricultural or horticultural use when the amount of the gross sales of agricultural or horticultural products produced thereon, any payments received under a soil conservation program, fees received for breeding, raising or grazing any livestock, income imputed to land used for grazing in the amount determined by the State Farmland Evaluation Advisory Committee created pursuant to section 20 of P.L.1964, c.48 (C.54:4-23.20), and fees received for boarding, rehabilitating or training any livestock where the land under the boarding, rehabilitating or training facilities is contiguous to land which otherwise qualifies for valuation, assessment and taxation under this act, have averaged at least $500.00 per year during the two-year period immediately preceding the tax year in issue, or there is clear evidence of anticipated yearly gross sales and such payments amounting to at least $500.00 within a reasonable period of time.

In addition, where the land is more than five acres in area, it shall be deemed to be actively devoted to agricultural or horticultural use when the amount of the gross sales of agricultural or horticultural products produced on the area above five acres, any payments received under a soil conservation program, fees received for breeding, raising or grazing any livestock, income imputed to land used for grazing in the amount determined by the State Farmland Evaluation Advisory Committee created pursuant to section 20 of P.L.1964, c.48 (C.54:4-23.20), and fees received for boarding, rehabilitating or training any livestock where the land under the boarding, rehabilitating or training facilities is contiguous to land which otherwise qualifies for valuation, assessment and taxation under this act, have averaged at least $5.00 per acre per year during the two-year period immediately preceding the tax year in issue, or there is clear evidence of anticipated yearly gross sales and such payments amounting to an average of at least $5.00 per

year within a reasonable period of time; except in the case of woodland and wetland, where the minimum requirement shall be an average of $0.50 per acre on the area above five acres.

As used in this section, "livestock" shall not include dogs.

For the purposes of this section, the presence of an intervening public thoroughfare shall not preclude a finding of contiguity.

Land previously qualified as actively devoted to agricultural or horticultural use under the act; but failing to meet the additional requirement on acreage above five acres shall not be subject to the roll-back tax because of such disqualification, but shall be treated as land for which an annual application has not been submitted.

In determining the eligibility of land for valuation, assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.), the assessor of the taxing district in which the land is located shall, upon request by the owner of the land, exempt the owner from the income requirements of this section if the owner demonstrates to the satisfaction of the assessor that the failure to meet the income requirements was due to an injury, illness or death of the person responsible for performing the activities which produce the income necessary to meet the income eligibility requirement of this section. The request of the owner shall be accompanied by a certificate of a physician stating that the person was physically incapacitated or by a certified copy of the death certificate, as the case may be. The assessor may only grant an exemption once for a particular illness, injury or death.

b. The gross sales, payments, imputed income, and fees received pursuant to the requirements of this section shall not apply to land that (1) is the subject of a forest stewardship plan approved by the Department of Environmental Protection pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31) which is fully implemented, and (2) otherwise qualifies under the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), for valuation, assessment and taxation as land in agricultural or horticultural use pursuant to section 3 of P.L.1964, c.48 (C.54:4-23.3).

15. Section 14 of P.L.1964, c.48 (C.54:4-23.14) is amended to read as follows:

C.54:4-23.14 Application form; contents.

14. Application for valuation, assessment and taxation of land in agricultural or horticultural use under this act shall be on a form prescribed by the Director of the Division of Taxation in the Department of the Treasury, and provided for the use of claimants by the governing bodies of the re-

spective taxing districts. The form of application shall provide for the reporting of information pertinent to the provisions of Article VIII, Section 1, paragraph 1(b) of the Constitution, as amended, and this act. A certification by the landowner that the facts set forth in the application are true may be prescribed by the director to be in lieu of a sworn statement to that effect. Statements so certified shall be considered as if made under oath and subject to the same penalties as provided by law for perjury. Any landowner, except those who have submitted a woodland management plan or a forest stewardship plan pursuant to section 3 of P.L.1964, c.48 (C.54:4-23.3), who is an applicant for valuation, assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.) for lands not previously qualified under the act shall submit with the application a map of land use classes and soil groups that conforms with standards established by the Division of Taxation in consultation with the Secretary of Agriculture. The director shall devise a form for the extension of filing time for the valuation application, which form shall include the name and address of the applicant, the reason for the extension, and a space for the approval or rejection of the assessor.

16. This act shall take effect one year following the date of enactment, but the Commissioner of Environmental Protection may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 17, 2010.

CHAPTER 257

AN ACT concerning parking, amending R.S.39:4-138 and supplementing chapter 4 of Title 39 of the Revised Statutes.

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

1. R.S.39:4-138 is amended to read as follows:

Places where parking prohibited; exceptions; moving vehicle not under one's control into prohibited area.

39:4-138. Except when necessary to avoid conflict with other traffic or in compliance with the directions of a traffic or police officer or traffic sign

or signal, no operator of a vehicle shall stand or park the vehicle in any of the following places:

a. Within an intersection;

b. On a crosswalk;

c. Between a safety zone and the adjacent curb or within at least 20 feet of a point on the curb immediately opposite the end of a safety zone;

d. In front of a public or private driveway;

e. (1) Within 25 feet of the nearest crosswalk or side line of a street or intersecting highway, except at alleys and as provided in section 2 of P.L.2009, c.257 (C.39:4-138.6); or

(2) Within 10 feet of the nearest crosswalk or side line of a street or intersecting highway, if a curb extension or bulbout has been constructed at that crosswalk;

f. On a sidewalk;

g. In any appropriately marked "No Parking" space established pursuant to the duly promulgated regulations of the Commissioner of Transportation;

h. Within 50 feet of a "stop" sign except as provided in section 2 of P.L.2009, c.257 (C.39:4-138.6);

i. Within 10 feet of a fire hydrant;

j. Within 50 feet of the nearest rail of a railroad crossing;

k. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance, when properly signposted;

l. Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic, when properly signposted;

m. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

n. Upon any bridge or other elevated structure upon a highway, or within a highway tunnel or underpass, or on the immediate approaches thereto except where space for parking is provided;

o. In any space on public or private property appropriately marked for vehicles for the physically handicapped pursuant to P.L.1977, c.202 (C.39:4-197.5), P.L.1975, c.217 (C.52:27D-119 et seq.) or any other applicable law unless the vehicle is authorized by law to be parked therein and a handicapped person is either the driver or a passenger in that vehicle. State, county or municipal law enforcement officers or parking enforcement authority officers shall enforce the parking restrictions on spaces appropri-

ately marked for vehicles for the physically handicapped on both public and private property.

No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.

C.39:4-138.6 Municipal authority to set certain permissible parking distances.

2. A municipality may mandate by ordinance the permissible distance a person may park a motor vehicle from a crosswalk, side line of a street or intersecting highway, or "stop" sign. A municipality may not, however, permit parking within 25 feet of a crosswalk or side line of a street or intersecting highway or within 50 feet of a "stop" sign in a school zone during hours when school is in session.

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

Approved January 17, 2010.

CHAPTER 258

AN ACT concerning the establishment of speed limits by municipalities and counties and amending R.S.49:4-98.

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

1. R.S.39:4-98 is amended to read as follows:

Rates of speed.

39:4-98. Rates of speed. Subject to the provisions of R.S.39:4-96 and R.S.39:4-97 and except in those instances where a lower speed is specified in this chapter, it shall be prima facie lawful for the driver of a vehicle to drive it at a speed not exceeding the following:

a. Twenty-five miles per hour, when passing through a school zone during recess, when the presence of children is clearly visible from the roadway, or while children are going to or leaving school, during opening or closing hours;

b. (1) Twenty-five miles per hour in any business or residential district;

(2) Thirty-five miles per hour in any suburban business or residential district;

c. Fifty miles per hour in all other locations, except as otherwise provided in the "Sixty-Five MPH Speed Limit Implementation Act," pursuant to section 2 of P.L.1997, c.415 (C.39:4-98.3 et al.).

Whenever it shall be determined upon the basis of an engineering and traffic investigation that any speed hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of a highway, the Commissioner of Transportation, with reference to State highways, may by regulation and municipal or county authorities, with reference to highways under their jurisdiction, may by ordinance, in the case of municipal authorities, or by ordinance or resolution, in the case of county authorities, subject to the approval of the Commissioner of Transportation, except as otherwise provided in R.S.39:4-8, designate a reasonable and safe speed limit thereat which, subject to the provisions of R.S.39:4-96 and R.S.39:4-97, shall be prima facie lawful at all times or at such times as may be determined, when appropriate signs giving notice thereof are erected at such intersection, or other place or part of the highway. Appropriate signs giving notice of the speed limits authorized under the provisions of paragraph (1) of subsection b. and subsection c. of this section may be erected if the commissioner or the municipal or county authorities, as the case may be, so determine they are necessary. Appropriate signs giving notice of the speed limits authorized under the provisions of subsection a. and paragraph (2) of subsection b. of this section shall be erected by the commissioner or the municipal or county authorities, as appropriate.

When designating reasonable and safe speed limits for a street under its jurisdiction pursuant to this subsection, as part of an engineering and traffic investigation, a municipality or county shall consider, but not be limited to, the following criteria: residential density; the presence, or lack, of sidewalks; the prevalence of entry and exit ways for business and commercial establishments; whether school children walk adjacent to the street on their way to and from school; and the proximity of recreational or park areas, schools, community residences, family day care homes, child care centers, assisted living facilities or senior communities. Nothing in this paragraph shall substitute for traffic count, accident, and speed sampling data as appropriate.

The driver of every vehicle shall, consistent with the requirements of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

The Commissioner of Transportation shall cause the erection and maintenance of signs at such points of entrance to the State as are deemed advisable, setting forth the lawful rates of speed, the wording of which shall be within his discretion.

2. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 259

AN ACT requiring advance notice to municipalities affected by the discontinuance, curtailment, or abandonment of certain bus and rail passenger service, amending P.L.1979, c.150, and supplementing Title 48 of the Revised Statutes.

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

1. Section 8 of P.L.1979, c.150 (C.27:25-8) is amended to read as follows:

C.27:25-8 Corporation not public utility, authority relative to fares, services; notice, public hearing.

8. a. The corporation or any subsidiary thereof shall not be considered a public utility as defined in R.S.48:2-13 and except with regard to subsection c. of this section, subsection b. of R.S.48:3-38, section 2 of P.L.1989, c.291 (C.27:25-15.1) and R.S.48:12-152 the provisions of Title 48 of the Revised Statutes shall not apply to the corporation or any subsidiary thereof.

b. The authority hereby given the corporation pursuant to section 6 of this act with respect to fares and service, shall be exercised without regard or reference to the jurisdiction formerly vested in the Department of Transportation regarding rates and rate schedules under R.S.48:2-21; discontinuance, curtailment, or abandonment of service under R.S.48:2-24; and the issuance of a certificate of public convenience and necessity under R.S.48:4-3, and transferred to the New Jersey Motor Vehicle Commission by P.L.2003, c.13 (C.39:2A-1 et al.). The New Jersey Motor Vehicle Commission shall resume jurisdiction over service and fares upon the termination and discontinuance of a contractual relationship between the corporation and a private or public entity relating to the provision of public transportation services operated

under the authority of certificates of public convenience and necessity previously issued by the New Jersey Motor Vehicle Commission or its predecessors; provided, however, that no private entity shall be required to restore any service discontinued or any fare changed during the existence of a contractual relationship with the corporation, unless the New Jersey Motor Vehicle Commission shall determine, after notice and hearing, that the service or fare is required by public convenience and necessity.

c. Notwithstanding any other provisions of this act, all vehicles used by any public or private entity pursuant to contract authorized by this act, and all vehicles operated by the corporation directly, shall be subject to the jurisdiction of the department with respect to maintenance, specifications and safety to the same extent such jurisdiction is conferred upon the department by Title 48 of the Revised Statutes.

d. Before implementing any fare increase for any motorbus regular route or rail passenger services, or the substantial curtailment or abandonment of any such services, the corporation shall hold a public hearing in the area affected during evening hours. Notice of such hearing shall be given by the corporation at least 15 days prior to such hearing to the governing body of each county whose residents will be affected and to the clerk of each municipality in the county or counties whose residents will be affected; such notice shall also be posted at least 15 days prior to such hearing in prominent places on the railroad cars and buses serving the routes to be affected.

e. Notice of its intent to discontinue, substantially curtail or abandon any motorbus regular route service or rail passenger service shall be given by the corporation to the governing body of each county whose residents will be affected and to the clerk of each municipality in the county or counties whose residents will be affected at least 45 days prior to implementation of such change in service.

C.48:4-7.1 Notice of intent to change service; violations, penalty.

2. Any holder of a certificate of public convenience and necessity for the operation of an autobus who files a petition with the Motor Vehicle Commission for permission to discontinue, substantially curtail, or abandon service shall give at least 45 days' notice of its intent to file the petition to the board of chosen freeholders of each county whose residents will be affected and to the clerk of each municipality in which there is located a bus stop on the route or routes that would be affected by the discontinuation, substantial curtailment, or abandonment of service. In the event that a petition is not filed by the certificate holder, the certificate holder shall give at least 45 days' notice prior to the discontinuation, substantial curtailment, or abandonment

of service to the board of chosen freeholders of each county whose residents will be affected and to the clerk of each municipality in which there is located a bus stop on the route or routes that would be affected by the discontinuation, substantial curtailment, or abandonment of service.

A holder of a certificate of public convenience and necessity for the operation of an autobus, who files a petition with the Motor Vehicle Commission for permission to discontinue, substantially curtail, or abandon service, shall cause to be posted in a prominent place on each bus serving the affected routes, a notice of its intent to discontinue, substantially curtail, or abandon service, at least 45 days prior to the change in service.

A holder of a certificate who fails to give notice in accordance with this section shall be subject to a civil penalty of $100 per day. Every day that a violation exists shall be a separate violation for which a penalty may be recovered. A penalty imposed under this section shall be in addition to any other penalty or fine imposed pursuant to law and shall be collected and enforced by summary proceedings pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

3. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 260

AN ACT establishing the New Jersey Student Athlete Cardiac Screening Task Force.

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

1. The Legislature finds and declares that:

a. There is growing concern throughout the State about the incidence of young athletes who die suddenly while playing high intensity sports, often due to a heart problem that was undetected;

b. These tragic deaths may be prevented if the athletes' "silent" heart problems can be detected before they do damage;

c. Sudden cardiac death in a young person is often caused by a heart or heart artery defect that the person had from birth; and several heart problems are known to cause sudden death, many of them inherited;

d. The most common cause of sudden cardiac death in student athletes is hypertrophic cardiomyopathy, a condition in which the heart muscle is thicker than normal, which can make it harder for the heart to pump and can also affect the electrical system of the heart and lead to dangerous heart rhythms; and sudden cardiac death often occurs because of a very fast or quivering heart rhythm that prevents the heart from pumping effectively, which deprives the heart and brain of oxygen;

e. It may be difficult to know whether a child is at risk for sudden cardiac death because a child with an inherited heart problem may seem perfectly healthy, since the child's heart may work well with normal activity and symptoms may only occur when the heart is overstressed during exercise; however, in many cases, there are premonitory symptoms, a family history of sudden death at a young age, or clinical or electrocardiographic abnormalities that indicate risk for sudden cardiac death;

f. The American Heart Association and the American College of Cardiology recommend that all student athletes be screened before they take part in sports, which would include a review of the student's personal and family history and a physical examination;

g. In recognition of this serious problem, this Legislature enacted P.L.2007, c.125 (C.18A:40-41) to require that the Commissioner of Education, in consultation with the Commissioner of Health and Senior Services, the American Heart Association, and the American Academy of Pediatrics, develop an informational pamphlet about sudden cardiac death, for distribution to all school districts in the State, and that school districts distribute the pamphlet to the parents or guardians of students participating in school sports; and

h. Further action is required to address this problem, and it is in the public interest to establish a task force to review and assess current procedures and documentation relating to the screening of student athletes in order to detect risk for sudden cardiac death, and consider ways to ensure better screening in order to minimize the possibility of these tragic occurrences.

2. a. There is established the New Jersey Student Athlete Cardiac Screening Task Force in the Department of Health and Senior Services.

The purpose of the task force shall be to study and evaluate, and develop recommendations relating to, specific actionable measures to enhance screening of student athletes for hypertrophic cardiomyopathy and other cardiac conditions that will help identify student athletes who are at risk for sudden cardiac death.

b. The task force shall consist of eight members as follows:

(1) the Commissioners of Health and Senior Services and Education or their designees, who shall serve ex officio; and

(2) six members, who shall be appointed by the Commissioner of Health and Senior Services no later than the 60th day after the effective date of this act, as follows: one person who represents the American Heart Association; one person who represents the American Academy of Pediatrics, New Jersey Chapter; one person who represents the American College of Cardiology; one person who represents the New Jersey State School Nurses Association; one person who represents the New Jersey State Interscholastic Athletic Association; and one person who represents the New Jersey Academy of Family Physicians.

Vacancies in the membership of the task force shall be filled in the same manner provided for the original appointments.

c. The task force shall organize as soon as practicable following the appointment of its members and shall hold its initial meeting no later than the 120th day after the effective date of this act. The task force shall select a chairperson and vice-chairperson from among the members, and the chairperson shall appoint a secretary who need not be a member of the task force.

d. The public members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties and within the limits of funds available to the task force.

e. The task force shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purposes.

f. The task force may meet and hold hearings as it deems appropriate.

g. The Department of Health and Senior Services shall provide staff support to the task force.

3. The task force shall report its findings and recommendations to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), along with any legislative bills that it desires to recommend for adoption by the Legislature, no later than 12 months after the initial meeting of the task force.

4. This act shall take effect immediately and shall expire upon the issuance of the task force report.

Approved January 17, 2010.

CHAPTER 261

AN ACT concerning the funding of "The Senior Citizen and Disabled Resident Transportation Assistance Program" and amending P.L.1983, c.578.

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

1. Section 4 of P.L.1983, c.578 (C.27:25-28) is amended to read as follows:

C.27:25-28 Senior citizen and disabled resident transportation assistance program; purposes.

4. a. The board shall establish and administer a program to be known as "The Senior Citizen and Disabled Resident Transportation Assistance Program" for the following purposes:

(1) To assist counties to develop and provide accessible feeder transportation service to accessible fixed-route transportation services where such services are available, and accessible local transit service to senior citizens and the disabled, which may include but not be limited to door-to-door service, fixed route service, local fare subsidy, and user-side subsidy, which may include but not be limited to private ride or taxi fare subsidy; and to coordinate the activities of the various participants in this program in providing the services to be rendered at the county level and between counties; and

(2) To enable the corporation to develop, provide and maintain capital improvements that afford accessibility to fixed route and other transit services in order to make rail cars, rail stations, bus shelters and other bus equipment accessible to senior citizens and the disabled; to render technical information and assistance to counties eligible for assistance under this act; and to coordinate the program within and among counties.

b. In the State fiscal year beginning July 1 following the effective date of P.L.2009, c.261 and in each fiscal year thereafter, there shall be appropriated to the corporation from the revenues deposited in the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145) a sum equal to 8.5% of the revenues deposited in the fund during the preceding fiscal year, as determined by the State Treasurer, to effectuate the purposes and provisions of P.L.1983, c.578 (C.27:25-25 et seq.).

2. Section 7 of P.L.1983, c.578 (C.27:25-31) is amended to read as follows:

C.27:25-31 Allocation of moneys.

7. a. Moneys under this program shall be allocated by the corporation in the following manner:

(1) 85% shall be available to be allocated to eligible counties for the purposes specified under paragraph (1) of subsection a. of section 4 of this act.

(2) 15% shall be available for use by the corporation for the purposes specified under paragraph (2) of subsection a. of section 4 of this act and for the general administration of the program, but no more than 10% of the total moneys allocated under this program shall be used for the general administration of the program.

b. The amount of money which each eligible county may receive shall be based upon the number of persons resident in that county of 60 years of age or older expressed as a percentage of the whole number of persons resident in this State of 60 years or older, as provided by the U.S. Bureau of the Census. As similar data become available for the disabled population, such data shall be used in conjunction with the senior citizen data to determine the county allocation formula. No eligible county shall receive less than $150,000.00 during a fiscal year under this program, except that during the first fiscal year no county shall receive less than $50,000.00 nor more than $150,000.00.

c. The governing body of an eligible county, or a group or groups designated as an applicant or as applicants by the county after a public hearing in which senior citizens and the disabled shall have the opportunity to comment on the appropriateness of such designation, may make application to the board for moneys available under subsection b. of this section. The application shall be in the form of a proposal to the board for transportation assistance and shall specify the degree to which the proposal meets the purposes of the program under paragraph (1) of subsection a. of section 4 of this act and the implementation criteria under the program guidelines and the proposal shall have been considered at a public hearing. The board shall allocate moneys based upon a review of the merits of the proposals in meeting the purposes of the program, and the implementation criteria, under the program guidelines. The governing body of an eligible county shall schedule a public hearing annually for interested parties to provide the governing body with any facts, materials, or recommendations that would be of assistance regarding the efficacy of the program established under paragraph (1) of subsection a. of section 4 of this act.

3. Section 11 of P.L.1983, c.578 is amended to read as follows:

11. There is appropriated to the New Jersey Transit Corporation from the revenues deposited in the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145) the sum of $3,000,000.00 to effectuate the purposes and provisions of this act during the first fiscal year in which this legislation is enacted. In the fiscal year following the effective date of this legislation there shall be appropriated to the New Jersey Transit Corporation from the Casino Revenue Fund to effectuate the purposes and provisions of this act a sum of $10,000,000.00.

4. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 262

AN ACT concerning the New Jersey Marine Sciences Consortium and repealing P.L.2007, c.206.

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

Repealer.

1. P.L.2007, c.206 (C.52:18C-1 through 52:18C-8) is repealed.

2. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 263

AN ACT concerning billing for, and reporting of certain information by, certain health care providers and supplementing Title 26 of the Revised Statutes.

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

C.26:2H-5.1c Ambulatory care facility to use common billing form.

1. An ambulatory care facility licensed to provide surgical services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall use a common billing form, designated by the Commissioner of Health and Senior Services, for each patient when billing for health care services. The information provided on the billing form shall, to the extent applicable, be the same as that required of hospitals.

C.26:2H-5.1d Identification numbers of physicians publicly available.

2. The commissioner shall make publicly available the identification number for the physician or physicians, as applicable, that appear on hospital billing forms and billing forms of ambulatory care facilities licensed to provide surgical services, to the extent that doing so is consistent with the "Health Insurance Portability and Accountability Act of 1996," Pub.L.104-191.

C.26:2H-5.1e Quarterly report from ambulatory care facility to DHSS; required information.

3. a. An ambulatory care facility licensed to provide surgical services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall be required to report quarterly to the Department of Health and Senior Services, in a form and manner prescribed by the commissioner:

(1) process quality indicators of infection control as selected by the commissioner in consultation with the Quality Improvement Advisory Committee within the department; and

(2) beginning 30 days after the adoption of regulations pursuant to this act, data on infection rates for the major site categories that define facility-associated infection locations, multiple infections, and device-related and non-device related infections, as selected by the commissioner in consultation with the Quality Improvement Advisory Committee within the department.

b. The information reported pursuant to this section shall be transmitted in such a manner as to not include identifying information about patients.

c. The commissioner shall promptly advise an ambulatory care facility in the event that the commissioner determines, based on information reported by the facility, that a change in facility practices or policy is necessary to improve performance in the prevention of facility-associated infection and quality of care provided at the facility.

d. The commissioner shall make available to members of the public, on the official Internet website of the department, the information reported pursuant to this section, in such a format as the commissioner deems ap-

propriate to enable comparison among ambulatory care facilities with respect to the information.

e. In order to effectuate the purposes of this section, the commissioner, in consultation with the Quality Improvement Advisory Committee in the department, shall, by regulation: establish standard methods for identifying and reporting facility-associated infections; identify the major site categories for which infections shall be reported, taking into account the categories most likely to improve the delivery and outcome of health care in the State; and specify the methodology for presenting the data to the public, including procedures to adjust for differences in case mix and severity of infections among facilities.

C.26:2H-5.1f Rules, regulations.

4. 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.

5. This act shall take effect on the first day of the 18th month next following the date of enactment.

Approved January 17, 2010.

CHAPTER 264

AN ACT authorizing the New Jersey Historical Commission to establish a program to encourage local government units, nonprofit charitable organizations, and civic organizations to recognize sites of historical and cultural significance with standardized roadside markers, 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:73-25.5 Findings, declarations, determinations relative to recognition of historical, cultural sites with roadside markers.

1. The Legislature finds and declares that New Jersey, one of the original 13 colonies and crossroads of the American revolution, has a distinguished heritage, as evidenced by the abundance of sites witnessing significant historical and cultural events in the nation's history and important

scientific and technological discoveries, as well as being home to many famous men and women who have made lasting contributions to the State and the world; and that it is the responsibility of the State of New Jersey to encourage local government units and civic organizations to recognize these sites by the placement of historically accurate roadside markers.

The Legislature further finds and declares that New Jersey has lagged behind other states in developing a standardized program to recognize sites of historical and cultural significance; that many of the existing markers Statewide are old and damaged; that no system is currently in place to inventory existing markers; and that there are many sites in the State, in addition to those listed on the New Jersey and National Registers of Historic Places, which are of significant historical and cultural acclaim, and worthy of recognition through the placement of roadside markers.

The Legislature therefore determines that it is in the public interest to authorize the New Jersey Historical Commission to plan and carry out a program to encourage local government units, nonprofit charitable organizations, and civic organizations to provide for the placement of roadside markers at locations of historical and cultural significance in New Jersey; and that the creation of such a program would not only serve as a tribute to the people, places and events that have helped shape the State, the nation, and the world, but would serve to enhance community pride and encourage tourism throughout the State.

C.18A:73-25.6 Program to identify, propose sites of historical, cultural significance.

2. The New Jersey Historical Commission, in consultation with the New Jersey Heritage Tourism Task Force established pursuant to section 1 of P.L.2006, c.60, is authorized to establish a program to encourage local government units, nonprofit charitable organizations, and civic organizations to identify and propose sites of historical and cultural significance in the State, to be recognized by the placement of roadside markers. The markers shall feature a standardized design bearing the State seal, indicating that the site has been approved by the commission and that the marker meets standards for historical accuracy. In developing the program required pursuant to this section, the commission shall consult with the Department of Transportation to establish standards for the design, placement, and location of the roadside markers.

C.18A:73-25.7 Application process; vendors; registry; notification program.

3. a. The New Jersey Historical Commission shall develop an application process to be followed by local government units, nonprofit charitable

organizations, and civic organizations to identify and propose sites for inclusion in the program. An application shall include but is not limited to the location of the proposed site and evidence to support its historical or cultural significance, and the proposed text for the roadside marker. If an application submitted by a local government unit, nonprofit charitable organization, or civic organization is approved by the commission and by the appropriate entity having jurisdiction over the roadway along which the marker is to be placed, the requesting local government unit, nonprofit charitable organization, or civic organization, as appropriate, may purchase, through an approved vendor, and erect a marker bearing the State seal, designating that the site has been approved by the commission and that the marker meets standards for historical accuracy.

b. The commission shall compile and maintain a listing of approved vendors and shall negotiate, to the extent practicable and feasible, a volume discounted rate for the purchase of markers by local government units, nonprofit charitable organizations, or civic organizations.

c. The commission shall compile and maintain a registry of approved sites and an inventory of markers erected pursuant to this act.

d. The commission shall conduct a notification program designed to inform local government units, nonprofit charitable organizations, and civic organizations of the existence of the program, through both printed materials and an Internet site.

C.18A:73-25.8 Duties, authority of commission.

4. a. The New Jersey Historical Commission, within the limits of funds appropriated therefor or otherwise made available to it, may (1) commence the roadside marker program as soon as may be practicable, and (2) take any administrative or personnel action as may be necessary to implement the provisions of this act.

b. The commission shall be authorized to raise funds, through direct solicitation or other fundraising events, alone or with other groups, and may accept gifts, grants and bequests from individuals, corporations, foundations, governmental agencies, public and private organizations, and institutions, to defray the commission's administrative expenses and to carry out its purposes as set forth in this act. The funds, gifts, grants, or bequests received pursuant to this subsection shall be deposited into an account in the Department of the Treasury and allocated and annually appropriated to the Department of State to defray the commission's administrative expenses in connection with implementing this act and to accomplish the goals and purposes set forth in this act.

5. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 265

AN ACT concerning the New Jersey False Claims Act and amending and supplementing P.L.2007, c.265.

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

1. Section 5 of P.L.2007, c.265 (C.2A:32C-5) is amended to read as follows:

C.2A:32C-5 Investigation of violation; civil actions.

5. a. The Attorney General shall investigate a violation of this act. If the Attorney General finds that a person has violated or is violating this act, the Attorney General may bring a civil action in State or federal court against the person. The Superior Court shall have jurisdiction over a State action brought pursuant to this act.

b. A person may bring a civil action for a violation of this act for the person and for the State. Civil actions instituted under this act shall be brought in the name of the State of New Jersey.

c. A complaint filed by a person under this act shall remain under seal for at least 60 days and shall not be served on the defendant until the court so orders. Once filed, the action may be voluntarily dismissed by the person bringing the action if the Attorney General gives written consent to the dismissal along with the reason for consenting, and the court approves the dismissal.

d. A complaint alleging a false claim filed under this act shall be so designated when filed, in accordance with the Rules Governing the Courts of the State of New Jersey. Immediately upon filing of the complaint, the plaintiff shall serve by registered mail, return receipt requested, the Attorney General with a copy of the complaint and written disclosure of substantially all material evidence and information the person possesses. The Attorney General may elect to intervene and proceed with the action on behalf of the State within 60 days after it receives both the complaint and the material evidence and information.

e. (Deleted by amendment, P.L.2009, c.265)

f. The Attorney General may, for good cause shown, request that the court extend the time during which the complaint remains under seal. Any such motion may be supported by affidavits or other submissions in camera.

g. Before the expiration of the 60-day period or any extensions obtained under subsection f., the Attorney General shall:

(1) file a pleading with the court that he intends to proceed with the action, in which case the action is conducted by the Attorney General and the seal shall be lifted; or

(2) file a pleading with the court that he declines to proceed with the action, in which case the seal shall be lifted and the person bringing the action shall have the right to conduct the action.

h. The defendant's answer to any complaint filed under this act shall be filed in accordance with the Rules Governing the Courts of the State of New Jersey after the complaint is unsealed and served upon the defendant.

i. When a person files an action under this act, no other person except the State may intervene or bring a related action based on the facts underlying the pending action.

2. Section 8 of P.L.2007, c.265 (C.2A:32C-8) is amended to read as follows:

C.2A:32C-8 Awarding of attorney's fees, expenses and costs.

8. a. If the Attorney General initiates an action under this act or assumes control of an action brought by a person under this act, the Attorney General shall be awarded reasonable attorney's fees, expenses, and costs. All such expenses, fees, and costs shall be awarded against the defendant.

b. If the court awards proceeds to the person bringing the action under this act, the person shall also be awarded an amount for reasonable attorney's fees, expenses, and costs. All such expenses, fees, and costs shall be awarded against the defendant.

c. If the Attorney General does not proceed with an action under this act and the defendant is the prevailing party, the court may award the defendant reasonable attorney's fees, expenses, and costs against the person bringing the action if the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

d. No liability shall be incurred by the State or the Attorney General for any expenses, attorney's fees, or other costs incurred by any person in bringing or defending an action under this act.

3. Section 9 of P.L.2007, c.265 (C.2A:32C-9) is amended to read as follows:

C.2A:32C-9 Immunity from civil liability; limitations on bringing an action.

9. a. No member of the Legislature, a member of the Judiciary, a senior Executive branch official, or a member of a county or municipal governing body may be civilly liable if the basis for an action is premised on evidence or information known to the State when the action was brought. For purposes of this subsection, the term "senior Executive branch official" means any person employed in the Executive branch of government holding a position having substantial managerial, policy-influencing or policy-executing responsibilities.

b. A person may not bring an action under this act based upon allegations or transactions that are the subject of a pending action or administrative proceeding to which the State is already a party.

c. No action brought under this act shall be based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in an investigation, report, hearing or audit conducted by or at the request of the Legislature or by the news media, unless the action is brought by the Attorney General, or unless the person bringing the action is an original source of the information. For purposes of this subsection, the term "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the State before filing an action under this act based on the information.

d. No action may be brought under this act by a present or former employee or agent of the State or any political subdivision thereof when the action is based upon information discovered in any civil, criminal or administrative investigation or audit which investigation or audit was within the scope of the employee's or agent's duties or job description.

C.2A:32C-18 Report to Legislature.

4. On the 30th day after the effective date of P.L.2009, c.265 (C.2A:32C-18 et al.) and annually on the anniversary of the effective date of P.L.2009, c.265 (C.2A:32C-18 et al.), the Attorney General, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), shall submit to the Legislature, a report containing the following information:

a. The number of cases the Attorney General filed during the previous calendar year under the "New Jersey False Claims Act," P.L.2007, c.265 (C.2A:32C-1 et seq.);

b. The number of cases private individuals filed under the "New Jersey False Claims Act," P.L.2007, c.265 (C.2A:32C-1 et seq.) during the previous calendar year, including those cases that remain under seal, and specifying for those cases no longer under seal:

(1) the State or federal courts in which those cases were filed and the number in each court;

(2) the State program or agency that is involved in each case; and

(3) where the information is available, the number of cases filed by private individuals who previously had filed an action based on the same or similar transactions or allegations under the federal False Claims Act or the False Claims Act of another state;

c. The amount that was recovered by the State under the "New Jersey False Claims Act," P.L.2007, c.265 (C.2A:32C-1 et seq.) in settlement, in damages, penalties, and litigation costs, if known, and specifying for each the following:

(1) the case number and parties for each case in which there was a recovery;

(2) the separate amounts of any funds recovered for damages, penalties, and litigation costs; and

(3) the percentage of the recovery and the amount awarded to any private person who brought the action.

5. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 266

AN ACT concerning certain civil actions and amending N.J.S.2A:15-3.

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

1. N.J.S.2A:15-3 is amended to read as follows:

Actions which survive; torts to decedent; funeral and burial expenses; statute of limitations.

2A:15-3. Executors and administrators may have an action for any trespass done to the person or property, real or personal, of their testator or

intestate against the trespasser, and recover their damages as their testator or intestate would have had if he was living.

In those actions based upon the wrongful act, neglect, or default of another, where death resulted from injuries for which the deceased would have had a cause of action if he had lived, the executor or administrator may recover all reasonable funeral and burial expenses in addition to damages accrued during the lifetime of the deceased.

Every action brought under this chapter shall be commenced within two years after the death of the decedent, and not thereafter, provided, however, that if the death resulted from murder, aggravated manslaughter or manslaughter for which the defendant has been convicted, found not guilty by reason of insanity or adjudicated delinquent, the action may be brought at any time.

2. This act shall take effect immediately and shall apply to any action pending or filed on or after the effective date including actions filed where the murder, aggravated manslaughter or manslaughter occurred prior to the effective date of this act.

Approved January 17, 2010.

CHAPTER 267

AN ACT concerning the unauthorized practice of certain professions and occupations and supplementing P.L.1978, c.73 (C.45:1-14 et seq.).

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

C.45:1-18.1 Findings, declarations relative to unauthorized practice of certain occupations, professions.

1. The Legislature finds and declares that:

a. The regulation of certain professions or occupations through the Director of the Division of Consumer Affairs or the boards or committees within the Division of Consumer Affairs in the Department of Law and Public Safety is necessary to protect the health, safety and welfare of the residents of this State;

b. The unauthorized practice of a regulated profession or occupation inures to the detriment of the public;

c. The professional and occupational licensing boards and committees within the Division of Consumer Affairs in the Department of Law and Public Safety are unable to consistently and effectively prevent and sanction the unauthorized practice of regulated professions and occupations due, in part, to limitations in the investigative and enforcement powers currently afforded to the boards and commissions, and to the applicable procedures available to address these issues; and

d. It is therefore necessary and appropriate to protect the health, safety and welfare of the residents of this State to provide the Director of the Division of Consumer Affairs and the boards and committees within the Division of Consumer Affairs with additional investigative and enforcement powers and enhanced procedures to more effectively deter individuals from engaging in the unauthorized practice of a regulated profession or occupation.

C.45:1-18.2 Exercise of investigative power.

2. a. The Director of the Division of Consumer Affairs or any board or committee within the division may exercise its investigative power pursuant to section 5 of P.L.1978, c.73 (C.45:1-18) whenever there is reason to believe that there has been a violation of any applicable law or regulation by a person who:

(1) is not licensed, certified, or otherwise permitted by law or regulation to practice a profession or occupation and who represents to the public by any means, that he is able to practice a profession or occupation regulated under Title 45 of the Revised Statutes; or

(2) has engaged or is engaging in the unauthorized practice of a profession or occupation regulated under Title 45 of the Revised Statutes in violation of any law or regulation administered by the director or a board or committee within the Division of Consumer Affairs.

b. Any person who, following notice and a hearing, has been found to have engaged in the conduct specified in paragraph (1) or (2) of subsection a. of this section shall:

(1) immediately cease and desist from practicing that profession or occupation, as ordered by the director or a board or committee; and

(2) be liable to a penalty of not more than $10,000 for the first offense, and not more than $20,000 for each subsequent offense, to be recovered by the director or the board or committee within the Division of Consumer Affairs.

c. Any proceeding instituted pursuant to this section shall be in addition to any other proceeding authorized by section 10 of P.L.1978, c.73 (C.45:1-23), or by any other law.

C.45:1-18.3 Regulations.

3. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety may promulgate regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the provisions of this act.

4. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 268

AN ACT concerning family planning services and supplementing Title 30 of the Revised Statutes.

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

C.30:4D-7k Definitions relative to reimbursement for family planning services.

1. a. The reimbursement rate for an office visit for family planning services billed by a health care facility, which is licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) and receives funding under Title X of the Public Health Service Act (42 U.S.C. s.300 et seq.), to the State Medicaid program shall be an amount that equals at least 90% of the amount of the actual cost of services provided during an office visit, as such rate is in effect on the date of enactment of this act.

b. As used in this section:

"Family planning services" means comprehensive reproductive health care services, including: contraception; pregnancy detection; options counseling; diagnosis or treatment, or both, of sexually transmitted diseases; routine gynecological and cancer screening services; health promotion activities; and Level I infertility services such as an interview, education, physical examination, laboratory testing, counseling, and appropriate referral. The term does not include termination of pregnancy.

Family planning services may also include: prenatal and postpartum care; other gynecological services, including colposcopy and cryotherapy; menopausal services; Level II infertility services, which include semen analysis, assessment of ovulatory function, and post coital testing; and

Level III infertility services, which include more sophisticated and complex infertility testing and procedures than Levels I and II.

"Medicaid" means the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

"Office visit" means a procedure billed under a common procedure terminology code that includes a family planning modifier in the description of the code.

C.30:4D-7l DHSS to facilitate implementation of C.30:4D-7k.

2. The Department of Health and Senior Services shall adjust the Family Planning Services Grant-in-Aid appropriation and transfer the appropriate amount of State funds to the Division of Medical Assistance and Health Services in the Department of Human Services to facilitate the implementation of section 1 of this act. The Department of Health and Senior Services shall notify the Legislative Budget and Finance Officer as to the amount that is transferred.

3. This act shall take effect immediately and shall apply to office visits rendered on or after the effective date.

Approved January 17, 2010.

CHAPTER 269

AN ACT concerning the budget message to be transmitted by the Governor to the Legislature for the fiscal year ending June 30, 2011.

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, 2011 to the Legislature on or before March 16, 2010.

2. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 270

AN ACT concerning community care residential providers.

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

C.30:6D-32.1 Findings, declarations relative to community care residential providers.

1. The Legislature finds and declares that:

a. Community care residential providers for adults with developmental disabilities in the State of New Jersey, as defined by N.J.A.C.10:44B-1.3, provide an essential service by providing care and training to adults with developmental disabilities;

b. The State, through the Department of Human Services, is vested with the regulatory authority, including but not limited to the establishment of reimbursement rates, and the administrative oversight responsibility for the licensing of facilities and operation of community care residential provider homes;

c. Pursuant to its statutory and regulatory authority, the Department of Human Services is authorized to contract with a qualified third party agency or entity to provide oversight with respect to various administrative functions, including but not limited to the processing of board payments and/or cost-of-care payments to community care residential providers;

d. To ensure quality standards of care, it is in the public interest for the State to maintain community care residential provider homes for adults with developmental disabilities and to encourage the recruitment and retention of community care residential providers that are delivering these vital services; and

e. A majority of community care residential providers have authorized the Communications Workers of America, AFL-CIO (CWA) to be their exclusive representative through individually-signed authorizations and the New Jersey State Board of Mediation has certified CWA to represent community care residential providers.

C.30:6D-32.2 Agreement between community care residential providers and State.

2. a. The Commissioner of the New Jersey Department of Human Services, on behalf of the State of New Jersey, shall meet in good faith with the CWA, as the recognized exclusive majority representative of all community care residential providers, for the purpose of entering into a written agreement, or negotiating a renewal or extension, with any agreed upon

modifications, of any agreement in effect upon or after the effective date of this act, regarding reimbursement rates, payment procedures, benefits, health and safety conditions and any other matters that would improve recruitment and retention of qualified community care residential providers and the quality of the programs they provide, subject to the provisions of this section. Although community care residential providers are not State employees, the subjects which may be included in an agreement shall be consistent with the areas which are considered negotiable for public employees who are subject to the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.). Nothing in this act shall require that an agreement be reached on any particular matter provided the parties act in good faith.

b. The purpose of this section is to permit community care residential providers to select an exclusive majority representative to represent them as provided in this section. This act is intended by the Legislature to provide state action immunity under federal and state antitrust laws for any action of the State, or joint action of community care residential providers and their exclusive majority representative, to the extent those actions are authorized by this act. The protections and prohibitions regarding unfair practices provided by section 1 of P.L.1974, c.123 (C.34:13A-5.4) shall apply to any community care residential providers subject to this act, to the State as their employer, and to their employee organizations, representatives or agents.

c. Any agreement entered into, renewed or extended pursuant to this section shall be embodied in writing and shall be binding upon the State of New Jersey, and shall provide for the payment of union dues and representation fees in a manner consistent with the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.) which apply to the payment of union dues and representation fees by public employees.

C.30:6D-32.3 Construction of act.

3. No provision of this act or provision of any agreement entered into, renewed or extended pursuant to this act shall be construed as:

a. Interfering with the rights of the Department of Human Services to place or remove clients from the homes of community care residential providers;

b. Interfering with the rights of individuals with developmental disabilities or their parents or guardians, including the right to change placements;

c. Granting community care residential providers any right to engage in a strike or collective cessation of the delivery of services; or

d. Granting community care residential providers status as employees of the State for the purposes of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., the New Jersey "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), the New Jersey "unemployment compensation law," R.S.43:21-1 et seq., and the Workers' Compensation Law, R.S.34:15-1 et seq., nor status as employees of the State for any other purposes except for purposes indicated in section 1 of this act, including selecting representatives to negotiate and enter into agreements with the State as provided in that section.

C.30:6D-32.4 Authority of DHS intact.

4. No action may be taken under this act that would derogate from the status, functions or authority of the Department of Human Services in its capacity as Lead Agency, or in any other capacity, in the placement and care of persons with developmental disabilities.

5. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 271

AN ACT concerning commercial driver licenses and amending P.L.1990, c.103.

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

1. Section 3 of P.L.1990, c.103 (C.39:3-10.11) is amended to read as follows:

C.39:3-10.11 Definitions relative to commercial driver licenses.

3. For purposes of this act, a term shall have the meaning set forth in R.S.39:1-1 unless another meaning for the term is set forth in this act, or unless another meaning is clearly apparent from the language or context of this act, or unless the meaning for the term set forth in R.S.39:1-1 is inconsistent with the manifest intent of the Legislature in this act.

For purposes of this act:

"Alcohol concentration" means:

a. The number of grams of alcohol per 100 milliliters of blood; or

b. The number of grams of alcohol per 210 liters of breath.

"Commercial driver license" or "CDL" means a license issued in accordance with this act to a person authorizing the person to operate a certain class of commercial motor vehicle.

"Commercial Driver License Information System" or "CDLIS" means the information system established pursuant to the federal "Commercial Motor Vehicle Safety Act of 1986," Pub.L.99-570 (49 U.S.C. s.2701 et seq.) to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

"Commercial motor vehicle" or "CMV" means a motor vehicle or combination of motor vehicles used or designed to transport passengers or property:

a. If the vehicle has a gross vehicle weight rating of 26,001 or more pounds or displays a gross vehicle weight rating of 26,001 or more pounds;

b. If the vehicle has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;

c. If the vehicle is designed to transport 16 or more passengers including the driver;

d. If the vehicle is designed to transport eight or more but less than 16 persons, including the driver, and is used to transport such persons for hire on a daily basis to and from places of employment;

e. If the vehicle is transporting or used in the transportation of hazardous materials and is required to be placarded in accordance with Subpart F. of 49 C.F.R. s.172, or the vehicle displays a hazardous material placard; or

f. If the vehicle is operated by, or under contract with, a public or governmental agency, or religious or other charitable organization or corporation, or is privately operated, and is used for the transportation of children to or from a school, school connected activity, day camp, summer day camp, summer residence camp, nursery school, child care center, preschool center or other similar places of education.

The chief administrator may, by regulation, include within this definition such other motor vehicles or combination of motor vehicles as he deems appropriate.

This term shall not include recreation vehicles.

This term shall not include motor vehicles designed to transport eight or more but less than sixteen persons, including the driver, which are owned and operated directly by businesses engaged in the practice of mor-

tuary science when those vehicles are used exclusively for providing transportation related to the provision of funeral services and which shall not be used in that capacity at any time to pick up or discharge passengers to any airline terminal, train station or other transportation center, or for any purpose not directly related to the provision of funeral services.

"Controlled substance" means any substance so classified under subsection (6) of section 102 of the "Controlled Substances Act" (21 U.S.C. s.802), and includes all substances listed on Schedules I through V of 21 C.F.R. s.1308, or under P.L.1970, c.226 (C.24:21-1 et seq.) as they may be revised from time to time. The term, wherever it appears in this act or administrative regulation promulgated pursuant to this act, shall include controlled substance analogs.

"Controlled substance analog" means a substance that has a chemical structure substantially similar to that of a controlled dangerous substance and that was specifically designed to produce an effect substantially similar to that of a controlled dangerous substance. The term shall not include a substance manufactured or distributed in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of section 505 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. s.355).

"Conviction" means a final adjudication that a violation has occurred, a final judgment on a verdict, a finding of guilt in a tribunal of original jurisdiction, or a conviction following a plea of guilty, non vult or nolo contendere accepted by a court. It also includes an unvacated forfeiture of bail, bond or collateral deposited to secure the person's appearance in court, or the payment of a fine or court costs, or violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

"Disqualification" means either:

a. The suspension, revocation, cancellation, or any other withdrawal by a state of a person's privilege to operate a commercial motor vehicle;

b. A determination by the Federal Motor Carrier Safety Administration under the rules of practice for motor carrier safety contained in 49 C.F.R. s.386, that a person is no longer qualified to operate a commercial motor vehicle under 49 C.F.R. s.391; or

c. The loss of qualification which automatically follows conviction of an offense listed in 49 C.F.R. s.383.51.

"Domicile" means that state where a person has a true, fixed, and permanent home and principal residence and to which the person intends to return whenever the person is absent.

"Driver license" means a license issued by this State or any other jurisdiction to a person authorizing the person to operate a motor vehicle.

"Endorsement" means an authorization to a commercial driver license required to permit the holder of the license to operate certain types of commercial motor vehicles.

"Felony" means any offense under any federal law or the law of a state, including this State, that is punishable by death or imprisonment for a term exceeding one year. The term includes, but is not limited to, "crimes" as that term is defined in N.J.S.2C:1-1 et seq.

"Foreign jurisdiction" means any jurisdiction other than a state of the United States.

"Gross vehicle weight rating" or "GVWR" means the value specified by a manufacturer as the loaded weight of a single or a combination (articulated) vehicle, or the registered gross weight, whichever is greater. The GVWR of a combination (articulated) vehicle, commonly referred to as the "gross combination weight rating" or "GCWR," is the GVWR of the power unit plus the GVWR of the towed unit or units. In the absence of a value specified for the towed unit or units by the manufacturer, the GVWR of a combination (articulated) vehicle is the GVWR of the power unit plus the total weight of the towed unit, including the loads on them.

"Hazardous material" means a substance or material determined by the Secretary of the United States Department of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce and so designated pursuant to the provisions of the "Hazardous Materials Transportation Act" (49 U.S.C. s.1801 et seq.).

"Motor vehicle" includes all vehicles propelled otherwise than by muscular power, except such vehicles as run only upon rails or tracks. The term "motor vehicle" includes motorized bicycles.

"Non-commercial motor vehicle" means a motor vehicle or combination of motor vehicles other than a "commercial motor vehicle" as defined in this section.

"Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation is out-of-service pursuant to 49 C.F.R. s.386.72, 392.5, 395.13, 396.9, or any compatible law or the North American Uniform Out-of-Service Criteria.

"Recreation vehicle" means a self-propelled or towed vehicle equipped to serve as temporary living quarters for recreational, camping, or travel purposes and is used solely as a family or personal conveyance.

"Representative vehicle" means a motor vehicle which represents the type of motor vehicle that a commercial driver license applicant operates or expects to operate.

"Serious traffic violation" means conviction for one of the following offenses committed while operating a commercial motor vehicle:

a. Excessive speeding, involving any single offense for a speed of 15 miles per hour or more above the speed limit;

b. Reckless driving, as defined by state or local law or regulation, including, but not limited to, offenses of driving a commercial motor vehicle in willful or wanton disregard of the safety of persons or property, including violations of R.S.39:4-96;

c. Improper or erratic traffic lane changes;

d. Following a vehicle ahead too closely, including violations of R.S.39:4-89;

e. A violation, arising in connection with a fatal accident, of state or local law relating to motor vehicle traffic control, other than a parking violation;

f. Any other violation of a state or local law relating to motor vehicle traffic control determined by the Secretary of the United States Department of Transportation in 49 C.F.R. s.383.5 to be a serious traffic violation;

g. Driving a commercial motor vehicle without a commercial driver license in the driver's possession; or

h. Driving a commercial motor vehicle without the proper class of commercial driver license or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.

This term shall not include vehicle weight or defect violations.

"State" means a state of the United States or the District of Columbia.

"Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and portable tanks as defined by the chief administrator. However, this definition does not include portable tanks having a rated capacity under 1,000 gallons.

"Vehicle group" means a class or type of vehicle with certain operating characteristics.

2. Section 10 of P.L.1990, c.103 (C.39:3-10.18) is amended to read as follows:

C.39:3-10.18 Possession of valid commercial driver license mandatory.

10. a. (1) (Deleted by amendment, P.L.2005, c.147).

(2) On and after April 1, 1992, and except when operating under a valid commercial driver examination or learner's permit and accompanied by the holder of a commercial driver license valid for the class or type of vehicle being operated, a person shall not operate a commercial motor vehicle unless the person has been issued and is in possession of a valid commercial driver license and applicable endorsements for the class and type of vehicle being operated. A person shall not operate a commercial motor vehicle if the person is restricted from operating a commercial vehicle of that class or type.

(3) A person violating this subsection shall be fined not less than $250 or more than $500, or imprisoned for not more than 60 days, or both. If that person has never been licensed to operate a commercial motor vehicle in this State or any other jurisdiction, the chief administrator shall refuse to issue a license to operate a commercial motor vehicle to that person for a period of 180 days from the date of the conviction. This penalty shall not be applicable in cases where failure to have actual possession of the commercial driver license is due to an administrative or technical error by the commission. If a person charged with a failure to have possession of a valid commercial driver license can exhibit the license to the judge of the court before whom he is summoned to answer to a charge and the license was valid on the day the person was charged, the judge may dismiss the charge. However, the judge may impose court costs.

b. (1) A person who has been refused a commercial driver license, whose commercial motor vehicle driving privilege or any endorsement has been suspended or revoked, who has been prohibited or disqualified from operating a commercial motor vehicle, who is subject to an out-of-service order, or whose driving privilege is suspended or revoked, shall not operate a commercial motor vehicle during the period of refusal, suspension, revocation, prohibition, or disqualification, or during the period of the out-of-service order.

(2) A person who violates this subsection shall, upon conviction, be fined not less than $500 or more than $5,000 for each offense, or imprisoned for a term of not more than 90 days, or both; provided, however, a person who operates a commercial motor vehicle during the period of an out-of-service order shall, upon conviction, be fined $2,500 and may be imprisoned for a term of not more than 90 days. A person who operates a commercial motor vehicle during the period of an out-of-service order shall, upon a second or subsequent conviction of this subsection, be fined

$5,000 and may be imprisoned for a term of not more than 90 days. If a person is involved in an accident resulting in personal injury to another person while operating a commercial motor vehicle in violation of this subsection, the court shall impose both a period of imprisonment for 90 days and a fine of $5,000.

(3) An employer shall not knowingly allow, require, permit or authorize a driver to operate a commercial motor vehicle during the period of refusal, suspension, revocation, prohibition, disqualification, or during the period of the out-of-service order. An employer who is convicted of a violation of this subsection shall be subject to a fine of not less than $2,750 or more than $25,000.

In addition, the commercial motor vehicle driving privilege of a person convicted under this subsection shall be suspended in accordance with section 12 of this act.

3. Section 12 of P.L.1990, c.103 (C.39:3-10.20) is amended to read as follows:

C.39:3-10.20 Suspension of commercial motor vehicle driving privilege.

12. a. In addition to the imposition of any other penalty provided by law, the chief administrator shall suspend for not less than one year nor more than three years the commercial motor vehicle driving privilege of a person convicted for a first violation of:

(1) R.S.39:4-50 if the motor vehicle was a commercial motor vehicle or section 5 of this act.

(2) R.S.39:4-129 if the motor vehicle was a commercial motor vehicle operated by the person.

(3) Using a commercial motor vehicle in the commission of any "crime" as defined in subsection a., c., or d. of N.J.S.2C:1-4.

(4) Refusal to submit to a chemical test under section 2 of P.L.1966, c.142 (C.39:4-50.2) or section 16 of this act if the motor vehicle was a commercial motor vehicle.

(5) Paragraph (1) of subsection b. of section 10 of this act.

(6) A violation, arising in connection with a fatal accident, of State or local law relating to motor vehicle traffic control, other than a parking violation, regardless of whether the motor vehicle operated by the person was a commercial motor vehicle or a non-commercial motor vehicle.

b. If a first violation of any of the violations specified in subsection a. of this section takes place while transporting hazardous material or takes place in a vehicle displaying a hazardous material placard, the chief admin-

istrator shall suspend the commercial motor vehicle driving privilege of the person for three years.

c. Subject to the provisions of subsection d. of this section, the chief administrator shall revoke for life the commercial motor vehicle driving privilege of a person for a second or subsequent violation of any of the offenses specified in subsections a. and j. of this section or any combination of those offenses arising from two or more separate incidents.

d. The chief administrator may issue rules and regulations establishing guidelines, including conditions under which a revocation of commercial motor vehicle driving privilege for life under subsection c. may be reduced to a period of not less than 10 years.

e. Notwithstanding any other provision of law to the contrary, the chief administrator shall revoke for life the commercial motor vehicle driving privilege of a person who uses a commercial motor vehicle or a non-commercial motor vehicle in the commission of a crime involving the manufacture, distribution, or dispensing of a controlled substance or controlled substance analog, or possession with intent to manufacture, distribute, or dispense a controlled substance or controlled substance analog. A revocation under this subsection shall not be subject to reduction in accordance with subsection d. of this section.

f. (1) The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than 60 days if the person is convicted of a serious traffic violation, other than a violation arising in connection with a fatal accident as set forth in paragraph (6) of subsection a. of this section, and that conviction constitutes the second serious traffic violation committed in a commercial motor vehicle or non-commercial motor vehicle in this or any other state arising from separate incidents occurring within a three-year period. The chief administrator shall suspend the commercial motor vehicle driving privilege for 120 days if the conviction constitutes the third or subsequent serious traffic violation, other than a violation arising in connection with a fatal accident as set forth in paragraph (6) of subsection a. of this section, committed in a commercial motor vehicle or non-commercial motor vehicle in this or any other state arising from separate incidents occurring within a three-year period.

(2) The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than 60 days if the person is convicted of a violation of R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-127.1); or section 10 of P.L.2005, c.147 (C.39:4-128.11). The chief administrator shall suspend the commercial motor vehicle driving privilege for not less than 120 days if the conviction constitutes the second

violation of R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-127.1); section 10 of P.L.2005, c.147 (C.39:4-128.11) or any combination of such violations in this or any other state arising from separate incidents occurring within a three-year period. The chief administrator shall suspend the commercial motor vehicle driving privilege for not less than one year if the conviction constitutes the third or subsequent violation of R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-127.1); section 10 of P.L.2005, c.147 (C.39:4-128.11) or any combination of such violations in this or any other state arising from separate incidents occurring within the past three years.

(3) The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than 180 days or more than one year if the person is convicted of violating a driver, commercial motor vehicle, or motor carrier operation out-of-service order while driving a commercial motor vehicle transporting nonhazardous materials. The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than two years or more than five years if the conviction constitutes the second conviction in a separate incident in this or any other state within a 10-year period of violating a driver, commercial motor vehicle, or motor carrier operation out-of-service order while driving a commercial motor vehicle transporting nonhazardous materials. The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than three years or more than five years if the conviction constitutes the third or subsequent conviction in a separate incident in this or any other state within a 10-year period of violating a driver, commercial motor vehicle, or motor carrier operation out-of-service order while driving a commercial motor vehicle transporting nonhazardous materials.

(4) The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than 180 days or more than two years if the person is convicted of violating a driver, commercial motor vehicle, or motor carrier operation out-of-service order while driving a commercial motor vehicle transporting hazardous materials required to be placarded under Subpart F of 49 C.F.R. s.172, or while operating a vehicle designed to transport 16 or more passengers, including the driver. The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than three years or more than five years if the conviction constitutes a second or subsequent conviction in a separate incident within a 10-year period in this or any other state of violating a driver, commercial motor vehicle, or motor carrier operation out-of-service order while driving a commercial motor vehicle

transporting hazardous materials required to be placarded under Subpart F of 49 C.F.R. s.172, or while operating a vehicle designed to transport 16 or more passengers, including the driver.

g. A court shall make a report to the chief administrator within three days in such form as the chief administrator may require concerning conviction for violation of P.L.1990, c.103 (C.39:3-10.9 et seq.). The chief administrator shall notify the Commercial Driver License Information System of the suspension, revocation, or cancellation. In the case of nonresidents, the chief administrator also shall notify the licensing authority of the state which issued the commercial driver license or the state where the person is domiciled. The chief administrator shall provide these notices within 10 days after the suspension, revocation, cancellation, or disqualification.

h. The chief administrator shall in accordance with this section suspend a commercial motor vehicle driving privilege of a person holding, or required to hold, a commercial driver license issued by this State if the person is convicted in another state or foreign jurisdiction of an offense of a substantially similar nature to the offenses specified in subsection a., e., f., g., h., i. or j. of this section. For purposes of this section, a violation such as driving while intoxicated, driving under the influence, or driving while ability is impaired shall be considered substantially similar offenses. For purposes of this section, a violation committed in another state but substantially similar to those enumerated in subsection a., e., f., g., h., i. or j. of this section committed in this State shall be included.

i. Notwithstanding any other provision of law to the contrary, a conviction under this section, or section 5 or 16 of this act, shall not merge with a conviction for a violation of R.S.39:4-50 or section 2 of P.L.1966, c.142 (C.39:4-50.2).

j. In addition to any other penalty provided by law, the chief administrator shall suspend for one year the commercial motor vehicle driving privilege of a person for a first violation of:

(1) R.S.39:4-50 while operating a non-commercial motor vehicle;

(2) R.S.39:4-129 while operating a non-commercial motor vehicle;

(3) Refusing to submit to a chemical test under section 2 of P.L.1966, c.142 (C.39:4-50.2) while operating a non-commercial motor vehicle; or

(4) Using a non-commercial motor vehicle in the commission of any "crime" as defined in subsection a., c., or d. of N.J.S.2C:1-4.

k. The chief administrator shall in accordance with this section suspend the commercial motor vehicle driving privilege of a person holding, or required to hold, a commercial driver license issued by this State if that per-

son has been disqualified from operating a commercial motor vehicle by the Federal Motor Carrier Safety Administration pursuant to 49 C.F.R. s.383.52 because that person's driving has been determined to constitute an imminent hazard.

l. The Motor Vehicle Commission shall maintain records of accidents, convictions, and disqualification for persons holding, or required to hold, a commercial driver license in accordance with 49 C.F.R. s.384.225 and the AAMVAnet, Inc.'s "Commercial Driver License Information System State Procedures," as amended and supplemented.

m. Any driver who is found to be in violation of the provisions of paragraph (a) or (b) of 49 C.F.R. s.392.5, relating to the use of alcohol, being under the influence of alcohol, having any measured alcohol concentration or detected presence of alcohol, or possessing alcohol, shall be placed out-of-service immediately for a period of 24 hours.

4. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 272

AN ACT concerning State pharmaceutical assistance programs and supplementing Title 30 of the Revised Statutes.

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

C.30:4D-21.5 Automatic enrollment in certain pharmaceutical assistance programs.

1. a. If a person who is a recipient of benefits under the "Pharmaceutical Assistance to the Aged and Disabled," or PAAD program becomes ineligible for PAAD because the person's income exceeds the program's income eligibility limit and the person still remains eligible for the "Senior Gold Prescription Discount Program," the person shall be enrolled automatically in the "Senior Gold Prescription Discount Program."

b. If a person who is a recipient of benefits under the "Senior Gold Prescription Discount Program" has a decrease in income that renders the person eligible for PAAD, the person shall automatically be enrolled in PAAD.

c. The Department of Health and Senior Services shall establish one application form for use in applying for the PAAD program and the "Senior Gold Prescription Discount Program." The form shall provide for the in-

clusion of all information necessary to determine eligibility for both programs and advise applicants of the automatic enrollment provisions of subsections a. and b. of this section.

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

Approved January 17, 2010.

CHAPTER 273

AN ACT concerning certain real estate promotions, amending R.S.45:15-17 and supplementing chapter 15 of Title 45 of the Revised Statutes.

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

1. R.S.45:15-17 is amended to read as follows:

Investigation of actions of licensees; suspension or revocation of licenses and causes therefor.

45:15-17. The commission may, upon its own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any real estate broker, broker-salesperson, salesperson, referral agent, or any person who assumes, advertises or represents himself as being authorized to act as a real estate broker, broker-salesperson, salesperson or referral agent or engages in any of the activities described in R.S.45:15-3 without being licensed so to do. The lapse or suspension of a license by operation of law or the voluntary surrender of a license by a licensee shall not deprive the commission of jurisdiction to proceed with any investigation as herein provided or prevent the commission from taking any regulatory action against such licensee, provided, however, that the alleged charges arose while said licensee was duly licensed. Each transaction shall be construed as a separate offense.

In conducting investigations, the commission may take testimony by deposition as provided in R.S.45:15-18, require or permit any person to file a statement in writing, under oath or otherwise as the commission determines, as to all the facts and circumstances concerning the matter under investigation, and, upon its own motion or upon the request of any party, subpoena witnesses, compel their attendance, take evidence, and require the

production of any material which is relevant to the investigation, including any and all records of a licensee pertaining to his activities as a real estate broker, broker-salesperson, salesperson or referral agent. The commission may also require the provision of any information concerning the existence, description, nature, custody, condition and location of any books, documents, or other tangible material and the identity and location of persons having knowledge of relevant facts of any other matter reasonably calculated to lead to the discovery of material evidence. Upon failure to obey a subpoena or to answer questions posed by an investigator or legal representative of the commission and upon reasonable notice to all affected persons, the commission may commence an administrative action as provided below or apply to the Superior Court for an order compelling compliance.

The commission may place on probation, suspend for a period less than the unexpired portion of the license period, or may revoke any license issued under the provisions of R.S.45:15-1 et seq., or the right of licensure when such person is no longer the holder of a license at the time of hearing, or may impose, in addition or as an alternative to such probation, revocation or suspension, a penalty of not more than $5,000 for the first violation, and a penalty of not more than $10,000 for any subsequent violation, which penalty shall be sued for and recovered by and in the name of the commission and shall be collected and enforced by summary proceedings pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), where the licensee or any person, in performing or attempting to perform any of the acts mentioned herein, is deemed to be guilty of:

a. Making any false promises or any substantial misrepresentation; or

b. Acting for more than one party in a transaction without the knowledge of all parties thereto; or

c. Pursuing a flagrant and continued course of misrepresentation or making of false promises through agents, broker-salespersons, salespersons or referral agents, advertisements or otherwise; or

d. Failure to account for or to pay over any moneys belonging to others, coming into the possession of the licensee; or

e. Any conduct which demonstrates unworthiness, incompetency, bad faith or dishonesty. The failure of any person to cooperate with the commission in the performance of its duties or to comply with a subpoena issued by the commission compelling the production of materials in the course of an investigation, or the failure to give a verbal or written statement concerning a matter under investigation may be construed as conduct demonstrating unworthiness; or

f. Failure to provide his client with a fully executed copy of any sale or exclusive sales or rental listing contract at the time of execution thereof, or failure to specify therein a definite terminal date which terminal date shall not be subject to any qualifying terms or conditions; or

g. Using any plan, scheme or method for the sale or promotion of the sale of real estate which involves a lottery, a contest, a game, a prize, a drawing, or the offering of a lot or parcel or lots or parcels for advertising purposes, provided, however, that a promotion or offer of free, discounted or other services or products which does not require that the recipient of any free, discounted or other services or products enter into a sale, listing or other real estate contract as a condition of the promotion or offer shall not constitute a violation of this subsection if that promotion or offering does not involve a lottery, a contest, a game, a drawing or the offering of a lot or parcel or lots or parcels for advertising purposes. A broker shall disclose in writing any compensation received for such promotion or offer in the form and substance as required by the federal "Real Estate Settlement Procedures Act of 1974," 12 U.S.C. ss.2601 et seq., except that, notwithstanding the provisions of that federal act, written disclosure shall be provided no later than when the promotion or offer is extended by the broker to the consumer; or

h. Being convicted of a crime, knowledge of which the commission did not have at the time of last issuing a real estate license to the licensee; or

i. Collecting a commission as a real estate broker in a transaction, when at the same time representing either party in a transaction in a different capacity for a consideration; or

j. Using any trade name or insignia of membership in any real estate organization of which the licensee is not a member; or

k. Paying any rebate, profit, compensation or commission to anyone not possessed of a real estate license, except that: (1) free, discounted or other services or products provided for in subsection g. of this section shall not constitute a violation of this subsection; and (2) a real estate broker may provide a purchaser of residential real property, but no other third party a rebate of a portion of the commission paid to the broker in a transaction, so long as: the broker and the purchaser contract for such a rebate at the onset of the broker relationship in a written document, electronic document or a buyer agency agreement; the broker complies with any State or federal requirements with respect to the disclosure of the payment of the rebate; and the broker recommends to the purchaser that the purchaser contact a tax professional concerning the tax implications of receiving that rebate. The rebate paid to the purchaser shall be in the form of a credit, reducing the

amount of the commission payable to the broker, or a check paid by the closing agent and shall be made at the time of closing; or

l. Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing; or

m. Accepting a commission or valuable consideration as a real estate broker-salesperson, salesperson or referral agent for the performance of any of the acts specified in this act, from any person, except his employing broker, who must be a licensed broker; or

n. Procuring a real estate license, for himself or anyone else, by fraud, misrepresentation or deceit; or

o. Commingling the money or other property of his principals with his own or failure to maintain and deposit in a special account, separate and apart from personal or other business accounts, all moneys received by a real estate broker, acting in said capacity, or as escrow agent, or the temporary custodian of the funds of others, in a real estate transaction; or

p. Selling property in the ownership of which he is interested in any manner whatsoever, unless he first discloses to the purchaser in the contract of sale his interest therein and his status as a real estate broker, broker-salesperson, salesperson or referral agent; or

q. Purchasing any property unless he first discloses to the seller in the contract of sale his status as a real estate broker, broker-salesperson, salesperson or referral agent; or

r. Charging or accepting any fee, commission or compensation in exchange for providing information on purportedly available rental housing, including lists of such units supplied verbally or in written form, before a lease has been executed or, where no lease is drawn, before the tenant has taken possession of the premises without complying with all applicable rules promulgated by the commission regulating these practices; or

s. Failing to notify the commission within 30 days of having been convicted of any crime, misdemeanor or disorderly persons offense, or of having been indicted, or of the filing of any formal criminal charges, or of the suspension or revocation of any real estate license issued by another state, or of the initiation of formal disciplinary proceedings in another state affecting any real estate license held, or failing to supply any documentation available to the licensee that the commission may request in connection with such matter; or

t. The violation of any of the provisions of R.S.45:15-1 et seq. or of the administrative rules adopted by the commission pursuant to the provisions of R.S.45:15-1 et seq. The commission is expressly vested with the power and authority to make, prescribe and enforce any and all rules and

regulations for the conduct of the real estate brokerage business consistent with the provisions of chapter 15 of Title 45 of the Revised Statutes.

If a licensee is deemed to be guilty of a third violation of any of the provisions of this section, whether of the same provision or of separate provisions, the commission may deem that person a repeat offender, in which event the commission may direct that no license as a real estate broker, broker-salesperson, salesperson or referral agent shall henceforth be issued to that person.

C.45:15-16a Rebate paid by broker to purchaser.

2. a. Any rebate paid by a broker to a purchaser of residential real property pursuant to paragraph (2) of subsection k. of R.S.45:15-17 shall be:

(1) Calculated after the purchaser negotiates the rebate commission rate;

(2) Memorialized in a written document, electronic document or a buyer agency agreement provided by the broker to the purchaser at the outset of the broker relationship, which document or agreement shall provide the terms of any rebate credited or paid by the broker to the purchaser; and

(3) Disclosed to all parties involved in the transaction, including, but not limited to, any mortgage lender.

b. A rebate shall not be:

(1) Paid to a person not licensed as a real estate broker for any act that requires licensure;

(2) Contingent upon the use of other services or products being offered by a broker or an affiliate of a broker; or

(3) Based on the use of a lottery, contest or game.

C.45:15-16b Advertisement for rebate.

3. a. Any advertisement for a rebate allowed pursuant to paragraph (2) of subsection k. of R.S.45:15-17 shall include:

(1) A disclosure concerning the purchaser's obligation to pay any applicable taxes for receipt of the rebate; and

(2) A notice that the purchaser should contact a tax professional concerning the tax implications of receiving the rebate.

b. The disclosure and notice required pursuant to subsection a. of this section shall be clearly and conspicuously displayed in the advertisement and the size of the text in the notice and disclosure shall be equal to or larger than the size of the text used for the advertisement.

C.45:15-16c Regulations.

4. The New Jersey Real Estate Commission may promulgate regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the provisions of this act.

5. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 274

AN ACT providing for a permanent tribute to the New Jersey residents serving in the United States Armed Forces, their reserve components and the New Jersey National Guard, and supplementing Title 38A of the New Jersey Statutes .

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

C.38A:2-7 Findings, declarations relative to a permanent tribute to residents serving in the armed forces.

1. The Legislature finds and declares that:

a. There are many men and women of this State who bravely serve this Nation and State in the United States Armed Forces, the reserve components and the New Jersey National Guard; and

b. These brave men and women are true patriots who gallantly protect America from potential enemies to ensure our freedom and our way of life; and

c. Although there are memorials to those who have given their lives in the service of our country, there does not exist a proper tribute to those on active service in the United States Armed Forces, the reserve components and the New Jersey National Guard; and

d. It is fitting and proper that this State honor those actively serving by providing a tribute to them.

C.38A:2-8 Patriots Corner established.

2. There shall be established a permanent tribute to the men and women who are actively serving in the United States Armed Forces, the reserve components and the New Jersey National Guard. The tribute shall be called the Patriots Corner. The State House Commission shall establish a prominent location for the tribute within the State House, the type of tribute and design, as well as what specific information is to be displayed. The displayed information may include a photograph and biography of each service member. The State House Commission shall also be responsible for obtaining the information needed for the tribute and maintaining the site.

C.38A:2-9 Patriots Corner Tribute Fund.

3. There is created in the Department of the Treasury a special, nonlapsing fund to be known as the Patriots Corner Tribute Fund. There shall be deposited into the fund the amounts made available for the purposes of the fund and monetary donations that may be received from any source for the purposes of the fund and any interest earned thereon. Monies deposited in the fund shall be dedicated for the support and funding of the establishment and maintenance of the Patriots Corner and projects concerned with the Patriots Corner.

4. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 275

AN ACT concerning the operation of snowmobiles, all-terrain vehicles, and dirt bikes, establishing new penalties for the operation of certain vehicles and off-road vehicles, amending and supplementing P.L.1973, c.307, amending and supplementing P.L.1983, c.324, and amending P.L.1954, c.38.

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

1. Section 1 of P.L.1973, c.307 (C.39:3C-1) is amended to read as follows:

C.39:3C-1 Definitions.

1. As used in this act:

"All-terrain vehicle" means a motor vehicle, designed and manufactured for off-road use only, of a type possessing between three and six rubber tires and powered by a gasoline engine not exceeding 600 cubic centimeters, but shall not include golf carts or any all-terrain vehicle operated by an employee or agent of the State of New Jersey and used while in the performance of the employee's or agent's official duties.

"Chief administrator" means the Chief Administrator of the New Jersey Motor Vehicle Commission.

"Commission" means the New Jersey Motor Vehicle Commission established by section 4 of P.L.2003, c.13 (C.39:2A-4).

"Commissioner" means the Commissioner of Environmental Protection.

"Department" means the Department of Environmental Protection.

"Dirt bike" means any two-wheeled motorcycle that is designed and manufactured for off-road use only and that does not comply with Federal Motor Vehicle Safety Standards or United States Environmental Protection Agency on-road emissions standards.

"Natural resource" means all land, fish, shellfish, wildlife, biota, air, waters, and other such resources owned, managed, held in trust, or otherwise controlled by the State.

"Public land" means all land owned, operated, managed, maintained, or under the jurisdiction of the Department of Environmental Protection, including any and all land owned, operated, managed, maintained, or purchased jointly by the Department of Environmental Protection with any other party and any land so designated by municipal or county ordinance. Public land shall also mean any land used for conservation purposes, including, but not limited to, beaches, forests, greenways, natural areas, water resources, wildlife preserves, land used for watershed protection, or biological or ecological studies, and land exempted from taxation pursuant to section 2 of P.L.1974, c.167 (C.54:4-3.64).

"Snowmobile" means any motor vehicle, designed primarily to travel over ice or snow, of a type which uses sled type runners, skis, an endless belt tread, cleats or any combination of these or other similar means of contact with the surface upon which it is operated, but does not include any farm tractor, highway or other construction equipment, or any military vehicle.

"Special event" means an organized race, exhibition, or demonstration of limited duration which is conducted according to a prearranged schedule and in which general public interest is manifested.

2. Section 2 of P.L.1973, c.307 (C.39:3C-2) is amended to read as follows:

C.39:3C-2 Jurisdiction divided.

2. For the purpose of carrying out the provisions of P.L.1973, c.307 (C.39:3C-1 et seq.):

a. The chief administrator shall have the power, duty, and authority to administer and enforce all statutes, rules, and regulations, except as otherwise provided by statute, relating to the operation and use of snowmobiles, all-terrain vehicles, and dirt bikes on or across a public highway or on public lands or waters, including but not limited to the following:

(1) Registration, identification, numbering, and classification;

(2) Equipment;

(3) Standards of safety;

(4) (Deleted by amendment, P.L.2009, c.275); and

(5) Promulgation of rules and regulations to effectuate the purposes of P.L.1973, c.307 (C.39:3C-1 et seq.).

b. The Commissioner of Environmental Protection shall have the power, duty, and authority to administer and enforce all other statutes, permits, rules, and regulations relating to snowmobiles, all-terrain vehicles, and dirt bikes on the public lands and waters under the jurisdiction of the Department of Environmental Protection such that:

(1) snowmobiles, all-terrain vehicles, and dirt bikes shall be operated only on highways and roads designated and marked for such operation, unless specifically authorized by the commissioner; and

(2) snowmobiles, all-terrain vehicles, and dirt bikes shall be operated only in areas designated and marked for such operation and only with a special use permit issued by the Department of Environmental Protection.

3. Section 3 of P.L.1973, c.307 (C.39:3C-3) is amended to read as follows:

C.39:3C-3 Registration required; fees.

3. Except as otherwise provided, no snowmobile, all-terrain vehicle, or dirt bike shall be operated or permitted to be operated on or across a public highway or on public lands or waters of this State unless registered and numbered by the owner thereof as provided by P.L.1973, c.307 (C.39:3C-1 et seq.). The chief administrator is authorized to register and assign a number to snowmobiles, all-terrain vehicles, and dirt bikes upon application and payment of the appropriate fee in accordance with the following schedule:

a. For each individual resident snowmobile registration, all-terrain vehicle registration, and dirt bike registration, $50, for a period not to exceed 24 months, in accordance with the provisions of section 29 of P.L.1973, c.307 (C.39:3C-29).

b. For each individual nonresident snowmobile registration, all-terrain vehicle registration, and dirt bike registration, $50, for a period not to exceed 24 months, in accordance with the provisions of section 29 of P.L.1973, c.307 (C.39:3C-29).

c. For replacement of a lost, mutilated, or destroyed certificate, $5.

d. For a duplicate registration, $5 at the time of issuance.

e. For an amended registration, $5.

f. In addition to the registration fees imposed pursuant to this section, the chief administrator shall impose and collect an additional fee of $10 to be deposited in the "Off-Road Vehicle Recreational Fund" created by section 31 of P.L.2009, c.275 (C.39:3C-3.1).

All registrations shall be valid for a period not to exceed 24 months from the date on which the registration was issued, except that the chief administrator may suspend or revoke such registration for any violations of P.L.1973, c.307 (C.39:3C-1 et seq.) or of the rules promulgated hereunder.

4. Section 4 of P.L.1973, c.307 (C.39:3C-4) is amended to read as follows:

C.39:3C-4 Permanent registration number.

4. Once a registration number is assigned, it shall remain with the registered snowmobile, all-terrain vehicle, or dirt bike until the snowmobile, all-terrain vehicle, or dirt bike is destroyed, abandoned or permanently removed from the State, or until changed or terminated by the chief administrator.

5. Section 5 of P.L.1973, c.307 (C.39:3C-5) is amended to read as follows:

C.39:3C-5 Registration required; transfer of ownership.

5. The owner of a snowmobile, all-terrain vehicle, or dirt bike required to be registered and numbered in this State shall do so with the commission no later than six months after the effective date of P.L.2009, c.275 (C.39:3C-3.1 et al.).

Every person in the business of selling a snowmobile, all-terrain vehicle, or dirt bike shall require proof that the vehicle is properly registered with the New Jersey Motor Vehicle Commission, pursuant to section 3 of P.L.1973, c.307 (C.39:3C-3), before transferring actual physical possession of the snowmobile, all-terrain vehicle, or dirt bike to a purchaser of the vehicle.

If there is a change of ownership for which a registration certificate has been previously issued, the new owner shall apply for a new registration certificate and set forth the original number in the application. The owner shall demonstrate to the commission a notarized bill of sale, assignable certificate of origin, or other formal proof of ownership deemed acceptable by the commission when transferring ownership or selling a snowmobile, all-terrain vehicle, or dirt bike. The owner shall pay the regular fee for the particular snowmobile, all-terrain vehicle, or dirt bike involved. The owner of

any registration certificate issued under this section may obtain a duplicate from the commission upon application and payment of the fee prescribed.

6. Section 6 of P.L.1973, c.307 (C.39:3C-6) is amended to read as follows:

C.39:3C-6 Farms, government exemptions.

6. a. Any snowmobile, all-terrain vehicle, or dirt bike solely operated for use on a farm shall be exempt from the registration and numbering requirements of P.L.1973, c.307 (C.39:3C-1 et seq.).

b. No registration fee shall be charged for a snowmobile, all-terrain vehicle, or dirt bike owned by the federal government, the State, county or municipal government or subdivision thereof.

7. Section 7 of P.L.1973, c.307 (C.39:3C-7) is amended to read as follows:

C.39:3C-7 Reciprocity.

7. The registration provisions of P.L.1973, c.307 (C.39:3C-1 et seq.) shall not apply to nonresident owners who have complied with the registration and licensing laws of the state or country of residence, provided that the snowmobile, all-terrain vehicle, or dirt bike is appropriately identified in accordance with the laws of the state or country of residence and conspicuously displays the number issued by the state or country of residence. Nothing in this section shall be construed to authorize the operation of any snowmobile, all-terrain vehicle, or dirt bike contrary to the provisions of P.L.1973, c.307 (C.39:3C-1 et seq.).

8. Section 8 of P.L.1973, c.307 (C.39:3C-8) is amended to read as follows:

C.39:3C-8 Display of registration number.

8. The number assigned to a snowmobile, all-terrain vehicle, or dirt bike and required to be displayed pursuant to section 3 of P.L.1973, c.307 (C.39:3C-3) shall be displayed on the snowmobile, all-terrain vehicle, or dirt bike at all times in such manner as the chief administrator may, by regulation, prescribe. No number other than the number assigned by the chief administrator, or a comparable identification number of the snowmobile, all-terrain vehicle, or dirt bike properly registered in another state, shall be painted, attached, or otherwise displayed on either side of the cowling, except that racing numbers on a snowmobile, all-terrain vehicle, or dirt

bike being operated in prearranged organized special events may be temporarily displayed for the duration of the race.

9. Section 9 of P.L.1973, c.307 (C.39:3C-9) is amended to read as follows:

C.39:3C-9 Production of certificate.

9. a. Every person operating a snowmobile, all-terrain vehicle, or dirt bike registered or transferred in accordance with any of the provisions of P.L.1973, c.307 (C.39:3C-1 et seq.) shall, upon demand of any law enforcement officer, duly authorized conservation officer of the Division of Fish and Wildlife or park police officer or law enforcement operation officer of the Division of Parks and Forestry within the Department of Environmental Protection, or any other police officer, produce for inspection the certificate of registration and shall furnish to the officer any information necessary for the identification of the snowmobile, all-terrain vehicle, or dirt bike and its owner. The failure to produce the certificate of registration when operating a snowmobile, all-terrain vehicle, or dirt bike on public lands and waters, or when crossing a public highway, shall be presumptive evidence in any court of competent jurisdiction of operating a snowmobile, all-terrain vehicle, or dirt bike which is not registered as required by P.L.1973, c.307 (C.39:3C-1 et seq.).

b. A person less than 18 years of age who operates a snowmobile, all-terrain vehicle, or a dirt bike which is registered in this State shall produce upon demand a certificate indicating that person's successful completion of a safety education and training course established or certified by the commissioner in accordance with section 15 of P.L.1973, c.307 (C.39:3C-15). The failure to produce the certificate when operating a snowmobile, all-terrain vehicle, or dirt bike on public lands or waters, or when crossing a public highway, shall be presumptive evidence in any court of competent jurisdiction of the operation of the snowmobile, all-terrain vehicle, or dirt bike in violation of the requirement in subsection c. of section 16 of P.L.1973, c.307 (C.39:3C-16).

10. Section 10 of P.L.1973, c.307 (C.39:3C-10) is amended to read as follows:

C.39:3C-10 Change of address, public awareness campaign.

10. a. It shall be the duty of every owner holding a certificate of registration to notify the commission, in writing, of any change of residence of such person within one week after the change occurs.

b. The chief administrator shall establish a public awareness campaign to inform the general public about the importance of maintaining a current address with the commission.

11. Section 11 of P.L.1973, c.307 (C.39:3C-11) is amended to read as follows:

C.39:3C-11 Transfer of ownership.

11. In accordance with the provisions of P.L.1973, c.307 (C.39:3C-1 et seq.), whenever there is a change of ownership for which a registration certificate has previously been issued, the new owner shall apply for a new certificate. The new owner shall set forth the original number issued in the application accompanied by the old registration, if available, and with the required fee submitted to the commission, for registration. The new owner shall demonstrate to the commission a notarized bill of sale, assignable certificate of origin, or other formal proof of ownership deemed acceptable by the commission when transferring ownership or selling a snowmobile, all-terrain vehicle, or dirt bike.

12. Section 12 of P.L.1973, c.307 (C.39:3C-12) is amended to read as follows:

C.39:3C-12 Notification of destruction, theft, permanent removal.

12. It shall be the duty of every owner of a snowmobile, all-terrain vehicle, or dirt bike registered pursuant to P.L.1973, c.307 (C.39:3C-1 et seq.) to notify the commission, in writing, of the destruction, theft, or permanent removal of the snowmobile, all-terrain vehicle, or dirt bike from the State, to surrender the certificate of registration within 10 days in the event of the destruction, theft, or permanent removal of the snowmobile, all-terrain vehicle, or dirt bike from the State.

13. Section 13 of P.L.1973, c.307 (C.39:3C-13) is amended to read as follows:

C.39:3C-13 Permit for park use.

13. No political subdivision of the State shall require additional licensing or registration of snowmobiles, all-terrain vehicles, or dirt bikes which are covered by the provisions of P.L.1973, c.307 (C.39:3C-1 et seq.).

Nothing herein shall prohibit the requirement of a permit by State or local parks for use of snowmobiles, all-terrain vehicles, or dirt bikes on park lands or in any way affect the authority of the Department of Environmental Protection, the commissioner thereof, or those responsible for

the operation of a park from adopting rules and regulations concerning the use of snowmobiles, all-terrain vehicles, and dirt bikes.

14. Section 14 of P.L.1973, c.307 (C.39:3C-14) is amended to read as follows:

C.39:3C-14 Environmental regulations.

14. The commissioner, with a view towards minimizing detrimental effects on the environment and protecting public safety, shall adopt rules and regulations relating to and including, but not limited to, the following:

a. Use of snowmobiles, all-terrain vehicles, and dirt bikes, insofar as fish, wildlife, and plantlife resources, and public safety are affected;

b. Use of snowmobiles, all-terrain vehicles, and dirt bikes on public lands and waters under the jurisdiction of the Department of Environmental Protection; and

c. Use of snowmobiles, all-terrain vehicles, and dirt bikes at three sites on State-owned land pursuant to section 38 of P.L.2009, c.275 (C.13:1L-5.1).

The commissioner may locate, designate, and make available by the effective date of P.L.1991, c.322 appropriate areas of public lands upon which snowmobile, all-terrain vehicle, and dirt bike safety education and training programs established or certified by the commissioner in accordance with section 15 of P.L.1973, c.307 (C.39:3C-15) may be conducted. The commissioner shall report to the Legislature and the Governor within one year after the effective date of P.L.1991, c.322 on the size and location of the public lands located, designated, and made available; on the frequency of the use, or the estimated frequency of use, of these public lands for safety education and training programs; and the environmental impact of this use on the lands.

15. Section 15 of P.L.1973, c.307 (C.39:3C-15) is amended to read as follows:

C.39:3C-15 Commissioner's rules, regulations.

15. The commissioner may adopt rules and regulations relating to and including, but not limited to:

a. (Deleted by amendment, P.L.2009, c.275).

b. Establishment of a comprehensive snowmobile, all-terrain vehicle, and dirt bike information and safety education and training program.

c. Granting of permits for the conduct of all prearranged special events as provided in P.L.1973, c.307 (C.39:3C-1 et seq.), including those

permits necessary for special events conducted on public lands and waters under the jurisdiction of the Department of Environmental Protection.

In accordance with the requirement in subsection b. of this section, the commissioner shall certify snowmobile, all-terrain vehicle, and dirt bike safety education and training programs to be offered by public or private agencies or organizations, the successful completion of which shall satisfy the training requirements in subsection c. of section 16 of P.L.1973, c.307 (C.39:3C-16). A person less than 16 years of age participating in an all-terrain vehicle safety education and training course established or certified by the commissioner shall operate during the training only an all-terrain vehicle with an engine capacity of 90 cubic centimeters or less.

16. Section 16 of P.L.1973, c.307 (C.39:3C-16) is amended to read as follows:

C.39:3C-16 Age requirements.

16. a. A person under the age of 14 years shall not operate or be permitted to operate any snowmobile, all-terrain vehicle, or dirt bike on public lands or waters or across a public highway.

b. A person less than 16 years of age shall not operate on public lands or waters or across a public highway of this State an all-terrain vehicle with an engine capacity greater than 90 cubic centimeters.

c. A person less than 18 years of age shall not operate a snowmobile, all-terrain vehicle, or dirt bike registered in this State on public lands or waters or across a public highway of this State unless the person has completed a safety education and training course established or certified by the commissioner pursuant to section 15 of P.L.1973, c.307 (C.39:3C-15). At all times during the operation of the snowmobile, all-terrain vehicle, or dirt bike the person shall possess a certificate indicating successful completion of the course.

17. Section 17 of P.L.1973, c.307 (C.39:3C-17) is amended to read as follows:

C.39:3C-17 Operational limitations.

17. a. No person shall operate a snowmobile, all-terrain vehicle, or dirt bike upon limited access highways or within the right-of-way limits thereof.

b. No person shall operate a snowmobile, all-terrain vehicle, or dirt bike upon the main traveled portion or the plowed snowbanks of any public street or highway or within the right-of-way limits thereof except as follows:

(1) Properly registered snowmobiles, all-terrain vehicles, and dirt bikes may cross, as directly as possible, public streets or highways, except limited access highways, provided that such crossing can be made in safety and that it does not interfere with the free movement of vehicular traffic approaching from either direction on the public street or highway. Prior to making any such crossing, the operator shall bring the snowmobile, all-terrain vehicle, or dirt bike to a complete stop. It shall be the responsibility of the operator of a snowmobile, all-terrain vehicle, or dirt bike to yield the right-of-way to all vehicular traffic upon any public street or highway before crossing the public street or highway.

(2) Whenever it is impracticable to gain immediate access to an area adjacent to a public highway where a snowmobile, all-terrain vehicle, or dirt bike is to be operated, the snowmobile, all-terrain vehicle, or dirt bike may be operated adjacent and parallel to the public highway for the purpose of gaining access to the area of operation. This subsection shall apply to the operation of a snowmobile, all-terrain vehicle, or dirt bike from the point where the snowmobile, all-terrain vehicle, or dirt bike is unloaded from a motorized conveyance to the area where it is to be operated, or from the area where operated to a motorized conveyance, when the loading or unloading cannot be effected in the immediate vicinity of the area of operation without causing a hazard to vehicular traffic approaching from either direction on the public highway. The loading or unloading must be accomplished with due regard to safety, at the nearest possible point to the area of operation.

18. Section 18 of P.L.1973, c.307 (C.39:3C-18) is amended to read as follows:

C.39:3C-18 Operation on property of others; limitations of liability.

18. a. No person shall operate a snowmobile, all-terrain vehicle, or dirt bike on the property of another without receiving the consent of the owner of the property and the person who has a contractual right to the use of the property.

b. No person shall continue to operate a snowmobile, all-terrain vehicle, or dirt bike on the property of another after consent, as provided in subsection a. above, has been withdrawn.

c. No owner of real property and no person or entity having a contractual right to the use of real property, no matter where the property is situate in this State, shall assume responsibility or incur liability for any injury or damage to an owner, operator, or occupant of a snowmobile, all terrain vehicle, or dirt bike if the injury or damage occurs during, or arises out of the

operation or use of, the snowmobile, all-terrain vehicle, or dirt bike unless: (1) the operation or use is with the express consent of the owner and contractual user of the property, and (2) the provisions of P.L.1968, c.73 (C.2A:42A-2 et seq.) or P.L.1985, c.431 (C.2A:42A-6 et seq.) do not limit liability. This subsection shall not limit the liability which would otherwise exist for the willful or malicious creation of a hazardous condition.

19. Section 19 of P.L.1973, c.307 (C.39:3C-19) is amended to read as follows:

C.39:3C-19 Unlawful activities.

19. It shall be unlawful for:

a. Any person to operate or ride as a passenger on any snowmobile, all-terrain vehicle, or dirt bike without wearing a protective helmet approved by the chief administrator. Any helmet shall be of a type acceptable for use in conjunction with motorcycles as provided in sections 6 to 9 of P.L.1967, c.237 (C.39:3-76.7 through 39:3-76.10).

b. Any person to operate a snowmobile, all-terrain vehicle, or dirt bike that is not equipped with working headlights, taillights, brakes, and proper mufflers as supplied by the motor manufacturer for the particular model, without modifications, nor shall any person operate any snowmobile, all-terrain vehicle, or dirt bike in any manner as to cause a harsh, objectionable, or unreasonable noise.

c. Any person to operate a snowmobile, all-terrain vehicle, or dirt bike at any time and in any manner intended or reasonably to be expected to harass, drive, or pursue any wildlife.

d. Any person to operate any snowmobile, all-terrain vehicle, or dirt bike during the hours from 1/2 hour before sunset to 1/2 hour after sunrise without having lighted headlights and lighted taillights.

e. Any person to operate any snowmobile, all-terrain vehicle, or dirt bike on the land of another without first securing the permission of the landowner or the landowner's duly authorized representative.

f. Any person to operate a snowmobile, all-terrain vehicle, or dirt bike upon railroad or right-of-way of an operating railroad, except railroad personnel in the performance of their duties.

g. Any person to violate any provision of P.L.1973, c.307 (C.39:3C-1 et seq.) or any rule or regulation adopted pursuant to P.L.1973, c.307 (C.39:3C-1 et seq.).

20. Section 20 of P.L.1973, c.307 (C.39:3C-20) is amended to read as follows:

C.39:3C-20 Mandatory insurance.

20. a. No snowmobile, all-terrain vehicle, or dirt bike shall be operated or permitted to be operated unless the owner thereof has obtained a policy of insurance, in such language and form as shall be determined by the Commissioner of Banking and Insurance, from an insurance carrier authorized to do business in this State, the terms of which policy shall indemnify an amount or limit of $15,000, exclusive of interest and costs, on account of injury to, or death of, one person, in any one accident; and an amount or limit, subject to such limit for any one person so injured, or killed, of $30,000, exclusive of interest and costs, on account of injury to or death of, more than one person, in any one accident; and an amount or limit of $5,000, exclusive of interest and costs, for damage to property in any one accident, for damages arising out of the negligent operation of the snowmobile, all-terrain vehicle, or dirt bike. In lieu of the insurance coverage as hereinabove provided, the chief administrator, in the chief administrator's discretion and upon application of the State or a municipality having registered in its name one or more snowmobiles, all-terrain vehicles, or dirt bikes, may waive the requirement of insurance by a private insurance carrier and issue a certificate of self-insurance, when the chief administrator is satisfied of financial ability to respond to judgments obtained against it or them, arising out of the ownership, use or operation of the snowmobiles, all-terrain vehicles, or dirt bikes.

b. Proof of insurance as hereinabove required shall be produced and displayed by the owner or operator of the snowmobile, all-terrain vehicle, or dirt bike upon request to any law enforcement officer or to any person who has suffered or claims to have suffered either personal injury or property damage as a result of the operation of the snowmobile, all-terrain vehicle, or dirt bike by the owner or operator.

c. An owner of a snowmobile, all-terrain vehicle, or dirt bike who shall operate or permit the snowmobile, all-terrain vehicle, or dirt bike to be operated without having in effect the required liability insurance coverage, and any other person who shall operate any snowmobile, all-terrain vehicle, or dirt bike with the knowledge that the owner thereof does not have in effect the insurance coverage shall be guilty of a violation of P.L.1973, c.307 (C.39:3C-1 et seq.) and be subject to a fine of not less than $25 nor more than $100.

d. The chief administrator is hereby authorized to promulgate reasonable regulations to provide effective administration and enforcement of the provisions of this section in accordance with the purposes thereof.

21. Section 21 of P.L.1973, c.307 (C.39:3C-21) is amended to read as follows:

C.39:3C-21 Post-accident procedures.

21. The operator of any snowmobile, all-terrain vehicle, or dirt bike involved in an accident resulting in injuries or death of any person or property damage shall comply with the procedures in R.S.39:4-129 and R.S.39:4-130.

22. Section 22 of P.L.1973, c.307 (C.39:3C-22) is amended to read as follows:

C.39:3C-22 Special events.

22. The commissioner may authorize the holding of organized special events. The commissioner shall adopt and may, from time to time, amend rules and regulations determining the special events which shall be subject to a permit and designating the equipment and facilities necessary for safe operation of snowmobiles, all-terrain vehicles, and dirt bikes and for the safety of operators, participants, and observers in such special events. Whenever a special event requiring authorization of the department is proposed to be held in the State of New Jersey, the person in charge thereof shall, at least 90 days prior thereto, file an application with the commissioner to hold the special event. The application shall set forth the date of and location where it is proposed to hold the rally, race, exhibition, or organized event, and any other information as the commissioner may require, and it shall not be conducted without written authorization of the commissioner. Copies of such regulations shall be furnished by the commissioner to any person making an application therefor.

Any person sponsoring the event who shall violate any regulation adopted pursuant to this section shall for every violation be subject to a fine not to exceed $250.

23. Section 23 of P.L.1973, c.307 (C.39:3C-23) is amended to read as follows:

C.39:3C-23 Limited exemptions.

23. Snowmobiles, all-terrain vehicles, and dirt bikes operated at special events shall be exempt from the provisions of this chapter concerning registration and lights during the time of operation of the special event, including all prerace practice at the location of the meet. In addition, snowmobiles, all-terrain vehicles, and dirt bikes operated at special events shall

be exempt from the provisions of subsection c. of section 16 of P.L.1973, c.307 (C.39:3C-16) and subsection b. of section 9 of P.L.1973, c.307 (C.39:3C-9); however, subsection b. of section 16 of P.L.1973, c.307 (C.39:3C-16) shall apply to persons operating snowmobiles, all-terrain vehicles, and dirt bikes at special events and prerace practice.

24. Section 24 of P.L.1973, c.307 (C.39:3C-24) is amended to read as follows:

C.39:3C-24 Mandatory equipment.

24. All snowmobiles, all-terrain vehicles, and dirt bikes operating within the State of New Jersey shall be equipped with:

a. Headlights. At least one white or amber headlamp having a minimum candlepower of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during hours of darkness under normal atmospheric conditions.

b. Taillights. At least one red taillamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during hours of darkness under normal atmospheric conditions.

c. Brakes. A brake system in good mechanical condition.

d. Reflector material. Reflector material of a minimum area of 16 square inches mounted on each side of the cowling. Registration numbers or other decorative material may be included in computing the required 16-square-inch area.

e. Mufflers. An adequate muffler system in good working condition.

25. Section 25 of P.L.1973, c.307 (C.39:3C-25) is amended to read as follows:

C.39:3C-25 Inspection and testing.

25. The chief administrator may adopt rules and regulations with respect to the inspection of snowmobiles, all-terrain vehicles, and dirt bikes and the testing of mufflers for those vehicles.

26. Section 26 of P.L.1973, c.307 (C.39:3C-26) is amended to read as follows:

C.39:3C-26 Restrictions on sales.

26. a. No person shall have for sale, sell, or offer for sale in this State any snowmobile, all-terrain vehicle, or dirt bike which fails to comply with the provisions of P.L.1973, c.307 (C.39:3C-1 et seq.) or which does not comply

with the specifications for the equipment required by the rules and regulations of the commission, after the effective date of such rules and regulations.

b. A person shall not knowingly sell or offer to sell an all-terrain vehicle with an engine capacity of greater than 90 cubic centimeters for use by a person less than 16 years of age.

c. Retail dealers and distributors of all-terrain vehicles shall comply with those requirements of the consent decree entered into by all-terrain vehicle distributors and the United States Consumer Product Safety Commission on April 28, 1988 which require the providing of safety information on all-terrain vehicles to either the purchasers or retail dealers of all-terrain vehicles, as appropriate.

27. Section 27 of P.L.1973, c.307 (C.39:3C-27) is amended to read as follows:

C.39:3C-27 Law enforcement officers; duties.

27. Every law enforcement officer in the State, including any authorized officer of the commission, conservation officers of the Division of Fish and Wildlife, and park police officers and law enforcement operation officers of the Division of Parks and Forestry within the Department of Environmental Protection, and other designated officers and employees of the department shall enforce P.L.1973, c.307 (C.39:3C-1 et seq.) within their respective jurisdictions.

28. Section 28 of P.L.1973, c.307 (C.39:3C-28) is amended to read as follows:

C.39:3C-28 Violations, penalties.

28. Any person who shall violate any provision of P.L.1973, c.307 (C.39:3C-1 et seq.), if no other penalty is specifically provided, or any rule or regulation promulgated pursuant to P.L.1973, c.307 (C.39:3C-1 et seq.) shall be punished by a fine of not less than $250 nor more than $500. For a second or subsequent violation of section 26 of P.L.1973, c.307 (C.39:3C-26), a fine of not less than $500 nor more than $1,000 shall be imposed.

29. Section 29 of P.L.1973, c.307 (C.39:3C-29) is amended to read as follows:

C.39:3C-29 Deposit of moneys.

29. The chief administrator shall deposit in the "Off-Road Vehicle Recreational Fund," established pursuant to section 31 of P.L.2009, c.275 (C.39:3C-3.1) all moneys received by the chief administrator from the addi-

tional $10 payment required to be made at the time of registration of snowmobiles, all-terrain vehicles, and dirt bikes in accordance with subsection f. of section 3 of P.L.1973, c.307 (C.39:3C-3).

30. Section 30 of P.L.1973, c.307 (C.39:3C-30) is amended to read as follows:

C.39:3C-30 Chapter 4 provisions applicable.

30. Owners and operators of snowmobiles, all-terrain vehicles, and dirt bikes shall, when operating such across a public highway or on public land or waters, comply with the following provisions of chapter 4 of Title 39 of the Revised Statutes: R.S.39:4-48 through R.S.39:4-51; R.S.39:4-64; R.S.39:4-72; R.S.39:4-80; R.S.39:4-81; R.S.39:4-92; R.S.39:4-96 through R.S.39:4-98; R.S.39:4-99; R.S.39:4-100; R.S.39:4-104; R.S.39:4-129 through R.S.39:4-134; R.S.39:4-203.

C.39:3C-3.1 "Off-Road Vehicle Recreational Fund."

31. a. There is established in the General Fund a separate, non-lapsing, dedicated account to be known as the "Off-Road Vehicle Recreational Fund," hereinafter referred to as "the fund." Notwithstanding any provision of law to the contrary, each fiscal year the State Treasurer shall credit the revenue collected pursuant to subsection f. of section 3 of P.L.1973, c.307 (C.39:3C-3) into the fund. Each fiscal year, the State Treasurer shall allocate the monies contained in the fund to the Department of Environmental Protection. Each fiscal year, the State Treasurer shall credit all earnings received from the investment or deposit of revenue in the fund, to the fund. All revenues and earnings deposited in the fund shall be appropriated in the same fiscal year to the department.

b. The monies credited to the fund shall be used by the Department of Environmental Protection for designating and maintaining sites in the State for the use of snowmobiles, all-terrain vehicles, and dirt bikes; sites shall be designated and shall be maintained in a manner that, to the greatest possible extent, mitigates any detrimental effects on the environment and protects public safety.

C.39:3C-32 Definitions.

32. As used in sections 33 and 34 of P.L.2009, c.275 (C.39:3C-33 and C.39:3C-34):

"Off-road vehicle" means any motorized vehicle with two or more wheels or tracks that is capable of being operated off of regularly improved and maintained roads including, but not limited to, motorcycles as defined

in R.S.39:1-1, snowmobiles and all-terrain vehicles, and dirt bikes as defined in section 5 of P.L.1991, c.496 (C.2A:42A-6.1).

"Public land" means all land owned, operated, managed, or maintained, or under the jurisdiction of the Department of Environmental Protection, including any and all land owned, operated, managed, maintained, or purchased jointly by the Department of Environmental Protection with any other party and any land so designated by municipal or county ordinance. Public land shall also mean any land used for conservation purposes, including, but not limited to, beaches, forests, greenways, natural areas, water resources, wildlife preserves, land used for watershed protection, or biological or ecological studies, and land exempted from taxation pursuant to section 2 of P.L.1974, c.167 (C.54:4-3.64).

"Vehicle" means every device in, upon or by which a person or property is or may be transported upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks or motorized bicycles.

C.39:3C-33 Violations, penalties.

33. Any person who operates any vehicle or off-road vehicle on public lands in violation of P.L.1973, c.307 (C:39:3C-1 et seq.) or in violation of any law, rule, or regulation adopted pursuant thereto shall be subject to:

a. For a first offense, a fine of not less than $250 nor more than $500.

b. For a second offense, a fine of not less than $500 nor more than $1,000.

c. For a third or subsequent offense, a fine of not less than $1,000.

d. For any offense on public lands in which the use of a vehicle is found responsible for damage to or destruction of natural resources valued in excess of $100, a fine of five times the amount, as determined by the Department of Environmental Protection, of restoration and replacement, where possible, of any natural resource damaged or destroyed by the use of the vehicle. If a person at the time of the imposition of the sentence is less than 17 years of age, the owner of the vehicle shall be liable for the fine of five times the amount, as determined by the Department of Environmental Protection, of restoration and replacement, where possible, of any natural resource damaged or destroyed by the use of the vehicle.

C.39:3C-34 Additional fines, impoundment.

34. a. In addition to the fines set forth in section 33 of P.L.2009, c.275 (C.39:3C-33), any vehicle or off-road vehicle operated on public lands in violation of P.L.1973, c.307 (C.39:3C-1 et seq.), may be impounded by the

law enforcing agency and held until the payment of the fee required pursuant to subsection b. or c. of this section, as appropriate.

The prosecutor may waive the requirements of subsections b. and c. of this section for the owner of the vehicle or off-road vehicle if the owner is not a defendant in the case and did not know, or reasonably could not have known, that the vehicle or off-road vehicle would be used in violation of P.L.1973, c.307 (C.39:3C-1 et seq.), or any law, or rule or regulation adopted pursuant thereto, concerning the operation of vehicles or off-road vehicles on public lands.

b. (1) For a first offense, the vehicle or off-road vehicle may be impounded for not less than 48 hours and shall be released to the registered owner upon proof of registration and insurance as applicable to the type of vehicle or off-road vehicle and payment of a fee of $500 to the Department of Environmental Protection, plus reasonable towing and storage costs.

(2) For a second offense, the vehicle or off-road vehicle may be impounded for not less than 96 hours and shall be released to the registered owner upon proof of registration and insurance as applicable to the type of vehicle or off-road vehicle and payment of a fee of $750 to the Department of Environmental Protection, plus reasonable towing and storage costs.

(3) For a third or subsequent offense, the vehicle or off-road vehicle impounded may be forfeited and sold at auction and the registered owner shall be responsible for payment of a fee of $1,000 to the Department of Environmental Protection, plus reasonable towing and storage costs.

c. (1) If the owner fails to claim the impounded vehicle or off-road vehicle, and the fee required pursuant to subsection b. of this section has not been paid, by noon of the 30th day following the date of conviction, the vehicle or off-road vehicle may be sold at auction. Notice of the sale shall be given by the impounding entity by certified mail to the owner of the vehicle or off-road vehicle, if the owner's name and address are known, and to the holder of any security interest filed with the chief administrator of the New Jersey Motor Vehicle Commission, and by publication in a form prescribed by the chief administrator by one insertion, at least five days before the date of the sale, in one or more newspapers published in the State and circulating in the municipality in which the vehicle or off-road vehicle is impounded.

(2) At any time prior to the sale, the owner or other person entitled to the vehicle or off-road vehicle may reclaim possession upon (a) showing proof of registration and insurance as applicable to the vehicle or off-road vehicle, (b) payment of the required fee, (c) payment of reasonable towing and storage costs, and (d) payment of all outstanding fees and costs associated with the impoundment.

The owner-lessor of an impounded vehicle or off-road vehicle shall be entitled to reclaim possession and the lessee shall be liable for all outstanding fines and restitution and fees and costs associated with the impoundment, towing and storage of the vehicle or off-road vehicle.

d. Any proceeds obtained from the sale of a vehicle or off-road vehicle at public auction pursuant to subsection c. of this section in excess of the amount owed to the impounding entity for the reasonable costs of towing and storage and any fees or other costs associated with the impoundment of the vehicle or off-road vehicle shall be returned to the owner of that vehicle or off-road vehicle, if the owner's name and address are known. If the owner's name and address are unknown or such person or entity cannot be located, the net proceeds shall be administered in accordance with the "Uniform Unclaimed Property Act," R.S.46:30B-1 et seq.

e. (1) Whenever a vehicle or off-road vehicle is subject to forfeiture pursuant to paragraph (3) of subsection b. of this section, the forfeiture may be enforced by a civil action, instituted within 90 days of the impoundment and commenced by the State against the property sought to be forfeited. The complaint for forfeiture shall be verified on oath or affirmation. It shall describe with reasonable accuracy the vehicle or off-road vehicle that is subject to the forfeiture action. The complaint shall contain all allegations setting forth the reason for forfeiture.

(2) Notice of the action shall be given to any person known to have a property interest in the vehicle or off-road vehicle and the notice requirements of the Rules of Court for an in rem action shall be followed. The claimant of the vehicle or off-road vehicle that is subject to action under this subsection shall file and serve the claim in the form of an answer in accordance with the Rules of Court. The answer shall be verified on oath or affirmation and state the interest in the property by virtue of which the claimant demands its restitution and the right to defend the action. If the claim is made on behalf of the person entitled to possession by an agent or attorney, it shall state that the agent or attorney is duly authorized to make the claim. If no answer is filed and served within the applicable time, the property seized shall be disposed of pursuant to N.J.S.2C:64-6 and N.J.S.2C:64-7.

35. Section 3 of P.L.1983, c.324 (C.13:1L-3) is amended to read as follows:

C.13:1L-3 Definitions.

3. For the purposes of this act:

"All-terrain vehicle" means the same as the term is defined pursuant to section 1 of P.L.1973, c.307 (C.39:3C-1).

"Commissioner" means the Commissioner of Environmental Protection.

"Department" means the Department of Environmental Protection.

"Dirt bike" means any two-wheeled motorcycle that is designed and manufactured for off-road use only and that does not comply with Federal Motor Vehicle Safety Standards or United States Environmental Protection Agency on-road emissions standards.

"Forest resources" means those renewable products and reusable resources of all forest lands in the State, including but not limited to trees, timber, shrubs, and other vegetation, and the value of forest lands relating to recreation, wilderness appreciation, aesthetic appeal, and soil fertility.

"Green Acres program" means the program for the purchase of land for recreation and conservation 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.), any Green Acres bond act, and P.L.1999, c.152 (C.13:8C-1 et seq.).

"Recreational activities" includes, but is not limited to, fresh and salt water swimming, water skiing, boating and fishing, ice skating, snow skiing, camping, trail hiking, horseback riding, picnicking, bicycling, court and field games, track and field events, birdwatching, playground activities, and golf.

"Snowmobile" means the same as the term is defined pursuant to section 1 of P.L.1973, c.307 (C.39:3C-1).

"State parks and forests" means all State owned or leased lands, waters and facilities administered by the Department of Environmental Protection, including, but not limited to, parks, forests, recreational areas, marinas, historic sites, burial sites, and natural areas, but not including wildlife management areas or reservoir lands.

36. Section 23 of P.L.1983, c.324 (C.13:1L-23) is amended to read as follows:

C.13:1L-23 Injunctive relief; penalties.

23. a. If a person violates any provision of P.L.1983, c.324 (C.13:1L-1 et seq.), or any rule, regulation, or order adopted or issued pursuant thereto, the department may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent the violation and the court may proceed in a summary manner.

b. A person who knowingly violates, or who solicits or employs any other person to violate, the provisions of subsection a. of section 10 of

P.L.1983, c.324 (C.13:1L-10) shall be subject to the following penalties: a fine of not less than $750 nor more than $1,500 for the first offense; a fine of not less than $1,500 nor more than $3,000 for the second offense; and a fine of not less than $3,000 nor more than $5,000 for any subsequent offense.

Penalties assessed pursuant to this subsection shall be collected in a civil action by a summary proceeding. Any vessel, vehicle or equipment used in the commission of the violation shall be subject to confiscation and forfeiture to the State, if warranted, as determined by the courts. Further, in addition to any penalty provided pursuant to subsection a. of this section, restitution and damages may be ordered to compensate the State for the cost of remediating any violation of this section and for the value of any lost, damaged, or destroyed archaeological findings. All fines, restitution payments, and damages collected shall be remitted to the department to be used for the preservation, remediation or protection of State archaeological sites. Any archaeological findings obtained as a result of a violation of this section shall be subject to confiscation, forfeiture, and return to the State and, upon recovery, shall be deposited with the New Jersey State Museum.

c. Notwithstanding any provision of this section to the contrary, examination or retrieval of artifacts, or scientific research, conducted by a State department, agency, commission, authority or corporation otherwise required or permitted by federal or State law are exempt from the provisions of this section.

d. A person who violates any provision of P.L.1983, c.324 (C.13:1L-1 et seq.), or any rule, regulation, or order adopted or issued pursuant thereto, shall be liable to a civil penalty of not less than $50 nor more than $1,500, plus restitution if applicable, for each offense, except as otherwise provided under subsection b. of this section, 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, except that any violation involving any vehicle or off-road vehicle shall be subject to the provisions of sections 33 and 34 of P.L.2009, c.275 (C.39:3C-33 and C.39:3C-34). The Superior Court and municipal courts shall have jurisdiction to hear and determine violations of P.L.1983, c.324 (C.13:1L-1 et seq.). If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense. If the violation results in pecuniary gain to the violator, or the violator willfully or wantonly causes injury or damage to property, including but not limited to natural resources, the violator shall be liable to an additional civil penalty equal to three times the value of the pecuniary gain or injury or damage to property.

e. Penalties assessed pursuant to this section shall be in addition to any other civil or criminal penalties that may be applicable pursuant to law.

As used in subsection d., "vehicle" and "off-road vehicle" have the meanings prescribed for those respective terms in section 32 of P.L.2009, c.275 (C.39:3C-32).

37. Section 1 of P.L.1954, c.38 (C.23:7-9) is amended to read as follows:

C.23:7-9 Actions forbidden on property under State control; penalty.

1. a. With respect to or on property under the control of the Division of Fish and Wildlife, no person may:

(1) remove or disturb any vegetation, soil, water, minerals, or other property of the State;

(2) litter, dump, or discard refuse of any kind;

(3) cause injury or damage to any equipment, structure, building, or other property; or

(4) use such property contrary to rules or regulations established by the division.

b. (1) If a person violates any provision of subsection a. of this section, the division may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent the violation and the court may proceed in a summary manner.

(2) (a) A person who violates any provision of subsection a. of this section shall be liable to a civil penalty of not less than $50 nor more than $1,500, plus restitution if applicable, 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, except that any violation involving a vehicle or off-road vehicle shall be subject to the provisions of sections 33 and 34 of P.L.2009, c.275 (C.39:3C-33 and C.39:3C-34) and any fees or fines collected thereunder shall be subject to the provisions of R.S.23:10-3. The Superior Court and municipal courts shall have jurisdiction to hear and determine violations of subsection a. of this section. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense. If the violation results in pecuniary gain to the violator, or the violator willfully or wantonly causes injury or damage to property, including but not limited to natural resources, the violator shall be liable to an additional civil penalty equal to three times the value of the pecuniary gain or injury or damage to property.

As used in this subparagraph, "vehicle" and "off-road vehicle" shall have the meanings prescribed for those respective terms in section 32 of P.L.2009, c.275 (C.39:3C-32).

(b) In addition, for each subsequent violation, all license certificates required, and all privileges, to take or possess wildlife shall be suspended for a period of five years. A license certificate or privilege suspended pursuant to this subparagraph shall not be reinstated until the holder thereof has first completed, to the satisfaction of the Division of Fish and Wildlife, the approved remedial sportsmen education program established and conducted by the division pursuant to section 12 of P.L.1990, c.29 (C.23:3-22.3).

(3) Penalties assessed pursuant to this subsection shall be in addition to any other civil or criminal penalties that may be applicable pursuant to law.

C.13:1L-5.1 Duties of commissioner relative to designation of sites.

38. a. Within three years after the date of enactment of P.L.2009, c.275 (C.39:3C-3.1 et al.), the Commissioner of Environmental Protection shall:

(1) designate and make available three sites on State-owned land for the use of snowmobiles, all-terrain vehicles, and dirt bikes, one each in the northern, central, and southern part of the State; and

(2) adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations governing the use of the sites designated pursuant to paragraph (1) of this subsection. These rules and regulations shall seek to minimize any detrimental effects on the environment that may be caused by snowmobiles, all-terrain vehicles, and dirt bikes, and shall protect public safety.

b. In designating the sites for the use of snowmobiles, all-terrain vehicles, and dirt bikes pursuant to subsection a. of this section, the commissioner shall determine the most suitable location for the sites. The preferred location shall be on lands that are not State parks and forests, wildlife management areas, or reservoir lands. The commissioner shall consider: impacts to wildlife, biota, natural resources and forest resources, and water quality; the potential impacts on other authorized recreational activities that occur within State parks and forests, wildlife management areas, and reservoir lands; and public safety.

c. The sites designated pursuant to subsection a. of this section may be the same sites as the commissioner may designate pursuant to section 14 of P.L.1973, c.307 (C.39:3C-14).

d. If the commissioner is unable to designate and make available three sites for the use of snowmobiles, all-terrain vehicles, and dirt bikes pursuant to subsection a. of this section, the commissioner shall submit a report

to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature detailing the reasons why sites have not been designated.

39. If the commissioner has not made substantial progress in designating and making available three sites on State-owned land for the use of snowmobiles, all-terrain vehicles, and dirt bikes within three years of the date of enactment of P.L.2009, c.275 (C.39:3C-3.1 et al.), the increase in the fees established pursuant to section 3 of P.L.1973, c.307 (C.39:3C-3) shall expire on the first day of the fourth year and revert to the fee amounts established prior to the enactment of P.L.2009, c.275 (C.39:3C-3.1 et al.).

40. The chief administrator and the commissioner may promulgate 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 P.L.2009, c.275 (C.39:3C-3.1 et al.).

41. Sections 14, 35, 38, 40, and 41 of this act shall take effect immediately; sections 1 through 13, 15 through 34, 36, 37, and 39 shall take effect on the 1st day of the third month after the commissioner has designated the first of the three sites pursuant to paragraph (1) of subsection a. of section 38 of P.L.2009, c.275 (C.13:1L-5.1), but the commission and the department may take such anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved January 17, 2010.

CHAPTER 276

AN ACT concerning the abuse, neglect and exploitation of vulnerable adults and amending P.L.1993, c.249.

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

1. Section 2 of P.L.1993, c.249 (C.52:27D-407) is amended to read as follows:

C.52:27D-407 Definitions.

2. As used in this act:

"Abuse" means the willful infliction of physical pain, injury or mental anguish, unreasonable confinement, or the willful deprivation of services which are necessary to maintain a person's physical and mental health.

"Caretaker" means a person who has assumed the responsibility for the care of a vulnerable adult as a result of family relationship or who has assumed responsibility for the care of a vulnerable adult voluntarily, by contract, or by order of a court of competent jurisdiction, whether or not they reside together.

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

"Community setting" means a private residence or any noninstitutional setting in which a person may reside alone or with others, but shall not include residential health care facilities, rooming houses or boarding homes or any other facility or living arrangement subject to licensure by, operated by, or under contract with, a State department or agency.

"County adult protective services provider" means a county Board of Social Services or other public or nonprofit agency with experience as a New Jersey provider of protective services for adults, designated by the county and approved by the commissioner. The county adult protective services provider receives reports made pursuant to this act, maintains pertinent records and provides, arranges, or recommends protective services.

"County director" means the director of a county adult protective services provider.

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

"Emergency medical technician" means a person trained in basic life support services as defined in section 1 of P.L.1985, c.351 (C.26:2K-21) and who is certified by the Department of Health and Senior Services to provide that level of care.

"Exploitation" means the act or process of illegally or improperly using a person or his resources for another person's profit or advantage.

"Firefighter" means a paid or volunteer firefighter.

"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 New Jersey State Board of Pharmacy, 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 Psycho-

logical Examiners, the State Board of Social Work 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, the Certified Psychoanalysts Advisory Committee, and the State Board of Polysomnography. "Health care professional" also means a nurse aide or personal care assistant who is certified by the Department of Health and Senior Services.

"Neglect" means an act or failure to act by a vulnerable adult or his caretaker which results in the inadequate provision of care or services necessary to maintain the physical and mental health of the vulnerable adult, and which places the vulnerable adult in a situation which can result in serious injury or which is life-threatening.

"Protective services" means voluntary or court-ordered social, legal, financial, medical or psychiatric services necessary to safeguard a vulnerable adult's rights and resources, and to protect a vulnerable adult from abuse, neglect or exploitation. Protective services include, but are not limited to: evaluating the need for services, providing or arranging for appropriate services, obtaining financial benefits to which a person is entitled, and arranging for guardianship and other legal actions.

"Vulnerable adult" means a person 18 years of age or older who resides in a community setting and who, because of a physical or mental illness, disability or deficiency, lacks sufficient understanding or capacity to make, communicate, or carry out decisions concerning his well-being and is the subject of abuse, neglect or exploitation. A person shall not be deemed to be the subject of abuse, neglect or exploitation or in need of protective services for the sole reason that the person is being furnished nonmedical remedial treatment by spiritual means through prayer alone or in accordance with a recognized religious method of healing in lieu of medical treatment, and in accordance with the tenets and practices of the person's established religious tradition.

2. Section 4 of P.L.1993, c.249 (C.52:27D-409) is amended to read as follows:

C.52:27D-409 Report of suspected abuse, neglect, exploitation.

4. a. (1) A health care professional, law enforcement officer, firefighter, paramedic or emergency medical technician who has reasonable cause to believe that a vulnerable adult is the subject of abuse, neglect or exploitation shall report the information to the county adult protective services provider.

(2) Any other person who has reasonable cause to believe that a vulnerable adult is the subject of abuse, neglect or exploitation may report the information to the county adult protective services provider.

b. The report, if possible, shall contain the name and address of the vulnerable adult; the name and address of the caretaker, if any; the nature and possible extent of the vulnerable adult's injury or condition as a result of abuse, neglect or exploitation; and any other information that the person reporting believes may be helpful.

c. A person who reports information pursuant to this act, or provides information concerning the abuse of a vulnerable adult to the county adult protective services provider, or testifies at a grand jury, judicial or administrative proceeding resulting from the report, is immune from civil and criminal liability arising from the report, information, or testimony, unless the person acts in bad faith or with malicious purpose.

d. An employer or any other person shall not take any discriminatory or retaliatory action against an individual who reports abuse, neglect or exploitation pursuant to this act. An employer or any other person shall not discharge, demote or reduce the salary of an employee because the employee reported information in good faith pursuant to this act. A person who violates this subsection is liable for a fine of up to $1,000.

e. A county adult protective services provider and its employees are immune from criminal and civil liability when acting in the performance of their official duties, unless their conduct is outside the scope of their employment, or constitutes a crime, actual fraud, actual malice, or willful misconduct.

3. This act shall take effect on the 90th day following enactment.

Approved January 17, 2010.

CHAPTER 277

AN ACT concerning engine coolant or antifreeze, and supplementing Title 13 of the Revised Statutes.

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

C.13:1D-64 "Antifreeze" defined.

1. As used in this act:

"Antifreeze" means any substance intended for use as the cooling medium, or to be added to the cooling liquid, in the cooling system of internal combustion engines to prevent freezing of the cooling liquid or to lower its freezing point.

C.13:1D-65 Addition of bittering agent required.

2. a. Any engine coolant or antifreeze manufactured on or after January 1, 2011 and subsequently sold in this State, and that contains more than 10 percent ethylene glycol, shall include denatonium benzoate at a minimum of 30 parts per million and a maximum of 50 parts per million as an aversive or bittering agent within the product so as to render it unpalatable.

b. Any manufacturer or processor of engine coolant or antifreeze subject to this section shall maintain a record of the trade name, scientific name, and active ingredients of any bittering agent used pursuant to this section. Information and documentation maintained pursuant to this section shall be made available to a member of the public upon request.

C.13:1D-66 Immunity from liability.

3. A manufacturer, processor, seller, distributor, or recycler of engine coolant or antifreeze that is required pursuant to this act to include a bittering agent shall not be liable to any person for any personal injury, death, damage to property, damage to the environment or natural resources, or economic loss that results from the inclusion of the bittering agent in the engine coolant or antifreeze in the concentration required by this act unless the personal injury, death, damage to the property, damage to the environment or natural resources, or economic loss results from willful conduct of the manufacturer, processor, seller, distributor, or recycler of the engine coolant or antifreeze.

C.13:1D-67 Inapplicability.

4. The provisions of this act shall not apply to any of the following:

a. the sale of a motor vehicle that contains engine coolant or antifreeze; or

b. a whole container of engine coolant or antifreeze containing 55 gallons or more of engine coolant or antifreeze.

5. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 278

AN ACT concerning insurance producers and amending and supplementing P.L2001, c.210.

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

1. Section 15 of P.L.2001, c.210 (C.17:22A-40) is amended to read as follows:

C.17:22A-40 Causes for probation, suspension, revocation, refusal to issue or renew.

15. a. The commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with subsection c. of section 20 of this act or any combination of actions, for any one or more of the following causes:

(1) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

(2) Violating any insurance laws, or violating any regulation, subpoena or order of the commissioner or of another state's insurance regulator;

(3) Obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business;

(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract, policy or application for insurance;

(6) Having been convicted of a felony or crime of the fourth degree or higher;

(7) Having admitted or been found to have committed any insurance unfair trade practice or fraud;

(8) Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of insurance business in this State or elsewhere;

(9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

(10) Forging another's name to an application for insurance or to any document related to an insurance transaction;

(11) Improperly using notes or any other reference material to complete an examination for an insurance producer license;

(12) Knowingly accepting insurance business from an unlicensed insurance producer;

(13) Failing to comply with an administrative or court order imposing a child support obligation;

(14) Failing to pay income tax or comply with any administrative or court order directing payment of income tax pursuant to Title 54A of the New Jersey Statutes;

(15) Intentionally withholding material information or making a material misstatement in an application for a license;

(16) Committing any fraudulent act;

(17) Knowingly facilitating or assisting another person in violating any insurance laws;

(18) Failing to notify the commissioner within 30 days of his conviction of any crime, indictment or the filing of any formal criminal charges, or the suspension or revocation of any insurance license or authority by a state, other than this State, or the initiation of formal disciplinary proceedings in a state, other than this State, affecting the producer's insurance license; or failing to obtain the written consent pursuant to sections 1033 and 1034 of Title 18, United States Code (18 U.S.C. ss.1033 and 1034); or failing to supply any documentation that the commissioner may request in connection therewith; or

(19) Failing to notify the commissioner within 30 days of the final disposition of any formal disciplinary proceedings initiated against the insurance producer, or disciplinary action taken against the producer, by the Financial Industry Regulatory Authority (FINRA), any successor organization, or other similar non-governmental regulatory authority with statutory authority to create and enforce industry standards of conduct, or of any other administrative actions or criminal prosecutions, as required by sections 15 and 22 of P.L.2001, c.210 (C.17:22A-40 and 17:22A-47), or failing to supply any documentation the commissioner may request in connection therewith.

b. If the action by the commissioner is to nonrenew or to deny an application for an insurance producer license, the commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the license. The applicant or licensee may make written demand upon the commissioner for a hearing before the commissioner, or his designee, to determine the reasonableness of the commissioner's action. The hearing shall be held pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

c. The insurance producer license of a business entity may be suspended, revoked or refused if the commissioner finds, after hearing, that an

individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the business entity and the violation was neither reported to the commissioner nor corrective action taken.

d. The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this act and Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes against any person who is under investigation for or charged with a violation of this act or Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes even if the person's license or registration has been surrendered or has lapsed by operation of law.

2. Section 22 of P.L.2001, c.210 (C.17:22A-47) is amended to read as follows:

C.17:22A-47 Reports to commissioner.

22. a. An insurance producer shall report to the commissioner any administrative action taken against the insurance producer in another jurisdiction or by another governmental agency in this State within 30 days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents.

b. Within 30 days of the initial pretrial hearing date, an insurance producer shall report to the commissioner any criminal prosecution of the producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

c. An insurance producer shall report to the commissioner any disciplinary action taken against the insurance producer, or any formal disciplinary proceedings initiated against the producer, by the Financial Industry Regulatory Authority (FINRA), any successor organization, or other similar non-governmental regulatory authority with statutory authority to create and enforce industry standards of conduct, within 30 days of the final disposition of the matter. The report shall include a copy of the order, consent order or other relevant legal documents.

C.17:22A-47.1 Temporary suspension for failure to report to commissioner; additional penalties.

3. a. Upon receipt of information that a producer has failed to report to the commissioner any administrative action, criminal prosecution or any disciplinary action taken against the producer, as required by sections 15

and 22 of P.L.2001, c.210 (C.17:22A-40 and 17:22A-47), the commissioner may notify the producer that its authority to sell, solicit or negotiate insurance, or be affiliated in any manner with the sale, solicitation or negotiation of insurance in this State shall be temporarily suspended.

b. In addition to any temporary suspension imposed pursuant to subsection a. of this section, and in addition to any other penalties that may be imposed under subsection c. of section 20 of P.L.2001, c.210 (C.17:22A-45) the commissioner, after notice and an opportunity for a hearing, may impose a penalty against an insurance producer in the amount of up to $10,000 for a first violation, up to $25,000 for a second violation and up to $100,000 for a third or subsequent violation for failure to provide full, accurate and truthful information to the commissioner in accordance with sections 15 and 22 of P.L.2001, c.210 (C.17:22A-40 and 17:22A-47). A civil penalty imposed pursuant to this section shall be collected by the Commissioner of Banking and Insurance in a summary proceeding in the Superior Court in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

c. The commissioner shall continue the temporary suspension imposed pursuant to subsection a. of this section until the commissioner is satisfied that the producer has provided information in accordance with sections 15 and 22 of P.L.2001, c.210 (C.17:22A-40 and 17:22A-47) and in the case of any administrative or disciplinary action, has satisfied all the conditions, judgments or orders related to that action which are required to reinstate the producer's good standing with the agency or authority imposing that action, and has paid all fines imposed pursuant to this section.

4. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 279

AN ACT concerning the "Interstate Compact on Educational Opportunity for Military Children" and supplementing chapter 26 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:75A-1 Short title.

1. The "Interstate Compact on Educational Opportunity for Military Children" is hereby enacted and entered into with all other jurisdictions legally joining therein in the form substantially as herein provided.

C.18A:75A-2 Purpose.

2. Article I: Purpose

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

a. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district or districts, or variations in entrance and age requirements.

b. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.

c. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

d. Facilitating the on-time graduation of children of military families.

e. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

f. Providing for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

g. Promoting coordination between this compact and other compacts affecting military children.

h. Promoting flexibility and cooperation between the educational system, parents and the student in order to achieve educational success for the student.

C.18A:75A-3 Definitions.

3. Article II: Definitions

As used in this compact, unless the context clearly requires a different construction:

a. "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. ss.1209 and 1211.

b. "Children of military families" means a school-aged child or children, enrolled in Kindergarten through Twelfth grade, in the household of an active duty member.

c. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

d. "Deployment" means the period one month prior to the service members' departure from their home station on military orders through six months after return to their home station.

e. "Education or educational records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

f. "Extracurricular activities" means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

g. "Interstate Commission on Educational Opportunity for Military Children" means the commission that is created under Article IX of this compact, which is generally referred to as the Interstate Commission.

h. "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for Kindergarten through Twelfth grade public educational institutions.

i. "Member state" means a state that has enacted this compact.

j. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

k. "Non-member state" means a state that has not enacted this compact.

l. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.

m. "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general appli-

cability, implements, interprets or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

n. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.

o. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory.

p. "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in Kindergarten through Twelfth grade.

q. "Transition" means (1) the formal and physical process of transferring from school to school or (2) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

r. "Uniformed service or services" means the Army, Navy, Air Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

s. "Veteran" means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

C.18A:75A-4 Applicability.

4. Article III: Applicability

a. Except as otherwise provided in subsection b. of this section, this compact shall apply to the children of:

(1) active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. ss.1209 and 1211;

(2) members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and

(3) members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

b. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

c. The provisions of this compact shall not apply to the children of:

(1) inactive members of the national guard and military reserves;

(2) members of the uniformed services now retired, except as provided in subsection a. of this section;

(3) veterans of the uniformed services, except as provided in subsection a. of this section; and

(4) other U.S. Dept. of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

C.18A:75A-5 Educational records and enrollment.

5. Article IV: Educational Records and Enrollment

a. Unofficial or "hand-carried" education records – In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial educational records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

b. Official education records and transcripts - Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within 10 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

c. Immunizations – Compacting states shall give 30 days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunizations required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within 30 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

d. Kindergarten and First grade entrance age – Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level, including Kindergarten, from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of

age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

C.18A:75A-6 Placement and attendance.

6. Article V: Placement and Attendance

a. Course placement - When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school, educational assessments conducted at the school in the sending state, or both, if the courses are offered. Course placement includes but is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course or courses.

b. Educational program placement – The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation or placement in like programs in the sending state. Such programs include, but are not limited to: (1) gifted and talented programs; and (2) English as a second language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

c. Special education services – (1) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.. Section 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on his or her current Individualized Education Program (IEP); and (2) In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C. Section 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C. Sections 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

d. Placement flexibility – Local education agency administrative officials shall have flexibility in waiving course or program prerequisites, or other preconditions for placement in courses or programs offered under the jurisdiction of the local education agency.

e. Absence as related to deployment activities – A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

C.18A:75A-7 Eligibility.

7. Article VI: Eligibility

a. Eligibility for enrollment

(1) Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

(2) A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

(3) A transitioning military child, placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he or she was enrolled while residing with the custodial parent.

b. Eligibility for extracurricular participation - State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

C.18A:75A-8 Graduation.

8. Article VII: Graduation

In order to facilitate the on-time graduation of children of military families states and local education agencies shall incorporate the following procedures:

a. Waiver requirements – Local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or

shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

b. Exit exams - States shall accept: (1) exit or end-of-course exams required for graduation from the sending state; or (2) national norm-referenced achievement tests; or (3) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her Senior year, then the provisions of subsection c. of this section shall apply.

c. Transfers during Senior year – Should a military student transferring at the beginning or during his or her Senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subsections a. and b. of this section.

C.18A:75A-9 State coordination.

9. Article VIII: State Coordination

a. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

b. The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

c. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the Governor or as otherwise determined by each member state.

d. The compact commissioner and the military family education liaison designated herein shall be ex-officio members of the State Council, unless either is already a full voting member of the State Council.

C.18A:75A-10 Interstate Commission on Educational Opportunity for Military Children.

10. Article IX: Interstate Commission on Educational Opportunity for Military Children

The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

a. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

b. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

(1) Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

(2) A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

(3) A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from their state for a specified meeting.

(4) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

c. Consist of ex-officio, non-voting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of

Educational Personnel and other interstate compacts affecting the education of children of military members.

d. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

e. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. Dept. of Defense, shall serve as an ex-officio, nonvoting member of the executive committee.

f. Establish bylaws and rules that provide for 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 information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

g. Give public notice 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 and its committees may close a meeting, or portion thereof, 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 federal and state statute;

(3) Disclose trade secrets or commercial or financial information which is privileged or confidential;

(4) Involve accusing a person of a crime, or formally censuring a person;

(5) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) Disclose investigative records compiled for law enforcement purposes; or

(7) Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

h. Cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

i. Collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall, insofar as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

j. Create a process that permits military officials, education officials and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the Interstate Commission or any member state.

C.18A:75A-11 Powers and duties of the interstate commission.

11. Article X: Powers and Duties of the Interstate Commission

The Interstate Commission shall have the following powers:

a. To provide for dispute resolution among member states.

b. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact.

c. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules and actions.

d. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

e. To establish and maintain offices which shall be located within one or more of the member states.

f. To purchase and maintain insurance and bonds.

g. To borrow, accept, hire or contract for services of personnel.

h. To establish and appoint committees including, but not limited to, an executive committee as required by Article IX, subsection e., 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 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 it.

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.

n. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

o. To report annually to the legislatures, governors, judiciary, and state councils of the member 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.

p. To coordinate education, training and public awareness regarding the compact, its implementation and operation for officials and parents involved in such activity.

q. To establish uniform standards for the reporting, collecting and exchanging of data.

r. To maintain corporate books and records in accordance with the bylaws.

s. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

t. To provide for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

C.18A:75A-12 Organization and operation of the interstate commission.

12. Article XI: Organization and Operation of the Interstate Commission

a. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after 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 for the establishment of committees and for governing any general or specific delegation of 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 and staff of the Interstate Commission;

(6) Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations;

(7) Providing "start up" rules for initial administration of the compact.

b. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, 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 ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

c. Executive Committee, Officers and Personnel

(1) The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:

(a) Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;

(b) Overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and

(c) Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the Interstate Commission.

(2) The executive committee may, subject to the approval of the Interstate Commission, 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, but shall not be a Member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

d. The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(1) The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(2) The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an 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 or willful and wanton misconduct on the part of such person.

(3) To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an 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 intentional or willful and wanton misconduct on the part of such persons.

C.18A:75A-13 Rulemaking functions of the interstate commission.

13. Article XII: Rulemaking Functions of the Interstate Commission

a. Rulemaking Authority - The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this Compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this act, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

b. Rulemaking Procedure - Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

c. Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

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.

C.18A:75A-14 Oversight, enforcement, and dispute resolution.

14. Article XIII: Oversight, Enforcement, and Dispute Resolution

a. Oversight

(1) The executive, legislative and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission.

(3) 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. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact or promulgated rules.

b. Default, Technical Assistance, Suspension and Termination

If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

(1) Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default.

(2) Provide remedial training and specific technical assistance regarding the default.

(3) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

(4) Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(5) The state which has been suspended or terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination including obligations, the performance of which extends beyond the effective date of suspension or termination.

(6) The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

(7) The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

c. Dispute Resolution

(1) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.

(2) The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

d. Enforcement

(1) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) 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 principal offices, to enforce compliance with the provisions of the compact, its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

(3) The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

C.18A:75A-15 Financing of the interstate commission.

15. Article XIV: Financing of the Interstate Commission

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 may levy on and collect an annual assessment from each member state to cover the cost of the 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, which shall promulgate a rule binding upon all member states.

c. The Interstate Commission shall not incur 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 member states, except by and with the authority of the member 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.

C.18A:75A-16 Member states, effective date, and amendment.

16. Article XV: Member States, Effective Date, and Amendment

a. Any state is eligible to become a member state.

b. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 10 of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.

c. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

C.18A:75A-17 Withdrawal and dissolution.

17. Article XVI: Withdrawal and Dissolution

a. Withdrawal

(1) Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute, which enacted the compact into law.

(2) Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member jurisdiction.

(3) The withdrawing state shall immediately notify the chairperson 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 member states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.

(4) The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

(5) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

b. Dissolution of Compact

(1) This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

(2) 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 concluded and surplus funds shall be distributed in accordance with the bylaws.

C.18A:75A-18 Severability and construction.

18. Article XVII: Severability and Construction

a. 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.

b. The provisions of this compact shall be liberally construed to effectuate its purposes.

c. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

C.18A:75A-19 Binding effect of compact and other laws.

19. Article XVIII: Binding Effect of Compact and Other Laws

a. Other Laws

(1) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

(2) All member states' laws conflicting with this compact are superseded to the extent of the conflict.

b. Binding Effect of the Compact

(1) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

(2) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

(3) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

20. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 280

AN ACT concerning notification of eligibility for the NJ STARS Program and supplementing P.L.2004, c.59 (C.18A:71B-81 et seq.)

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

C.18A:71B-85.5 Provision of information to students relative to eligibility for NJ STARS.

1. a. In September of each school year, the board of education of a school district or the chief school administrator of a nonpublic school shall provide each student in the 9th grade with general information on the New Jersey Student Tuition Assistance Reward Scholarship (NJ STARS) Program created pursuant to P.L.2004, c.59 (C.18A:71B-81 et seq.).

b. In September of each school year, the board of education of a school district or the chief school administrator of a nonpublic school shall notify each student in the 11th grade who is ranked in the top 25.0% of the class of his potential to qualify for the NJ STARS Program if the student's class rank at the time of high school graduation is within the top 15.0% of the graduating class.

The notification shall include information about the rigorous course of study required to qualify for the program.

A student in the 12th grade shall be notified of conditional eligibility for the NJ STARS Program by the Higher Education Student Assistance Authority in accordance with the provisions of section 2 of P.L.2008, c.124 (C.18A:71B-85.1).

c. The notification by the board of education or chief school administrator required pursuant to subsections a. and b. of this section shall be communicated via regular or electronic mail or sent home with the student and include a brief description of the NJ STARS Program and the requirements for eligibility for the program.

2. This act shall take effect immediately and shall first apply to the 2009-2010 school year.

Approved January 17, 2010.

CHAPTER 281

AN ACT providing for the distribution of voter registration material to eligible high school students and amending P.L.1985, c.41.

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

1. Section 1 of P.L.1985, c.41 (C.18A:36-27) is amended to read as follows:

C.18A:36-27 Voting information.

1. The board of education of each school district and the appropriate school officials in each nonpublic school shall provide a voter registration form, a summary of voter registration eligibility requirements, and material describing the role of a citizen and the importance of voting to each eligible high school pupil prior to the graduation date for the school year. This material shall be nonpartisan and conform to the provisions of N.J.S.18A:42-4.

2. This act shall take effect immediately and shall first apply to the first full school year following the date of enactment.

Approved January 17, 2010.

CHAPTER 282

AN ACT concerning medical waste and ocean pollution penalties, amending P.L.1989, c.34, and supplementing P.L.1988, c.61 (C.58:10A-47 et seq.).

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

1. Section 20 of P.L.1989, c.34 (C.13:1E-48.20) is amended to read as follows:

C.13:1E-48.20 Enforcement.

20. a. This act, and any rule or regulation adopted pursuant thereto, shall be enforced by the departments and by every local board of health, or county health department, as the case may be.

The departments and the local board of health, or the county health department, as the case may be, shall have the right to enter the premises of a generator, transporter, or facility at any time in order to determine compliance with this act.

The municipal attorney or an attorney retained by a municipality in which a violation of this act is alleged to have occurred shall act as counsel to a local board of health.

The county counsel or an attorney retained by a county in which a violation of this act is alleged to have occurred shall act as counsel to the county health department.

All enforcement activities undertaken by county health departments pursuant to this subsection shall conform to all applicable performance and administrative standards adopted pursuant to section 10 of the "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-28).

b. Whenever the Commissioner of Environmental Protection or the Commissioner of Health and Senior Services finds that a person has violated this act, or any rule or regulation adopted pursuant thereto, that commissioner shall:

(1) issue an order requiring the person found to be in violation to comply in accordance with subsection c. of this section;

(2) bring a civil action in accordance with subsection d. of this section;

(3) levy a civil administrative penalty in accordance with subsection e. of this section;

(4) bring an action for a civil penalty in accordance with subsection f. of this section; or

(5) petition the Attorney General to bring a criminal action in accordance with subsections g. through j. of this section.

Pursuit of any of the remedies specified under this section shall not preclude the seeking of any other remedy specified.

c. Whenever the Commissioner of Environmental Protection or the Commissioner of Health and Senior Services finds that a person has violated this act, or any rule or regulation adopted pursuant thereto, that commissioner may issue an order specifying the provision or provisions of this act, or the rule or regulation adopted pursuant thereto, of which the person is in violation, citing the action that constituted the violation, ordering abatement of the violation, and giving notice to the person of the person's right to a hearing on the matters contained in the order. The ordered party shall have 20 days from receipt of the order within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order. If no hearing is requested, the order shall become final after the expiration of the 20-day period. A request for hearing shall not automatically stay the effect of the order.

d. The Commissioner of Environmental Protection, the Commissioner of Health and Senior Services, a local board of health, or a county health department may institute an action or proceeding in the Superior Court for injunctive and other relief, including the appointment of a receiver for any violation of this act, or of any rule or regulation adopted pursuant thereto, and the court may proceed in the action in a summary manner. In any such proceeding the court may grant temporary or interlocutory relief.

Such relief may include, singly or in combination:

(1) a temporary or permanent injunction;

(2) assessment of the violator for the costs of any investigation, inspection, or monitoring survey that led to the establishment of the violation, and for the reasonable costs of preparing and litigating the case under this subsection;

(3) assessment of the violator for any cost incurred by the State in removing, correcting, or terminating the adverse effects upon environmental quality or public health resulting from any violation of this act, or any rule or regulation adopted pursuant thereto, for which the action under this subsection may have been brought;

(4) assessment against the violator of compensatory damages for any loss or destruction of wildlife, fish or aquatic life, and for any other actual damages caused by any violation of this act, or any rule or regulation adopted pursuant thereto, for which the action under this subsection may have been brought; and

(5) assessment against the violator of the actual amount of any economic benefits accruing to the violator from a violation. Economic benefits may include the amount of any savings realized from avoided capital or noncapital costs resulting from the violation; the return earned or that may be earned on the amount of avoided costs; any benefits accruing to the violator as a result of a competitive market advantage enjoyed by reason of the violation; or any other benefits resulting from the violation.

Assessments under this subsection shall be paid to the State Treasurer, or to the local board of health, or to the county health department, as the case may be, except that compensatory damages may be paid by specific order of the court to any persons who have been aggrieved by the violation.

If a proceeding is instituted by a local board of health or county health department, notice thereof shall be served upon the commissioners in the same manner as if the commissioners were named parties to the action or proceeding. Either of the departments may intervene as a matter of right in any proceeding brought by a local board of health or county health department.

e. Either of the commissioners, as the case may be, may assess a civil administrative penalty of not more than $100,000 for each violation. Each day that a violation continues shall constitute an additional, separate, and distinct offense. A commissioner may not assess a civil administrative penalty in excess of $25,000 for a single violation, or in excess of $2,500 for each day during which a violation continues, until the departments have respectively adopted, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), regulations requiring the appropriate commissioner, in assessing a civil administrative penalty, to consider the operational history of the violator, the severity of the violation, the measures taken to mitigate or prevent further violations, and whether the penalty will maintain an appropriate deterrent. No assessment may be levied pursuant to this section until after the violator has been notified by certified mail or personal service. The notice shall include a reference to the section of the statute, rule, regulation, or order violated, a concise statement of the facts alleged to constitute a violation, a statement of the amount of the civil administrative penalties to be imposed, and a statement of the party's right to a hearing. The ordered party shall have 20 calendar days from receipt of the notice within which to deliver to the appropriate commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, that commissioner may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 20-day period. Payment of the assessment is due when a final order is issued or the notice

becomes a final order. The authority to levy a civil administrative penalty is in addition to all other enforcement provisions in this act, and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. Each department may compromise any civil administrative penalty assessed under this section in an amount the department determines appropriate.

f. A person who violates this act, or any rule or regulation adopted pursuant thereto, shall be liable for a penalty of not more than $100,000 per day for each violation, to be collected in a civil action commenced by the Commissioner of Environmental Protection, the Commissioner of Health and Senior Services, a local board of health, or a county health department.

A person who violates an administrative order issued pursuant to subsection c. of this section, or a court order issued pursuant to subsection d. of this section, or who fails to pay an administrative assessment in full pursuant to subsection e. of this section is subject upon order of a court to a civil penalty not to exceed $200,000 per day for each violation.

Of the penalty imposed pursuant to this subsection, 10% or $250, whichever is greater, shall be paid to the appropriate department from the General Fund if the Attorney General determines that a person is entitled to a reward pursuant to section 24 of this act.

Any penalty imposed pursuant to this subsection may be collected, with costs, in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with this act.

g. A person who purposely or knowingly:

(1) disposes or stores regulated medical waste without authorization from either the Department of Environmental Protection or the Department of Health and Senior Services, as appropriate, or in violation of this act, or any rule or regulation adopted pursuant thereto;

(2) makes any false or misleading statement to any person who prepares any regulated medical waste application, registration, form, label, certification, manifest, record, report, or other document required by this act, or any rule or regulation adopted pursuant thereto;

(3) makes any false or misleading statement on any regulated medical waste application, registration, form, label, certification, manifest, record, report, or other document required by this act, or any rule or regulation adopted pursuant thereto; or

(4) fails to properly treat certain types of regulated medical waste designated by the Department of Health and Senior Services in a prescribed manner; shall, upon conviction, be guilty of a crime of the third degree and, notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to a fine of not more than $100,000 for the first offense, and not more than $200,000 for each subsequent offense, and restitution, in addition to any other appropriate disposition authorized by subsection b. of N.J.S.2C:43-2.

h. A person who recklessly or negligently:

(1) disposes or stores regulated medical waste without authorization from either the Department of Environmental Protection or the Department of Health and Senior Services, as appropriate, or in violation of this act, or any rule or regulation adopted pursuant thereto;

(2) makes any false or misleading statement to any person who prepares any regulated medical waste application, registration, form, label, certification, manifest, record, report, or other document required by this act, or any rule or regulation adopted pursuant thereto;

(3) makes any false or misleading statement on any regulated medical waste application, registration, form, label, certification, manifest, record, report, or other document required by this act, or any rule or regulation adopted pursuant thereto; or

(4) fails to properly treat certain types of regulated medical waste designated by the Department of Health and Senior Services in a manner prescribed thereby; shall, upon conviction, be guilty of a crime of the fourth degree.

i. A person who, regardless of intent:

(1) transports any regulated medical waste to a facility or any other place in the State that does not have authorization from the Department of Environmental Protection to accept such waste, or in violation of this act, or any rule or regulation adopted pursuant thereto; or

(2) transports, or receives transported, regulated medical waste without completing and submitting a manifest in accordance with this act, or any rule or regulation adopted pursuant thereto; shall, upon conviction, be guilty of a crime of the fourth degree.

j. A person who purposely, knowingly, or recklessly:

(1) generates and causes or permits to be transported any regulated medical waste to a facility or any other place in the State that does not have authorization from the Department of Environmental Protection to accept such waste, or in violation of this act, or any rule or regulation adopted pursuant thereto; or

(2) violates any other provision of this act, or any rule or regulation adopted pursuant thereto, for which no other criminal penalty has been specifically provided for; shall, upon conviction, be guilty of a crime of the fourth degree.

k. All conveyances used or intended for use in the willful discharge, in violation of this act, or any rule or regulation adopted pursuant thereto, of regulated medical waste are subject to forfeiture to the State pursuant to P.L.1981, c.387 (C.13:1K-1 et seq.).

l. (Deleted by amendment, P.L.1997, c.325.)

m. No prosecution for a violation under this act shall be deemed to preclude a prosecution for the violation of any other applicable statute.

C.58:10A-48.1 Dumping material in ocean prohibited.

2. No person may intentionally dump any material into the ocean waters within the jurisdiction of this State, or into the waters outside the jurisdiction of this State, which material enters the ocean waters within the jurisdiction of this State.

C.58:10A-49.1 Actions by commissioner.

3. a. Whenever the Commissioner of Environmental Protection finds that a person has intentionally dumped material into the ocean waters within the jurisdiction of this State, or into the waters outside the jurisdiction of this State, which material enters the ocean waters within the jurisdiction of this State, the commissioner shall:

(1) bring a civil action in accordance with subsection b. of this section;

(2) levy a civil administrative penalty in accordance with subsection c. of this section;

(3) bring an action for a civil penalty in accordance with subsection d. of this section; or

(4) petition the Attorney General to bring a criminal action in accordance with section 3 of P.L.1988, c.61 (C.58:10A-49).

Pursuit of any of the remedies specified under this section shall not preclude the seeking of any other remedy specified.

b. The commissioner may institute an action or proceeding in the Superior Court for injunctive and other relief, including the appointment of a receiver for any violation of P.L.1988, c.61 (C.58:10A-47 et seq.), or of any rule or regulation adopted pursuant thereto, and the court may proceed in the action in a summary manner. In any such proceeding the court may grant temporary or interlocutory relief.

Such relief may include, singly or in combination:

(1) a temporary or permanent injunction;

(2) assessment of the violator for the costs of any investigation, inspection, or monitoring survey that led to the establishment of the violation, and for the reasonable costs of preparing and litigating the case under this subsection;

(3) assessment of the violator for any cost incurred by the State in removing, correcting, or terminating the adverse effects upon environmental quality or public health resulting from any violation of P.L.1988, c.61 (C.58:10A-47 et seq.), or any rule or regulation adopted pursuant thereto, for which the action under this subsection may have been brought;

(4) assessment against the violator of compensatory damages for any loss or destruction of wildlife, fish or aquatic life, and for any other actual damages caused by any violation of P.L.1988, c.61 (C.58:10A-47 et seq.), or any rule or regulation adopted pursuant thereto, for which the action under this subsection may have been brought; and

(5) assessment against the violator of the actual amount of any economic benefits accruing to the violator from a violation. Economic benefits may include the amount of any savings realized from avoided capital or noncapital costs resulting from the violation; the return earned or that may be earned on the amount of avoided costs; any benefits accruing to the violator as a result of a competitive market advantage enjoyed by reason of the violation; or any other benefits resulting from the violation.

Assessments under this subsection shall be paid to the State Treasurer, except that compensatory damages may be paid by specific order of the court to any persons who have been aggrieved by the violation.

c. The commissioner may assess a civil administrative penalty of not more than $100,000 for each violation. Each day that a violation continues shall constitute an additional, separate, and distinct offense. No assessment may be levied pursuant to this section until after the violator has been notified by certified mail or personal service. The notice shall include a reference to the section of the statute, rule, regulation, or order violated, a concise statement of the facts alleged to constitute a violation, a statement of the amount of the civil administrative penalties to be imposed, and a statement of the party's right to a hearing. The ordered party shall have 20 calendar days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 20-day period. Payment of the assessment is due when a final order is is-

sued or the notice becomes a final order. The authority to levy a civil administrative penalty is in addition to all other enforcement provisions in P.L.1988, c.61 (C.58:10A-47 et seq.), and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied.

d. A person who violates P.L.1988, c.61 (C.58:10A-47 et seq.), or any rule or regulation adopted pursuant thereto, shall be liable for a penalty of not more than $100,000 per day for each violation, to be collected in a civil action commenced by the Commissioner of Environmental Protection.

A person who violates a court order issued pursuant to subsection b. of this section or who fails to pay an administrative assessment in full pursuant to subsection c. of this section is subject upon order of a court to a civil penalty not to exceed $100,000 per day for each violation.

Any penalty imposed pursuant to this subsection may be collected, with costs, in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with P.L.1988, c.61 (C.58:10A-47 et seq.).

4. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 283

AN ACT concerning the security of utility companies and amending N.J.S.2C:18-1, N.J.S.2C:18-2 and N.J.S.2C:18-3.

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

1. N.J.S.2C:18-1 is amended to read as follows:

Definitions.

2C:18-1. In this chapter, unless a different meaning plainly is required:

a. "structure" means any building, room, ship, vessel, car, vehicle or airplane, and also means any place adapted for overnight accommodation of persons, or for carrying on business therein, whether or not a person is actually present;

b. "utility company property" means property; (1) owned by a public utility, as defined in R.S.48:2-13, or by a municipality, county, water district, authority or other public agency, and (2) which is used for the purpose of providing electric, gas or water utility service.

2. N.J.S.2C:18-2 is amended to read as follows:

Burglary.

2C:18-2. Burglary. a. Burglary defined. A person is guilty of burglary if, with purpose to commit an offense therein or thereon he:

(1) Enters a research facility, structure, or a separately secured or occupied portion thereof unless the structure was at the time open to the public or the actor is licensed or privileged to enter;

(2) Surreptitiously remains in a research facility, structure, or a separately secured or occupied portion thereof knowing that he is not licensed or privileged to do so; or

(3) Trespasses in or upon utility company property where public notice prohibiting trespass is given by conspicuous posting, or fencing or other enclosure manifestly designed to exclude intruders.

b. Grading. Burglary is a crime of the second degree if in the course of committing the offense, the actor:

(1) Purposely, knowingly or recklessly inflicts, attempts to inflict or threatens to inflict bodily injury on anyone; or

(2) Is armed with or displays what appear to be explosives or a deadly weapon.

Otherwise burglary is a crime of the third degree. An act shall be deemed "in the course of committing" an offense if it occurs in an attempt to commit an offense or in immediate flight after the attempt or commission.

3. N.J.S.2C:18-3 is amended to read as follows:

Unlicensed entry of structures; defiant trespasser; peering into dwelling places; defenses.

2C:18-3. a. Unlicensed entry of structures. A person commits an offense if, knowing that he is not licensed or privileged to do so, he enters or surreptitiously remains in any research facility, structure, or separately secured or occupied portion thereof, or in or upon utility company property. An offense under this subsection is a crime of the fourth degree if it is committed in a school or on school property. The offense is a crime of the fourth degree if it is committed in a dwelling. An offense under this section

is a crime of the fourth degree if it is committed in a research facility, power generation facility, waste treatment facility, public sewage facility, water treatment facility, public water facility, nuclear electric generating plant or any facility which stores, generates or handles any hazardous chemical or chemical compounds. An offense under this subsection is a crime of the fourth degree if it is committed in or upon utility company property. Otherwise it is a disorderly persons offense.

b. Defiant trespasser. A person commits a petty disorderly persons offense if, knowing that he is not licensed or privileged to do so, he enters or remains in any place as to which notice against trespass is given by:

(1) Actual communication to the actor; or

(2) Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or

(3) Fencing or other enclosure manifestly designed to exclude intruders.

c. Peering into windows or other openings of dwelling places. A person commits a crime of the fourth degree if, knowing that he is not licensed or privileged to do so, he peers into a window or other opening of a dwelling or other structure adapted for overnight accommodation for the purpose of invading the privacy of another person and under circumstances in which a reasonable person in the dwelling or other structure would not expect to be observed.

d. Defenses. It is an affirmative defense to prosecution under this section that:

(1) A structure involved in an offense under subsection a. was abandoned;

(2) The structure was at the time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining in the structure; or

(3) The actor reasonably believed that the owner of the structure, or other person empowered to license access thereto, would have licensed him to enter or remain, or, in the case of subsection c. of this section, to peer.

4. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 284

AN ACT concerning electrical contracting permit requirements for certain electrical installation, repair and maintenance work done on public property and amending P.L.1962, c.162.

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

1. Section 18 of P.L.1962, c.162 (C.45:5A-18) is amended to read as follows:

C.45:5A-18 Exempt work or construction.

18. Electrical work or construction which is performed on the following facilities or which is by or for the following agencies shall not be included within the business of electrical contracting so as to require the securing of a business permit under this act:

(a) Minor repair work such as the replacement of lamps and fuses.

(b) The connection of portable electrical appliances to suitable permanently installed receptacles.

(c) The testing, servicing or repairing of electrical equipment or apparatus.

(d) Electrical work in mines, on ships, railway cars, elevators, escalators or automotive equipment.

(e) Municipal plants or any public utility as defined in R.S.48:2-13, organized for the purpose of constructing, maintaining and operating works for the generation, supplying, transmission and distribution of electricity for electric light, heat, or power.

(f) A public utility subject to regulation, supervision or control by a federal regulatory body, or a public utility operating under the authority granted by the State of New Jersey, and engaged in the furnishing of communication or signal service, or both, to a public utility, or to the public, as an integral part of a communication or signal system, and any agency associated or affiliated with any public utility and engaged in research and development in the communications field.

(g) A railway utility in the exercise of its functions as a utility and located in or on buildings or premises used exclusively by such an agency.

(h) Commercial radio and television transmission equipment.

(i) Construction by any branch of the federal government.

(j) Any work with a potential of less than 10 volts.

(k) Repair, manufacturing and maintenance work on premises occupied by a firm or corporation, and installation work on premises occupied by a firm or corporation and performed by a regular employee who is a qualified journeyman electrician registered pursuant to section 3 of P.L.2001, c.21 (C.45:5A-11.1).

(l) Installation, repair or maintenance performed by regular employees of the State or of a municipality, county, or school district on the premises or property owned or occupied by the State, a municipality, county, or school district; provided that a regular employee of the State, municipality, county or school district performing this work is a qualified journeyman electrician registered pursuant to section 3 of P.L.2001, c.21 (C.45:5A-11.1), or holds any civil service title with a job description which includes electrical work pursuant to the "Civil Service Act," N.J.S.11A:1-1 et seq., or regulations adopted pursuant thereto, or any employee of a State authority who has completed an apprenticeship training program approved by the United States Department of Labor, Bureau of Apprenticeship Training, that deals specifically with electrical work, and is of a minimum duration of three years.

Any regular employee of the State, or of a municipality, county or school district who has submitted his registration application to the board for registration as a qualified journeyman electrician shall be permitted to continue to perform work pursuant to this subsection until such time as the board acts upon his application. Any applicant whose registration application is not approved by the board shall no longer be permitted to perform electrical work pursuant to this subsection.

(m)The maintaining, installing or connecting of automatic oil, gas or coal burning equipment, gasoline or diesel oil dispensing equipment and the lighting in connection therewith to a supply of adequate size at the load side of the distribution board.

(n) Work performed by a person on a dwelling that is occupied solely as a residence for himself or for a member or members of his immediate family.

(o) (Deleted by amendment, P.L.1997, c.305).

(p) Any work performed by a landscape irrigation contractor which has the potential of not more than 30 volts involving the installation, servicing, or maintenance of a landscape irrigation system as this term is defined by section 2 of this amendatory and supplementary act. Nothing in this act shall be deemed to exempt work covered by this subsection from inspection required by the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) or regulations adopted pursuant thereto.

(q) Any work performed by a person certified pursuant to sections 1 through 10 of P.L.2001, c.289 (C.52:27D-25n through C.52:27D-25w) that is not branch circuit wiring. For the purposes of this subsection, "branch circuit wiring" means the circuit conductors between the final overcurrent device protecting the circuit and one or more outlets. A certificate holder

shall be deemed to have engaged in professional misconduct for the purposes of section 8 of P.L.1978, c.73 (C.45:1-21) for violating the provisions of this subsection.

(r) Any work performed by an alarm business, as that term is defined by section 2 of P.L.1985, c.289 (C.45:5A-18.1), licensed pursuant to P.L.1997, c.305 (C.45:5A-23 et seq.) that is not branch circuit wiring. For the purposes of this subsection, "branch circuit wiring" means the circuit conductors between the final overcurrent device protecting the circuit and one or more outlets. A licensee shall be deemed to have engaged in professional misconduct for the purposes of section 8 of P.L.1978, c.73 (C.45:1-21) for violating the provisions of this subsection.

The board may also exempt from the business permit provisions of this act such other electrical activities of like character which in the board's opinion warrant exclusion from the provisions of this act.

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

Approved January 17, 2010.

CHAPTER 285

AN ACT concerning part-time employment by assistant prosecutors, repealing P.L.1970, c.6 (C:2A:158-15.1) and P.L.1976, c.15 (C:2A:158-15.1a), and supplementing chapter 158 of Title 2A of the New Jersey Statutes.

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

Repealer.

1. Section 3 of P.L.1970, c.6 (C.2A:158-15.1) is repealed.

Repealer.

2. Section 2 of P.L.1976, c.15 (C.2A:158-15.1a) is repealed.

C.2A:158-15.1b Regulations relative to employment of assistant prosecutors.

3. a. Except as provided in subsection b. of this section, assistant prosecutors shall devote their entire time to the duties of their office and shall not engage in the practice of law or other gainful employment.

b. Notwithstanding the provisions of subsection a. of this section, an assistant prosecutor may engage in limited outside employment or provide services as an independent contractor, under such terms and conditions as the county prosecutor deems appropriate, if:

(1) the county prosecutor has deemed the employment or services as not inconsistent with the duties of the office of assistant prosecutor;

(2) the employment or services do not involve the private practice of law or the provision of other legal services; and

(3) the employment or services do not qualify the assistant prosecutor for membership in any State-administered pension system.

c. Nothing in subsection b. of this section shall be construed to:

(1) limit the discretion of the county prosecutor to disapprove a request from an assistant prosecutor to engage in employment or services or to require an assistant prosecutor to terminate employment or services otherwise authorized under this section; or

(2) create an affirmative right for any assistant prosecutor to engage in employment or services without the approval of the county prosecutor.

4. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 286

AN ACT changing petition filing deadline for Board of Fire Commissioners and amending N.J.S.40A:14-71.

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

1. N.J.S.40A:14-71 is amended to read as follows:

Nominating petitions.

40A:14-71. Candidates for membership on the board shall be nominated by verified petitions. Any such petition shall be in writing, addressed to the municipal clerk or the clerk of the board, as the case may be, stating that the signers thereof are qualified voters and residents in the district and requesting that the name of the candidate be placed on the official ballot.

The petition shall state the residence of the candidate and certify his qualification for membership. The candidate's consent to his nomination shall be annexed to the petition and shall constitute his agreement to serve in the event of his election. The petition shall contain the name of only one candidate, but several petitions may nominate the same person. Each petition shall be signed by not less than 10 qualified voters and shall be filed at least 29 days before the date of the election.

Any form of a petition of nomination which is provided to candidates by the Secretary of State, the county clerk, or the municipal clerk shall contain the following notice: "Notice: All candidates are required by law to comply with the provisions of 'The New Jersey Campaign Contributions and Expenditures Reporting Act,' P.L.1973, c.83 (C.19:44A-1 et seq.). For further information please call (insert telephone number of the Election Law Enforcement Commission)."

If a petition is found to be defective, either in form or substance, the municipal clerk or the clerk of the board, as the case may be, shall forthwith notify the candidate to cause it to be corrected before the petition is given consideration.

2. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 287

AN ACT concerning voter registration applications, and amending P.L.1974, c.30 and P.L.2005, c.145.

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

1. Section 16 of P.L.1974, c.30 (C.19:31-6.4) is amended to read as follows:

C.19:31-6.4 Registration forms, contents, availability; duties of officials.

16. a. The Secretary of State shall cause to be prepared and shall provide to each county commissioner of registration forms of size and weight suitable for mailing, which shall require the information required by R.S.19:31-3 in substantially the following form:

VOTER REGISTRATION APPLICATION

Print clearly in ink. Use ballpoint pen or marker.
(1) This form is being used as (check one):
[]New registration
[]Address change
[]Name change
(2) Name:.....
Last First Middle
(3) Are you a citizen of the United States of America?[]Yes[]No
(4) Will you be 18 years of age on or before election day?[]Yes[] No
If you checked 'No' in response to either of these questions, do not complete this form.
(5) Street Address where you live:
.....
Street Address Apt. No.
.....
(6) City or Town County Zip Code
(7) Address Where You Receive Your Mail (if different from above):
.....
(8) Date of Birth:
.....
Month Day Year
(9) (a) Telephone Number (optional).....
(b) E-Mail Address (optional).....
(10) Name and address of Your Last Voter Registration
.....
.....
.....

(11) If you are registering by mail to vote and will be voting for the first time in your current county of residence, please provide one of the following:

(a) your New Jersey driver's license number:.....

(b) the last four digits of your Social Security Number.....

OR submit with this form a copy of any one of the following documents: a current and valid photo identification card; a current utility bill, bank statement, government check, pay check or any other government or other identifying document that shows your name and current address. If you do not provide either your New Jersey driver's license number or the last four digits of your Social Security Number, or enclose a copy of one of

the documents listed above, you will be asked for identification when voting for the first time, unless you are exempt from doing so under federal or State law.

(12) Do you wish to declare a political party affiliation? (Optional):

[] YES. Name of Party:

[] NO. I do not wish to declare a political party affiliation at this time.

(13) Declaration - I swear or affirm that:

I am a U.S. citizen.

I live at the above address.

I will be at least 18 years old on or before the day of the next election.

I am not on parole, probation or serving a sentence due to a conviction for an indictable offense under any federal or State laws.

I UNDERSTAND THAT ANY FALSE OR FRAUDULENT REGISTRATION MAY SUBJECT ME TO A FINE OF UP TO $15,000, IMPRISONMENT UP TO FIVE YEARS, OR BOTH PURSUANT TO R.S.19:34-1.

.....

Signature or mark of the registrant Date

(14) If applicant is unable to complete this form, print the name and address of individual who completed this form.

.....

Name

.....

Address

In addition, the form may include notice to the applicant of information and options relating to the registration and voting process, including but not limited to notice of qualifications required of a registered voter; notice of the final day by which a person must be registered to be eligible to vote in an election; notice of the effect of a failure to provide required identification information; a place at which the applicant may indicate availability for service as a member of the district board of elections; a place at which the applicant may indicate whether he or she requires a polling place which is accessible to individuals with disabilities and the elderly or whether he or she is legally blind; a place at which the applicant may indicate a desire to receive information concerning absentee voting; and if the application indicates a political party affiliation, the voter is permitted to vote in the primary election of a political party other than the political party in which the

voter was affiliated previously only if the voter registration form with the change of political party affiliation is filed prior to the 50th day next preceding the primary election. The form may also include a space for the voter registration agency to record whether the applicant registered in person, by mail or by other means.

b. The reverse side of the registration form shall bear the address of the Secretary of State or the commissioner of registration to whom such form is supplied, and a United States postal permit the charges upon which shall be paid by the State.

c. The Secretary of State shall cause to be prepared registration forms of the size, weight and form described in subsection a. of this section in both the English and Spanish language and shall provide such forms to each commissioner of registration of any county in which there is at least one election district in which bilingual sample ballots must be provided pursuant to R.S.19:14-21, R.S.19:49-4 or section 2 of P.L.1965, c.29 (C.19:23-22.4).

d. The commissioner of registration shall furnish such registration forms upon request in person to any person or organization in such reasonable quantities as such person or organization shall request. The commissioner shall furnish no fewer than two such forms to any person upon request by mail or by telephone.

e. Each such registration form shall have annexed thereto instructions specifying the manner and method of registration and stating the qualifications for an eligible voter.

f. The Secretary of State shall also furnish such registration forms and such instructions to the Director of the Division of Workers' Compensation, the Director of the Division of Employment Services, and the Director of the Division of Unemployment and Temporary Disability Insurance in the Department of Labor and Workforce Development; to the Director of the Division of Taxation in the Department of the Treasury; to the Executive Director of the New Jersey Transit Corporation; to the appropriate administrative officer of any other public agency, as defined by subsection a. of section 15 of P.L.1974, c.30 (C.19:31-6.3); to the Adjutant General of the Department of Military and Veterans' Affairs; and to the chief administrative officer of any voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11).

g. All registration forms received by the Secretary of State in the mail or forwarded to the Secretary of State shall be forwarded to the commissioner of registration in the county of the registrant.

h. An application to register to vote received from the New Jersey Motor Vehicle Commission or a voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11), shall be deemed to have been timely made for the purpose of qualifying an eligible applicant as registered to vote in an election if the date on which the commission or agency shall have received that document in completed form, as indicated in the lower right hand corner of the form, was not later than the 21st day preceding that election.

i. Each commissioner of registration shall make note in the permanent registration file of each voter who is required to provide the personal identification information required pursuant to this section, as amended, and R.S.19:15-17, R.S.19:31-5 and Pub.L.107-252 (42 U.S.C.s. 15301 et seq.), to indicate the type of identification provided by the voter and the date on which it is provided. Prior to the June 2004 primary election, when such a newly registered voter seeks to vote for the first time following his or her registration, the voter will be required to provide such personal identification information. Beginning with the June 2004 primary election, when such a newly registered voter seeks to vote for the first time following his or her registration, the voter will not be required to provide such information if he or she had previously provided the personal identification information required pursuant to this section. The required information shall be collected and stored for the time and in the manner required pursuant to regulations promulgated by the Secretary of State.

j. The Secretary of State shall amend the voter registration application form if necessary to conform to the requirements of applicable federal or State law.

k. In the event that the name of any political party entered on the voter registration form by a voter who wishes to declare a political party affiliation is not legible, the commissioner of registration shall mail the voter a political party declaration form and a letter explaining that the voter's choice was not understood and that the voter should complete and return the declaration form in order to be affiliated with a party.

2. Section 1 of P.L.2005, c.145 (C.19:31-31) is amended to read as follows:

C.19:31-31 Establishment of single Statewide voter registration system.

1. a. There shall be established in the Department of State a single Statewide voter registration system, as required pursuant to section 303 of the federal "Help America Vote Act of 2002," Pub.L.107-252 (42 U.S.C.

s.15483). The principal computer components of the system shall be under the direct control of the Secretary of State. The Secretary of State shall be responsible for creating the network necessary to maintain the system and providing the computer software, hardware and security necessary to ensure that the system is accessible only to those executive departments and State agencies so designated by the Secretary of State, each county commissioner of registration, each county and municipal clerk, and individuals under certain circumstances, as provided for by this section. The system shall be the official State repository for voter registration information for every legally registered voter in this State, and shall serve as the official voter registration system for the conduct of all elections in the State.

b. The Statewide voter registration system shall include, but not be limited to, the following features:

(1) the name and registration information of every legally registered voter in the State;

(2) the ability to assign a unique identifier to each legally registered voter in the State;

(3) interactivity among appropriate State agencies so designated by the Secretary of State, each county commissioner of registration, each county board of elections, and each county clerk such that these entities shall have immediate electronic access to all or selected records in the system, as determined by the Secretary of State, to receive or transmit all or selected files in the system and to print or review all or selected files in the system;

(4) the ability to permit any county commissioner of registration to enter voter registration information on an expedited basis at the time the information is provided thereto and to permit the Secretary of State to provide technical support to do so whenever needed;

(5) the ability to permit each municipal clerk to view or print information in the system;

(6) the ability to permit an individual, by July 1, 2006, to verify via the Internet whether that individual, and only that individual, is included in the system as a legally registered voter, whether the information pertaining to that individual required by subsection c. of this section is correct, and if not, a means to notify the pertinent county commissioner of registration of the corrections that must be made and to so verify in a way that does not give one individual access to the information required by subsection c. of this section for any other individual;

(7) a Statewide street address index and map in electronic form that can accurately identify the location of every legally registered voter in this State;

(8) the ability to record and monitor all requests for mail-in ballots; to enable the county clerk to verify the identity and signature of each person requesting a mail-in ballot; to record the name and address of each voter determined to be eligible to receive a mail-in ballot for a particular election and to note when a mail-in ballot has been transmitted to that voter by mail or hand delivery; and to make such information available to the Secretary of State so that a voter can be notified whether the application for such a ballot was accepted or rejected, and the reason for the rejection, using the free-access system established by section 5 of P.L.2004, c.88 (C.19:61-5); and

(9) any other functions required pursuant to Pub.L.107-252 (42 U.S.C. s.15301 et seq.), or Title 19 of the Revised Statutes, or that may be deemed necessary by the Secretary of State.

c. The Statewide voter registration system shall include, but not be limited to, the following information for every legally registered voter in this State:

(1) last, first and middle name;

(2) street address at time of registration or rural route, box number or apartment number, if any;

(3) city or municipality, and zip code;

(4) date of birth;

(5) telephone number and e-mail address, if provided on voter registration form;

(6) previous name or address if individual re-registered due to change of name or address;

(7) ward and election district number, if either is available;

(8) (a) current and valid New Jersey driver's license number; or

(b) if the registrant has not been issued a New Jersey driver's license number, the last four digits of the registrant's social security number; or

(c) unique identifying number for any individual who has not been issued the information sought in subparagraph (a) or (b) of this paragraph;

(9) notation that a copy of one of the following documents has been submitted with the voter registration application, if required: current and valid photo identification card; a current utility bill, bank statement, government check, pay check or any other government document showing the registrant's name and current address;

(10) the method by which the individual registered and whether that person needs to provide additional identification information to vote using a voting machine instead of a provisional ballot;

(11) political party affiliation, if designated;

(12) digitalized signature;

(13) date of registration or re-registration;

(14) name and street address of the individual assisting in the completion of the form, if the applicant for registration is unable to do so;

(15) voting participation record for ten-year period; and

(16) any other information required pursuant to Pub.L.107-252 (42 U.S.C. s.15301 et seq.), or Title 19 of the Revised Statutes, or that the Secretary of State determines is necessary to assess the eligibility of an individual to be registered to vote and to vote in this State.

3. a. Notwithstanding any provision of this act, P.L.2009, c.287, to the contrary, printed and electronic versions of the voter registration application in use in this State before the effective date of this act shall continue to be valid after printed and electronic versions of the application that conform to the provisions thereof are made available by the Secretary of State.

b. Nothing in P.L.2009, c.287 shall require the Secretary of State to have printed voter registration forms that conform with the provisions of this act before the date scheduled by the Secretary for the printing of such forms.

4. This act shall take effect 90 days from the date of enactment, but the Secretary of State and the commissioner of registration in each county may take such anticipatory action to effectuate the purposes of this act.

Approved January 17, 2010.

CHAPTER 288

AN ACT concerning the New Jersey Historic Trust, and amending P.L.1967, c.124.

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

1. Section 8 of P.L.1967, c.124 (C.13:1B-15.115) is amended to read as follows:

C.13:1B-15.115 Additional powers.

8. The trust shall have power in particular to:

a. solicit and accept gifts, legacies, bequests and endowments for any purpose which falls within that of the trust, and to maintain interest-bearing trust accounts for those purposes; and, unless otherwise specified by the person making such gift, legacy, bequest or endowment, the trustees may expend both principal and income of any such gift, bequest, legacy, or endowment in furtherance of the trust or invest it in whole or in part in securities which are legal for trust funds in the State of New Jersey;

b. acquire and hold real and personal property of historic, aesthetic or cultural significance, by gift, purchase, devise, bequest, or by any other means, and to preserve and administer such properties; and in the acquisition of such properties, to acquire property adjacent thereto deemed necessary for the proper use and administration of historic, aesthetic or cultural property;

c. apply all moneys, assets, property or other things of value it may receive as an incident to its operation to the general purpose of the trust;

d. cooperate with and assist, insofar as practicable, any agency of the State or any of its political subdivisions, and any private agency or person in furtherance of the purpose of the trust;

e. give any moneys or property held by the trust to the Secretary of State or the Commissioner of Environmental Protection on behalf of the State for the purpose of administering, operating or maintaining the historic sites programs of the State of New Jersey;

f. report annually to the Governor and the Legislature of the State of New Jersey its activities during the preceding year together with any recommendations or requests it deems appropriate to further the purpose of the trust. The annual report shall include a summary of the trust's use of the fee-collection authority provided by subsection h. of this section. The summary shall include the following information:

(1) For conferences:

(a) a list of all conferences conducted during the preceding year for which fees were collected pursuant to subsection h. of this section;

(b) the dollar amount of actual costs incurred by the trust in connection with each conference listed in the summary;

(c) the dollar amount of fees collected pursuant to subsection h. of this section for each conference listed in the summary;

(d) the dollar amount of funds deposited as excess into the General Fund for each conference listed in the summary.

(2) For printed works:

(a) identification by author with title of each printed work for which fees were collected pursuant to subsection h. of this section;

(b) the actual cost of reprinting the printed work;

(c) the dollar amount of fees collected pursuant to subsection h. of this section for reprinting of the printed work;

(d) the dollar amount of funds deposited as excess into the General Fund, for each printed work identified in the summary.

g. to apply for recognition as an organization that is exempt from federal taxation, pursuant to section 501(c)(3) of the Internal Revenue Code (26 U.S.C. s.501(c)(3)), and to accept tax-deductible gifts, legacies, bequests, and endowments as provided pursuant to subsection a. of this section, and as allowed by the Internal Revenue Code. This authorization shall be deemed retroactive to June 21, 1967;

h. to collect fees for:

(1) admittance to any conference, seminar, exhibition, symposium, or similar meeting sponsored by the trust for the purpose of promoting the preservation, improvement, restoration, rehabilitation, or acquisition of historic properties in the State;

(2) distribution to any individual or entity of a book, treatise, research study, monograph, or other printed work, CDRom, or DVD that has been authored or commissioned by the trust for the purpose of promoting the preservation, improvement, restoration, rehabilitation, or acquisition of historic properties in the State.

i. to provide for the collection of fees under this section or by contract;

j. fees collected pursuant to paragraph (1) of subsection h. of this section shall be credited to the account from which the costs of the conference are paid and shall be available to pay the costs incurred by the trust in connection with its sponsorship of the conference, or to reimburse the trust for those costs. In the event that the total amount of fees collected exceeds the actual costs incurred by the trust in connection with its sponsorship of a conference, the amount of such excess shall be deposited in the General Fund as a miscellaneous receipt;

k. fees collected pursuant to paragraph (2) of subsection h. of this section shall be credited to the account from which the costs of reprinting the printed work are paid, and shall be available to pay the costs incurred by the trust to reprint the printed work, or to reimburse the trust for those costs. In the event the total amount of fees collected exceeds the actual costs incurred by the trust to reprint the printed work, the amount of such excess shall be deposited in the General Fund as a miscellaneous receipt.

2. Section 9 of P.L.1967, c.124 (C.13:1B-15.116) is amended to read as follows:

C.13:1B-15.116 Trust restrictions.

9. The trust may not acquire, hold, receive or accept any moneys or other property, real or personal, tangible or intangible, which will result in the incurrence of any financial obligations on the part of the State of New Jersey which cannot be supported entirely from funds available in the trust without the express approval of the Commissioner of Community Affairs and the Legislature.

3. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 289

AN ACT concerning solar energy development and amending P.L.1999, c.23.

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

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

C.48:3-51 Definitions relative to competition in the electric power, gas, and solar energy 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 P.L.1999, c.23 (C.48:3-49 et al.), an assignee shall not be subject to the public utility requirements of Title 48 or any rules or regulations adopted pursuant thereto;

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

"Basic generation service" or "BGS" means electric generation service that is provided, to any customer that has not chosen an alternative electric

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

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

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

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

"Bondable stranded costs" means any stranded costs or basic generation service transition costs of an electric public utility approved by the board for recovery pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the board: (1) the cost of retiring existing debt or equity capital of the electric public utility, including accrued interest, premium and other fees, costs and charges relating thereto, with the proceeds of the financing of bondable transition property; (2) if requested by an electric public utility in its application for a bondable stranded costs rate order, federal, State and local tax liabilities associated with stranded costs recovery or basic generation service transition cost recovery or the transfer or financing of such property or both, including taxes, whose recovery period is modified by the effect of a stranded costs recovery order, a bondable stranded costs rate order or both; and (3) the costs

incurred to issue, service or refinance transition bonds, including interest, acquisition or redemption premium, and other financing costs, whether paid upon issuance or over the life of the transition bonds, including, but not limited to, credit enhancements, service charges, overcollateralization, interest rate cap, swap or collar, yield maintenance, maturity guarantee or other hedging agreements, equity investments, operating costs and other related fees, costs and charges, or to assign, sell or otherwise transfer bondable transition property;

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

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

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

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

"Buydown" means an arrangement or arrangements involving the buyer and seller in a given power purchase contract and, in some cases third

parties, for consideration to be given by the buyer in order to effectuate a reduction in the pricing, or the restructuring of other terms to reduce the overall cost of the power contract, for the remaining succeeding period of the purchased power arrangement or arrangements;

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

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

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

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

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

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

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

"Comprehensive resource analysis" means an analysis including, but not limited to, an assessment of existing market barriers to the implementa-

tion 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 P.L.1999, c.23 (C.48:3-49 et al.) shall not, in and of itself, affect the entity's status as an exempt wholesale generator under the Public Utility Holding Company Act of 1935, 15 U.S.C. s.79 et seq.;

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

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

"Electric related service" means a service that is directly related to the consumption of electricity by an end user, including, but not limited to, the installation of demand side management measures at the end user's prem-

ises, 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 P.L.1999, c.23 (C.48:3-49 et al.), that arranges the sale of retail electricity or electric related services or retail gas supply or gas related services between government aggregators or private aggregators and electric power suppliers or gas suppliers, but does not take title to the electric or gas sold;

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

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

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

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

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

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

"Gas supplier" means a person that is duly licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and assume the contractual and legal obligation to provide gas supply service to retail customers, and includes, but is not limited to, marketers and brokers. A non-public utility affiliate of a public utility holding company may be a gas supplier, but a

gas public utility or any subsidiary of a gas utility is not a gas supplier. In the event that a gas public utility is not part of a holding company legal structure, a related competitive business segment of that gas public utility may be a gas supplier, provided that related competitive business segment is structurally separated from the gas public utility, and provided that the interactions between the gas public utility and the related competitive business segment are subject to the affiliate relations standards adopted by the board pursuant to subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58);

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

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

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

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

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

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

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

introduction of electric power supply competition pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.);

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

"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;

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

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

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

"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;

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

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

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

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

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

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

"Social program" means a program implemented with board approval to provide assistance to a group of disadvantaged customers, to provide protection to consumers, or to accomplish a particular societal goal, and

includes, but is not limited to, the winter moratorium program, utility practices concerning "bad debt" customers, low income assistance, deferred payment plans, weatherization programs, and late payment and deposit policies, but does not include any demand side management program or any environmental requirements or controls;

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

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

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

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

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

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

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

"Transition bonds" means bonds, notes, certificates of participation or beneficial interest or other evidences of indebtedness or ownership issued pursuant to an indenture, contract or other agreement of an electric public utility or a financing entity, the proceeds of which are used, directly or indi-

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

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

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

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

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

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

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

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

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

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

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

and public hearing, interim standards to implement this disclosure requirement, including, but not limited to:

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

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

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

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

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

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

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

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

(a) Allow a transition period, either before or after the effective date of the regulation to mitigate leakage, for a basic generation service provider or electric power supplier to either meet the emissions portfolio standard or other regulatory mechanism to mitigate leakage, or to transfer any customer to a basic generation service provider or electric power supplier that meets the emissions portfolio standard or other regulatory mechanism to mitigate leakage. If the transition period allowed pursuant to this subparagraph occurs after the implementation of an emissions portfolio standard or other

regulatory mechanism to mitigate leakage, the transition period shall be no longer than three years; and

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

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

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

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

(2) beginning on January 1, 2001, that one-half of one percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from Class I renewable energy sources. The board shall increase the required percentage for Class I renewable energy sources so that by January 1, 2006, one percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider shall be from Class I renewable energy sources and shall additionally increase the required percentage for Class I renewable energy sources by one-half of one percent each year until January 1, 2012, when four percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider shall be from Class I renewable energy sources.

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

(3) that the board establish a multi-year schedule, applicable to each electric power supplier or basic generation service provider in this State, beginning with the one-year period commencing on June 1, 2010, and continuing for each subsequent one-year period up to and including, the one-year period commencing on June 1, 2025, that requires suppliers or providers to purchase at least the following number of kilowatt-hours from solar electric power generators in this State:

EY 2011	306 Gigawatthours (Gwhrs)
EY 2012	442 Gwhrs
EY 2013	596 Gwhrs
EY 2014	772 Gwhrs
EY 2015	965 Gwhrs
EY 2016	1,150 Gwhrs
EY 2017	1,357 Gwhrs
EY 2018	1,591 Gwhrs
EY 2019	1,858 Gwhrs
EY 2020	2,164 Gwhrs
EY 2021	2,518 Gwhrs
EY 2022	2,928 Gwhrs
EY 2023	3,433 Gwhrs
EY 2024	3,989 Gwhrs
EY 2025	4,610 Gwhrs
EY 2026	5,316 Gwhrs

EY 2027, and for every energy year thereafter, at least 5,316 Gwhrs per energy year to reflect an increasing number of kilowatt-hours to be purchased by suppliers or providers from solar electric power generators in this State, and to establish a framework within which suppliers and providers shall purchase at least 2,518 Gwhrs in the energy year 2021 and 5,316 Gwhrs in the energy year 2026 from solar electric power generators in this State, provided, however, that the number of solar kilowatt-hours required to be purchased by each supplier or provider, when expressed as a percentage of the total number of solar kilowatt-hours purchased in this State, shall be equivalent to each supplier's or provider's proportionate share of the total number of kilowatt-hours sold in this State by all suppliers and providers.

The solar renewable portfolio standards requirements in paragraph (3) of this subsection shall automatically increase by 20% for the remainder of the schedule in the event that the following two conditions are met: (a) the number of SRECs generated meets or exceeds the requirement for three consecutive reporting years, starting with energy year 2013; and (b) the average SREC price for all SRECs purchased by entities with renewable

energy portfolio standards obligations has decreased in the same three consecutive reporting years. The board shall exempt providers' existing supply contracts that are: (a) effective prior to the date of P.L.2009, c.289; or (b) effective prior to any future increase in the solar renewable portfolio standard beyond the multi-year schedule established in paragraph (3) of this subsection. This exemption shall apply to the number of SRECs that exceeds the number mandated by the solar renewable portfolio standards requirements that were in effect on the date that the providers executed their existing supply contracts. This limited exemption for providers' existing supply contracts shall not be construed to lower the Statewide solar purchase requirements set forth in paragraph (3) of this subsection. Such incremental new requirements shall be distributed over the electric power suppliers and providers not subject to the existing supply contract exemption until such time as existing supply contracts expire and all suppliers are subject to the new requirement.

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

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

The renewable energy portfolio standards adopted by the board pursuant to paragraph (3) of this subsection shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 30 months after such filing, and shall, thereafter, be amended, adopted or readopted by the board in accordance with the "Administrative Procedure Act."

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

(1) net metering standards for electric power suppliers and basic generation service providers. The standards shall require electric power suppliers and basic generation service providers to offer net metering at non-

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

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

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

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

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

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

f. The board may assess, by written order and after notice and opportunity for comment, a separate fee to cover the cost of implementing and overseeing an emission disclosure system or emission portfolio standard, which fee shall be assessed based on an electric power supplier's or basic generation service provider's share of the retail electricity supply market. The board shall not impose a fee for the cost of implementing and overseeing a greenhouse gas emissions portfolio standard adopted pursuant to paragraph (2) of subsection c. of this section, the electric energy efficiency portfolio standard adopted pursuant to subsection g. of this section, or the gas energy efficiency portfolio standard adopted pursuant to subsection h. of this section.

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

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

to prevent a gas public utility from meeting the requirements of this section by contracting with another entity for the performance of the requirements.

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

j. The board shall determine an appropriate level of solar alternative compliance payment, and establish a 15-year solar alternative compliance payment schedule, that permits each supplier or provider to submit an SACP to comply with the solar electric generation requirements of paragraph (3) of subsection d. of this section. The board may initiate subsequent proceedings and adopt, after appropriate notice and opportunity for public comment and public hearing, an increase in solar alternative compliance payments, provided that the board shall not reduce previously established levels of solar alternative compliance payments, nor shall the board provide relief from the obligation of payment of the SACP by the electric power suppliers or basic generation service providers in any form. Any SACP payments collected shall be refunded directly to the ratepayers by the electric public utilities.

k. The board may allow electric public utilities to offer long-term contracts and other means of financing, including but not limited to loans, for the purchase of SRECs and the resale of SRECs to suppliers or providers or others, provided that after such contracts have been approved by the board, the board's approvals shall not be modified by subsequent board orders.

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

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

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

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

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

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

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

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

(8) promote the lowest cost to ratepayers; and

(9) allow all market segments to participate.

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

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

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

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

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

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

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

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

3. This act shall take effect on the first day of the sixth month following enactment, except that the board may take such action in advance of the effective date as shall be necessary to implement the provisions of this act.

Approved January 17, 2010.

CHAPTER 290

AN ACT concerning funerals and the disposition of human remains and amending P.L.2003, c.261.

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

1. Section 22 of P.L.2003, c.261 (C.45:27-22) is amended to read as follows:

C.45:27-22 Control of funeral, disposition of remains.

22. a. If a decedent, in a will as defined in N.J.S.3B:1-2, appoints a person to control the funeral and disposition of the human remains, the funeral and disposition shall be in accordance with the instructions of the person so appointed. A person so appointed shall not have to be executor of the will. The funeral and disposition may occur prior to probate of the will, in accordance with section 40 of P.L.2003, c.261 (C.3B:10-21.1). If the decedent has not left a will appointing a person to control the funeral and disposition of the remains, the right to control the funeral and disposition of the human remains shall be in the following order, unless other directions have been given by a court of competent jurisdiction:

(1) The surviving spouse of the decedent or the surviving civil union or domestic partner; except that if the decedent had a temporary or permanent restraining order issued pursuant to P.L.1991, c.261 (C.2C:25-17 et seq.) against the surviving spouse or civil union or domestic partner, or the surviving spouse or civil union or domestic partner is charged with the intentional killing of the decedent, the right to control the funeral and disposition of the remains shall be granted to the next available priority class as provided in this subsection.

(2) A majority of the surviving adult children of the decedent.

(3) The surviving parent or parents of the decedent.

(4) A majority of the brothers and sisters of the decedent.

(5) Other next of kin of the decedent according to the degree of consanguinity.

(6) If there are no known living relatives, a cemetery may rely on the written authorization of any other person acting on behalf of the decedent.

For purposes of this subsection "domestic partner" means a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3).

b. A cemetery may permit the disposition of human remains on the authorization of a funeral director handling arrangements for the decedent, or on the written authorization of a person who claims to be, and is believed to be, a person who has the right to control the disposition. The cemetery shall not be liable for disposition pursuant to this authorization unless it had reasonable notice that the person did not have the right to control the disposition.

c. A cemetery shall not bury human remains of more than one person in a grave unless:

(1) directions have been given for the burials in accordance with this section on behalf of all persons so buried; or

(2) the rights to be buried in the grave were sold by the cemetery with explicit provision allowing separate sales of rights to burial at different depths in the grave.

d. A person who signs an authorization for the funeral and disposition of human remains warrants the truth of the facts stated, the identity of the person whose remains are disposed and the authority to order the disposition. The person shall be liable for damages caused by a false statement or breach of warranty. A cemetery or funeral director shall not be liable for disposition in accordance with the authorization unless it had reasonable notice that the representations were untrue or that the person lacked the right to control the disposition.

e. An action against a cemetery company relating to the disposition of human remains left in its temporary custody may not be brought more than one year from the date of delivery of the remains to the cemetery company unless otherwise provided by a written contract.

2. This act shall take effect on the 30th day after enactment.

Approved January 17, 2010.

CHAPTER 291

AN ACT concerning non-payment of workers' compensation by uninsured employers and amending P.L.1966, c.126.

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

1. Section 12 of P.L.1966, c.126 (C.34:15-120.3) is amended to read as follows:

C.34:15-120.3 Default by uninsured employer; judgment.

12. The director, in any case in which an award of compensation payable by an uninsured employer or an assessment has been ordered by the director, shall file with the Clerk of the Superior Court, (1) a statement containing the findings of fact, conclusions of law, award and judgment of the judge making the award, or (2) a certified copy of the director's order imposing, and the demand for payment of, the assessment, and, the filing of that statement or order, as the case may be, shall have the same effect and may be collected and docketed in the same manner as judgments rendered in causes tried in the Superior Court. The court shall vacate or modify such judgment to conform to any later award or decision by any authorized officer of the division upon presentation of a statement thereof as provided for above. The award may be compromised by the Commissioner of Labor and Workforce Development as in his discretion may best serve the interest of the persons entitled to receive the compensation or benefits.

2. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 292

AN ACT concerning local public contracts and amending P.L.1999, c.39.

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

1. Section 1 of P.L.1999, c.39 (C.40A:11-23.1) is amended to read as follows:

C.40A:11-23.1 Plans, specifications, bid proposal documents; required contents.

1. All plans, specifications and bid proposal documents for the erection, alteration, or repair of a building, structure, facility or other improvement to real property, the total price of which exceeds the amount set forth in, or the amount calculated by the Governor pursuant to, section 3 of P.L.1971, c.198 (C.40A:11-3), shall include:

a. a document for the bidder to acknowledge the bidder's receipt of any notice or revisions or addenda to the advertisement or bid documents; and

b. a form listing those documentary and informational forms, certifications, and other documents that the contracting agent requires each bidder to submit with the bid. The form shall list each of the items to be submitted with the bid proposal and a place for the bidder to indicate, by initialing each entry, that the bidder has included those required items with the completed bid proposal. Each bidder shall complete this form and submit it with the bid proposal in addition to those documentary and informational forms, certifications, and other documents that are listed on the form; and

c. a statement indicating whether uniformed law enforcement officers will be required for the project. The statement shall include a line item allowance, which shall be a good faith effort on the part of the contracting unit, to reasonably estimate the total cost of traffic control personnel, vehicles, equipment, administrative, or any other costs associated with additional traffic control requirements required by the contracting unit, or any other public entity affected by the project, above and beyond the bidder's traffic control personnel, vehicles, equipment, and administrative costs. The individuals responsible for the assignment of uniformed law enforcement officers for any municipalities affected by a project shall be required to determine where traffic safety control is needed for a project, and calculate the number and placement of all necessary personnel, equipment, and the costs associated with these, including hourly rates, and submit this information to the contracting unit.

The contracting unit shall not be responsible for additional traffic control costs beyond the number of working days specified in the construction contract in accordance with section 17 of P.L.1971, c.198 (C.40A:11-17), when such a delay is caused by the contractor and liquidated damages have been assessed.

The statement prescribed under this subsection shall not be required if the contracting unit will provide for the direct payment of uniformed law enforcement officers and any additional costs directly associated with the provision of those officers; and

d. at the option of the contracting unit, specified alternate proposals in addition to a base specification. When the contracting unit specifies alternate proposals, the determination of which bidder's response to a request for bids offers the lowest price shall be made on the basis of the price of: (i) the base specification plus the price of any selected specified alternate proposals; or (ii) a choice of specified alternative proposals within the limit of funds that may be made available for a project. If a contracting unit provides for more than one specified alternate proposal, the contracting unit shall specify in the bid specification the criteria or ranked order by which specified alternate proposals shall be selected and included in the award of the contract by the governing body, provided that this requirement shall only apply to a project with a total estimated cost, including specified alternate proposals, of greater than $500,000. The aggregate dollar value of accepted specified alternative proposals shall not exceed 50 percent of the base bid. If a contracting unit is found in a court of law to have chosen specific alternative proposals in a manner intended to award a contract to a specific vendor, the bids shall be voided, the contracting unit shall rebid the project, and a plaintiff who prevails in any proceeding shall be entitled to a reasonable attorney's fee.

For the purposes of this subsection:

"Specified alternate proposal" means a requirement of the bid specification for bidders to submit prices for reduced, modified or supplemental work in addition to the base proposal which may include, but not be limited to, a change in project scope or the use of alternative materials or methods of construction;

"Base specification" means the plans and specifications for the erection, alteration or repair of the building, structure, facility or other improvement to real property that are required to be met by all bidders without exception.

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

Approved January 17, 2010.

CHAPTER 293

AN ACT concerning health insurance coverage and amending P.L.1992, c.161, P.L.1992, c.162, and P.L.1997, c.146.

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

1. Section 1 of P.L.1992, c.161 (C.17B:27A-2) is amended to read as follows:

C.17B:27A-2 Definitions.

1. As used in sections 1 through 15, inclusive, of this act:

"Board" means the board of directors of the program.

"Carrier" means any entity subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the commissioner, that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital or health service corporation, or any other entity providing a plan of health insurance, health benefits or health services. For purposes of this act, carriers that are affiliated companies shall be treated as one carrier.

"Church plan" has the same meaning given that term under Title I, section 3 of Pub.L.93-406, the "Employee Retirement Income Security Act of 1974" (29 U.S.C. s.1002 (33)).

"Commissioner" means the Commissioner of Banking and Insurance.

"Community rating" means a rating system in which the premium for all persons covered by a contract is the same, based on the experience of all persons covered by that contract, without regard to age, sex, health status, occupation and geographical location.

"Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following: a group health plan; a group or individual health benefits plan; Part A or Part B of Title XVIII of the federal Social Security Act (42 U.S.C. s.1395 et seq.); Title XIX of the federal Social Security Act (42 U.S.C. s.1396 et seq.), other than coverage consisting solely of benefits under section 1928 of Title XIX of the federal Social Security Act (42 U.S.C. s.1396s); Chapter 55 of Title 10, United States Code (10 U.S.C. s.1071 et seq.); a medical care program of the Indian Health Service or of a tribal organization; a state health benefits risk pool; a health plan offered under chapter 89 of Title 5, United States Code (5 U.S.C. s.8901 et seq.); a public health plan as defined by federal regulation; and a health benefits plan under section 5(e) of the "Peace Corps Act" (22 U.S.C. s.2504(e)); or coverage under any other type of plan as set forth by the commissioner by regulation.

Creditable coverage shall not include coverage consisting solely of the following: coverage only for accident or disability income insurance, or any combination thereof; coverage issued as a supplement to liability insurance; liability insurance, including general liability insurance and automobile liability insurance; workers' compensation or similar insurance; automobile medical payment insurance; credit only insurance; coverage for on-site medical clinics; coverage, as specified in federal regulation, under which benefits for medical care are secondary or incidental to the insurance benefits; and other coverage expressly excluded from the definition of health benefits plan.

"Department" means the Department of Banking and Insurance.

"Dependent" means the spouse, domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), civil union partner as defined in section 2 of P.L.2006, c.103 (C.37:1-29), or child of an eligible person, subject to applicable terms of the individual health benefits plan.

"Eligible person" means a person who is a resident who is not eligible to be covered under a group health benefits plan, group health plan, governmental plan, church plan, or Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. s.1395 et seq.).

"Federally defined eligible individual" means an eligible person: (1) for whom, as of the date on which the individual seeks coverage under P.L.1992, c.161 (C.17B:27A-2 et al.), the aggregate of the periods of creditable coverage is 18 or more months; (2) whose most recent prior creditable coverage was under a group health plan, governmental plan, church plan, or health insurance coverage offered in connection with any such plan; (3) who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. s.1395 et seq.), or a State plan under Title XIX of the Social Security Act (42 U.S.C.s.1396 et seq.) or any successor program, and who does not have another health benefits plan, or hospital or medical service plan; (4) with respect to whom the most recent coverage within the period of aggregate creditable coverage was not terminated based on a factor relating to nonpayment of premiums or fraud; (5) who, if offered the option of continuation coverage under the COBRA continuation provision or a similar State program, elected that coverage; and (6) who has elected continuation coverage described in (5) above and has exhausted that continuation coverage.

"Financially impaired" means a carrier which, after the effective date of this act, is not insolvent, but is deemed by the commissioner to be potentially unable to fulfill its contractual obligations, or a carrier which is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

"Governmental plan" has the meaning given that term under Title I, section 3 of Pub.L.93-406, the "Employee Retirement Income Security Act of 1974" (29 U.S.C. s.1002(32)) and any governmental plan established or maintained for its employees by the Government of the United States or by any agency or instrumentality of that government.

"Group health benefits plan" means a health benefits plan for groups of two or more persons.

"Group health plan" means an employee welfare benefit plan, as defined in Title I, section 3 of Pub.L.93-406, the "Employee Retirement Income Security Act of 1974" (29 U.S.C. s.1002 (1)), to the extent that the plan provides medical care, and including items and services paid for as medical care to employees or their dependents directly or through insurance, reimbursement, or otherwise.

"Health benefits plan" means a hospital and medical expense insurance policy; health service corporation contract; hospital service corporation contract; medical service corporation contract; health maintenance organization subscriber contract; or other plan for medical care delivered or issued for delivery in this State. For purposes of this act, health benefits plan shall not include one or more, or any combination of, the following: coverage only for accident, or disability income insurance, or any combination thereof; coverage issued as a supplement to liability insurance; liability insurance, including general liability insurance and automobile liability insurance; stop loss or excess risk insurance; workers' compensation or similar insurance; automobile medical payment insurance; credit-only insurance; coverage for on-site medical clinics; and other similar insurance coverage, as specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits. Health benefits plan shall not include the following benefits if they are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of the plan: limited scope dental or vision benefits; benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; and such other similar, limited benefits as are specified in federal regulations. Health benefits plan shall not include hospital confinement indemnity coverage if the benefits are provided under a separate policy, certificate or contract of insurance, there is no coordination between the provision of the benefits and any exclusion of benefits under any group health benefits plan maintained by the same plan sponsor, and those benefits are paid with respect to an event without regard to whether benefits are provided with respect to such an event under any group health plan maintained by the same plan sponsor. Health benefits plan shall not include the following if it

is offered as a separate policy, certificate or contract of insurance: Medicare supplemental health insurance as defined under section 1882(g)(1) of the federal Social Security Act (42 U.S.C. s.1395ss(g)(1)); and coverage supplemental to the coverage provided under chapter 55 of Title 10, United States Code (10 U.S.C. s.1071 et seq.); and similar supplemental coverage provided to coverage under a group health plan.

"Health status-related factor" means any of the following factors: health status; medical condition, including both physical and mental illness; claims experience; receipt of health care; medical history; genetic information; evidence of insurability, including conditions arising out of acts of domestic violence; and disability.

"Individual health benefits plan" means: a. a health benefits plan for eligible persons and their dependents; and b. a certificate issued to an eligible person which evidences coverage under a policy or contract issued to a trust or association, regardless of the situs of delivery of the policy or contract, if the eligible person pays the premium and is not being covered under the policy or contract pursuant to continuation of benefits provisions applicable under federal or State law.

Individual health benefits plan shall not include a certificate issued under a policy or contract issued to a trust, or to the trustees of a fund, which trust or fund is an employee welfare benefit plan, to the extent the "Employee Retirement Income Security Act of 1974" (29 U.S.C. s.1001 et seq.) preempts the application of P.L.1992, c.161 (C.17B:27A-2 et al.) to that plan.

"Medicaid" means the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

"Medical care" means amounts paid: (1) for the diagnosis, care, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body; and (2) transportation primarily for and essential to medical care referred to in (1) above.

"Member" means a carrier that issues or has in force health benefits plans in New Jersey. Member shall not include a carrier whose combined average Medicare, Medicaid, and NJ FamilyCare enrollment represents more than 75% of its average total enrollment for all health benefits plans or whose combined Medicare, Medicaid, and NJ FamilyCare net earned premium for the two-year calculation period represents more than 75% of its total net earned premium for the two-year calculation period.

"Modified community rating" means a rating system in which the premium for all persons covered under a policy or contract for a specific health benefits plan and a specific date of issue of that plan is the same without

regard to sex, health status, occupation, geographical location or any other factor or characteristic of covered persons, other than age.

The rating system shall provide that the premium rate charged by the carrier for the highest rated individual or class of individuals shall not be greater than 350% of the premium rate charged for the lowest rated individual or class of individuals purchasing the same individual health benefits plan. The rate differential among the premium rates charged to individuals covered under the same individual health benefits plans shall be based on the actual or expected experience of persons covered under that plan; provided, however, that the rate differential may also be based upon age. The factors upon which the rate differential is applied shall be consistent with regulations promulgated by the commissioner, which shall include age classifications established, at a minimum, in five-year increments. There may be a reasonable differential among the premium rates charged for different family structure rating tiers within an individual health benefits plan or for different health benefits plans offered by the carrier.

"Net earned premium" means the premiums earned in this State on health benefits plans, less return premiums thereon and dividends paid or credited to policy or contract holders on the health benefits plan business. Net earned premium shall include the aggregate premiums earned on the carrier's insured group and individual business and health maintenance organization business, including premiums from any Medicare, Medicaid, or NJ FamilyCare contracts with the State or federal government, but shall not include premiums earned from contracts funded pursuant to the "Federal Employee Health Benefits Act of 1959," 5 U.S.C. ss.8901-8914, any excess risk or stop loss insurance coverage issued by a carrier in connection with any self insured health benefits plan, or Medicare supplement policies or contracts.

"NJ FamilyCare" means the NJ FamilyCare Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.).

"Non-group person life year" means coverage of a person for 12 months by an individual health benefits plan or conversion policy or contract subject to P.L.1992, c.161 (C.17B:27A-2 et al.), Medicare cost or risk contract or Medicaid contract.

"Open enrollment" means the offering of an individual health benefits plan to any eligible person on a guaranteed issue basis, pursuant to procedures established by the board.

"Plan of operation" means the plan of operation of the program adopted by the board pursuant to this act.

"Plan sponsor" shall have the meaning given that term under Title I, section 3 of Pub.L.93-406, the "Employee Retirement Income Security Act of 1974" (29 U.S.C. s.1002 (16)(B)).

"Preexisting condition" means a condition that, during a specified period of not more than six months immediately preceding the effective date of coverage, had manifested itself in such a manner as would cause an ordinarily prudent person to seek medical advice, diagnosis, care or treatment, or for which medical advice, diagnosis, care or treatment was recommended or received as to that condition or as to a pregnancy existing on the effective date of coverage.

"Program" means the New Jersey Individual Health Coverage Program established pursuant to this act.

"Resident" means a person whose primary residence is in New Jersey and who is present in New Jersey for at least six months of the calendar year, or, in the case of a person who has moved to New Jersey less than six months before applying for individual health coverage, who intends to be present in New Jersey for at least six months of the calendar year.

"Two-year calculation period" means a two calendar year period, the first of which shall begin January 1, 1997 and end December 31, 1998.

2. Section 1 of P.L.1992, c.162 (C.17B:27A-17) is amended to read as follows:

C.17B:27A-17 Definitions relative to small employer health benefits plans.

1. As used in this act:

"Actuarial certification" means a written statement by a member of the American Academy of Actuaries or other individual acceptable to the commissioner that a small employer carrier is in compliance with the provisions of section 9 of P.L.1992, c.162 (C.17B:27A-25), based upon examination, including a review of the appropriate records and actuarial assumptions and methods used by the small employer carrier in establishing premium rates for applicable health benefits plans.

"Anticipated loss ratio" means the ratio of the present value of the expected benefits, not including dividends, to the present value of the expected premiums, not reduced by dividends, over the entire period for which rates are computed to provide coverage. For purposes of this ratio, the present values must incorporate realistic rates of interest which are determined before federal taxes but after investment expenses.

"Board" means the board of directors of the program.

"Carrier" means any entity subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the commissioner, that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including an insurance company authorized to issue health insurance, a health maintenance organization, a hospital service corporation, medical service corporation and health service corporation, or any other entity providing a plan of health insurance, health benefits or health services. The term "carrier" shall not include a joint insurance fund established pursuant to State law. For purposes of this act, carriers that are affiliated companies shall be treated as one carrier, except that any insurance company, health service corporation, hospital service corporation, or medical service corporation that is an affiliate of a health maintenance organization located in New Jersey or any health maintenance organization located in New Jersey that is affiliated with an insurance company, health service corporation, hospital service corporation, or medical service corporation shall treat the health maintenance organization as a separate carrier.

"Church plan" has the same meaning given that term under Title I, section 3 of Pub.L.93-406, the "Employee Retirement Income Security Act of 1974" (29 U.S.C.s.1002(33)).

"Commissioner" means the Commissioner of Banking and Insurance.

"Community rating" or "community rated" means a rating methodology in which the premium charged by a carrier for all persons covered by a policy or contract form is the same based upon the experience of the entire pool of risks covered by that policy or contract form without regard to age, gender, health status, residence or occupation.

"Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following: a group health plan; a group or individual health benefits plan; Part A or part B of Title XVIII of the federal Social Security Act (42 U.S.C. s.1395 et seq.); Title XIX of the federal Social Security Act (42 U.S.C. s.1396 et seq.), other than coverage consisting solely of benefits under section 1928 of Title XIX of the federal Social Security Act (42 U.S.C.s.1396s); chapter 55 of Title 10, United States Code (10 U.S.C. s.1071 et seq.); a medical care program of the Indian Health Service or of a tribal organization; a state health benefits risk pool; a health plan offered under chapter 89 of Title 5, United States Code (5 U.S.C. s.8901 et seq.); a public health plan as defined by federal regulation; a health benefits plan under section 5(e) of the "Peace Corps Act" (22 U.S.C. s.2504(e)); or coverage under any other type of plan as set forth by the commissioner by regulation.

Creditable coverage shall not include coverage consisting solely of the following: coverage only for accident or disability income insurance, or any combination thereof; coverage issued as a supplement to liability insurance; liability insurance, including general liability insurance and automobile liability insurance; workers' compensation or similar insurance; automobile medical payment insurance; credit only insurance; coverage for on-site medical clinics; coverage, as specified in federal regulation, under which benefits for medical care are secondary or incidental to the insurance benefits; and other coverage expressly excluded from the definition of health benefits plan.

"Department" means the Department of Banking and Insurance.

"Dependent" means the spouse, domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), civil union partner as defined in section 2 of P.L.2006, c.103 (C.37:1-29), or child of an eligible employee, subject to applicable terms of the health benefits plan covering the employee.

"Eligible employee" means a full-time employee who works a normal work week of 25 or more hours. The term includes a sole proprietor, a partner of a partnership, or an independent contractor, if the sole proprietor, partner, or independent contractor is included as an employee under a health benefits plan of a small employer, but does not include employees who work less than 25 hours a week, work on a temporary or substitute basis or are participating in an employee welfare arrangement established pursuant to a collective bargaining agreement.

"Enrollment date" means, with respect to a person covered under a health benefits plan, the date of enrollment of the person in the health benefits plan or, if earlier, the first day of the waiting period for such enrollment.

"Financially impaired" means a carrier which, after the effective date of this act, is not insolvent, but is deemed by the commissioner to be potentially unable to fulfill its contractual obligations or a carrier which is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

"Governmental plan" has the meaning given that term under Title I, section 3 of Pub.L.93-406, the "Employee Retirement Income Security Act of 1974" (29 U.S.C.s.1002(32)) and any governmental plan established or maintained for its employees by the Government of the United States or by any agency or instrumentality of that government.

"Group health plan" means an employee welfare benefit plan, as defined in Title I of section 3 of Pub.L.93-406, the "Employee Retirement Income Security Act of 1974" (29 U.S.C. s.1002(1)), to the extent that the plan provides medical care and including items and services paid for as

medical care to employees or their dependents directly or through insurance, reimbursement or otherwise.

"Health benefits plan" means any hospital and medical expense insurance policy or certificate; health, hospital, or medical service corporation contract or certificate; or health maintenance organization subscriber contract or certificate delivered or issued for delivery in this State by any carrier to a small employer group pursuant to section 3 of P.L.1992, c.162 (C.17B:27A-19). For purposes of this act, "health benefits plan" shall not include one or more, or any combination of, the following: coverage only for accident or disability income insurance, or any combination thereof; coverage issued as a supplement to liability insurance; liability insurance, including general liability insurance and automobile liability insurance; workers' compensation or similar insurance; automobile medical payment insurance; credit-only insurance; coverage for on-site medical clinics; and other similar insurance coverage, as specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits. Health benefits plan shall not include the following benefits if they are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of the plan: limited scope dental or vision benefits; benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; and such other similar, limited benefits as are specified in federal regulations. Health benefits plan shall not include hospital confinement indemnity coverage if the benefits are provided under a separate policy, certificate or contract of insurance, there is no coordination between the provision of the benefits and any exclusion of benefits under any group health benefits plan maintained by the same plan sponsor, and those benefits are paid with respect to an event without regard to whether benefits are provided with respect to such an event under any group health plan maintained by the same plan sponsor. Health benefits plan shall not include the following if it is offered as a separate policy, certificate or contract of insurance: Medicare supplemental health insurance as defined under section 1882(g)(1) of the federal Social Security Act (42 U.S.C.s.1395ss(g)(1)); and coverage supplemental to the coverage provided under chapter 55 of Title 10, United States Code (10 U.S.C. s.1071 et seq.); and similar supplemental coverage provided to coverage under a group health plan.

"Health status-related factor" means any of the following factors: health status; medical condition, including both physical and mental illness; claims experience; receipt of health care; medical history; genetic informa-

tion; evidence of insurability, including conditions arising out of acts of domestic violence; and disability.

"Late enrollee" means an eligible employee or dependent who requests enrollment in a health benefits plan of a small employer following the initial minimum 30-day enrollment period provided under the terms of the health benefits plan. An eligible employee or dependent shall not be considered a late enrollee if the individual: a. was covered under another employer's health benefits plan at the time he was eligible to enroll and stated at the time of the initial enrollment that coverage under that other employer's health benefits plan was the reason for declining enrollment, but only if the plan sponsor or carrier required such a statement at that time and provided the employee with notice of that requirement and the consequences of that requirement at that time; b. has lost coverage under that other employer's health benefits plan as a result of termination of employment or eligibility, reduction in the number of hours of employment, involuntary termination, the termination of the other plan's coverage, death of a spouse, or divorce or legal separation; and c. requests enrollment within 90 days after termination of coverage provided under another employer's health benefits plan. An eligible employee or dependent also shall not be considered a late enrollee if the individual is employed by an employer which offers multiple health benefits plans and the individual elects a different plan during an open enrollment period; the individual had coverage under a COBRA continuation provision and the coverage under that provision was exhausted and the employee requests enrollment not later than 30 days after the date of exhaustion of COBRA coverage; or if a court of competent jurisdiction has ordered coverage to be provided for a spouse or minor child under a covered employee's health benefits plan and request for enrollment is made within 30 days after issuance of that court order.

"Medical care" means amounts paid: (1) for the diagnosis, care, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body; and (2) transportation primarily for and essential to medical care referred to in (1) above.

"Member" means all carriers issuing health benefits plans in this State on or after the effective date of this act.

"Multiple employer arrangement" means an arrangement established or maintained to provide health benefits to employees and their dependents of two or more employers, under an insured plan purchased from a carrier in which the carrier assumes all or a substantial portion of the risk, as determined by the commissioner, and shall include, but is not limited to, a mul-

tiple employer welfare arrangement, or MEWA, multiple employer trust or other form of benefit trust.

"Plan of operation" means the plan of operation of the program including articles, bylaws and operating rules approved pursuant to section 14 of P.L.1992, c.162 (C.17B:27A-30).

"Plan sponsor" has the meaning given that term under Title I of section 3 of Pub.L.93-406, the "Employee Retirement Income Security Act of 1974" (29 U.S.C.s.1002(16)(B)).

"Preexisting condition exclusion" means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for that coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before that date. Genetic information shall not be treated as a preexisting condition in the absence of a diagnosis of the condition related to that information.

"Program" means the New Jersey Small Employer Health Benefits Program established pursuant to section 12 of P.L.1992, c.162 (C.17B:27A-28).

"Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, any person, firm, corporation, partnership, or political subdivision that is actively engaged in business that employed an average of at least two but not more than 50 eligible employees on business days during the preceding calendar year and who employs at least two employees on the first day of the plan year, and the majority of the employees are employed in New Jersey. All persons treated as a single employer under subsection (b), (c), (m) or (o) of section 414 of the Internal Revenue Code of 1986 (26 U.S.C.s.414) shall be treated as one employer. Subsequent to the issuance of a health benefits plan to a small employer and for the purpose of determining continued eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, provisions of P.L.1992, c.162 (C.17B:27A-17 et seq.) that apply to a small employer shall continue to apply at least until the plan anniversary following the date the small employer no longer meets the requirements of this definition. In the case of an employer that was not in existence during the preceding calendar year, the determination of whether the employer is a small or large employer shall be based on the average number of employees that it is reasonably expected that the employer will employ on business days in the current calendar year. Any reference in P.L.1992, c.162 (C.17B:27A-17 et seq.) to an employer shall include a reference to any predecessor of such employer.

"Small employer carrier" means any carrier that offers health benefits plans covering eligible employees of one or more small employers.

"Small employer health benefits plan" means a health benefits plan for small employers approved by the commissioner pursuant to section 17 of P.L.1992, c.162 (C.17B:27A-33).

"Stop loss" or "excess risk insurance" means an insurance policy designed to reimburse a self-funded arrangement of one or more small employers for catastrophic, excess or unexpected expenses, wherein neither the employees nor other individuals are third party beneficiaries under the insurance policy. In order to be considered stop loss or excess risk insurance for the purposes of P.L.1992, c.162 (C.17B:27A-17 et seq.), the policy shall establish a per person attachment point or retention or aggregate attachment point or retention, or both, which meet the following requirements:

a. If the policy establishes a per person attachment point or retention, that specific attachment point or retention shall not be less than $20,000 per covered person per plan year; and

b. If the policy establishes an aggregate attachment point or retention, that aggregate attachment point or retention shall not be less than 125% of expected claims per plan year.

"Supplemental limited benefit insurance" means insurance that is provided in addition to a health benefits plan on an indemnity non-expense incurred basis.

3. Section 14 of P.L.1997, c.146 (C.17B:27-54) is amended to read as follows:

C.17B:27-54 Application of provisions; definitions.

14. The provisions of sections 14 through 27 of P.L.1997, c.146 (C.17B:27-54 through C.17B:27-67) shall apply to group health insurance coverage that is not subject to the provisions of P.L.1992, c.161 and c.162 (C.17B:27A-2 et seq. and 17B:27A-17 et seq.). To the extent that any provision of sections 14 through 27 of P.L.1997, c.146 (C.17B:27-54 through C.17B:27-67) is inconsistent with the provisions of chapter 27 of Title 17B of the New Jersey Statutes and P.L.1973, c.337 (C.26:2J-1 et seq.), the provisions of sections 14 through 27 shall supersede those laws.

As used in sections 14 through 27 of P.L.1997, c.146 (C.17B:27-54 through C.17B:27-67):

"Affiliation period" means a period which, under the terms of the group health plan offered by a health maintenance organization, begins on the enrollment date and which must expire before the health insurance becomes

effective. The health maintenance organization shall not be required to provide health care services or benefits during such period and no premium shall be charged.

"Creditable coverage" means, with respect to an individual, coverage of the individual, other than coverage of excepted benefits, under any of the following: a group health plan; health insurance coverage; Part A or Part B of Title XVIII of the federal Social Security Act (42 U.S.C.s.1395 et seq.); Title XIX of the federal Social Security Act (42 U.S.C.s.1396 et seq.); other than coverage consisting solely of benefits under section 1928 of Title XIX of the federal Social Security Act (42 U.S.C.s.1396s); chapter 55 of Title 10, United States Code (10 U.S.C. s.1071 et seq.); a medical care program of the Indian Health Service of a tribal organization; a state health benefits risk pool; a health plan offered under chapter 89 of Title 5, United States Code (5 U.S.C. s.8901 et seq.); a public health plan; and a health benefits plan under section 5(e) of the "Peace Corps Act" (22 U.S.C.s.2504(e)).

"Enrollment date" means, with respect to an individual covered under a group health plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of the waiting period for enrollment.

"Excepted benefits" means:

a. coverage only for accident or disability income insurance, or any combination thereof; coverage issued as a supplement to liability insurance; liability insurance, including general liability insurance and automobile liability insurance; workers' compensation or similar insurance; automobile medical payment insurance; credit-only insurance; coverage for on-site medical clinics; and other similar insurance coverage, as specified by federal regulation, under which benefits for medical care are secondary or incidental to other insurance benefits;

b. when provided under a separate policy, certificate or contract of insurance or otherwise not an integral part of the group health plan: limited scope dental or vision benefits, benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof, and such other similar, limited benefits as are specified by federal regulation;

c. when offered as independent, noncoordinated benefits: hospital indemnity or other fixed indemnity insurance;

d. when offered as a separate insurance policy, certificate or contract of insurance: Medicare supplemental insurance as defined under section 1882(g)(1) of the federal Social Security Act (42 U.S.C. s.1395ss(g)(1)) and coverage supplemental to the coverage provided under chapter 55 of Title

10, United States Code (10 U.S.C.s.1071 et seq.) and similar supplemental coverage provided in addition to coverage under a group health plan.

"Group health plan" means an employee welfare benefit plan, as defined in Title I of section 3 of Pub.L.93-406, the "Employee Retirement Income Security Act of 1974" (29 U.S.C. s.1002(1)), to the extent that the plan provides medical care and including items and services paid for as medical care to employees or their dependents, as defined under the terms of the plan, directly or through insurance, reimbursement or otherwise.

"Health insurance coverage" means benefits consisting of medical care, provided directly, through insurance or reimbursement, or otherwise, and including items and services paid for as medical care, under any hospital or medical expense policy or certificate or health maintenance organization contract offered by a health insurer.

"Health insurer" means an insurer licensed to sell health insurance pursuant to Title 17B of the New Jersey Statutes, a health, hospital or medical service corporation, fraternal benefit association or a health maintenance organization.

"Health status-related factor" means: health status; medical condition, including both physical and mental illness; claims experience; receipt of health care; medical history; genetic information; evidence of insurability, including conditions arising out of acts of domestic violence; and disability.

"Health maintenance organization" means a federally qualified health maintenance organization as defined in the "Health Maintenance Organization Act of 1973," Pub.L.93-222 (42 U.S.C. s.300e et seq.), an organization authorized under P.L.1973, c.337 (C.26:2J-1 et seq.), or a similar organization regulated under State law for solvency in the same manner and to the same extent as a health maintenance organization authorized to do business in this State.

"Late enrollee" means a participant or beneficiary who enrolls in a group health plan other than during: the first period during which the individual is eligible to enroll in the plan; or a special enrollment period.

"Medical care" means amounts paid: (1) for the diagnosis, care, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body; and (2) transportation primarily for and essential to medical care referred to in (1) above.

"Network plan" means a group health plan offered by a health insurer under which the financing and delivery of medical care, including items and services paid for as medical care, are provided, in whole or in part, through a defined set of providers under contract with the insurer. Network

plan includes a health maintenance organization or health insurance company with selective contracting arrangements.

"Preexisting condition" means with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for that coverage, whether or not any medical advice, diagnosis, care or treatment was recommended or received before that date.

"Waiting period" means with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan.

4. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 294

AN ACT concerning continuing professional competency requirements for professional engineers, amending P.L.1983, c.337 and supplementing P.L.1938, c.342 (C.45:8-27 et seq.).

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

C.45:8-35.11 Continuing education required for licensure.

1. The State Board of Professional Engineers and Land Surveyors shall require each person licensed as a professional engineer, as a condition for biennial licensure pursuant to P.L.1938, c.342 (C.45:8-27 et seq.) and P.L.1972, c.108 (C.45:1-7), to complete not more than 24 credits of continuing professional competency relating to the practice of professional engineering, as provided in section 2 of this act, during each biennial registration period.

C.45:8-35.12 Duties of board relative to subject matter, contents.

2. a. The board shall:

(1) Establish standards for continuing professional competency in professional engineering, including the subject matter and content of courses

of study, which shall be in conformity with a national model, such as that of the National Council of Examiners for Engineering and Surveying;

(2) Approve educational programs offering credit towards the continuing professional competency in engineering requirements; and

(3) Approve other equivalent educational programs, including, but not limited to, meetings of constituents and components of professional engineering associations and other appropriate professional and technical associations when an engineering topic is presented as a principal part of the program, examinations, papers, publications, technical presentations, teaching and research appointments, technical exhibits, management, leadership or ethics courses, and correspondence courses on engineering topics where a final examination is required and shall establish procedures for the issuance of credit upon satisfactory proof of the completion of these programs.

b. In the case of education courses and programs, each hour of instruction shall be equivalent to one credit.

c. Two of the 24 credits of continuing professional competency required pursuant to section 1 of this act shall be in professional practice ethics.

C.45:8-35.13 Procedures established by board.

3. The board shall:

a. Establish procedures for monitoring compliance with the professional engineering continuing professional competency requirements; and

b. Establish procedures to evaluate and grant approval to providers of continuing professional competency in professional engineering.

C.45:8-35.14 Discretionary waiver of requirements.

4. The board may, in its discretion, waive requirements for continuing professional competency in professional engineering on an individual basis for reasons of hardship such as illness or disability, service in the armed forces of the United States of America, retirement of the license, or other good cause.

C.45:8-35.15 Inapplicability to initial registration.

5. The board shall not require completion of professional engineering continuing professional competency credits for initial registration.

C.45:8-35.16 Commencement of continuing education requirements.

6. a. The board shall not require completion of professional engineering continuing professional competency credits for any licensure periods commencing within 12 months of the effective date of this act.

b. The board shall require completion of professional engineering continuing professional competency credits on a pro rata basis for any licensure periods commencing more than 12 but less than 24 months following the effective date of this act.

C.45:8-35.17 Proof of completion.

7. The board may accept as proof of completion of continuing professional competency program credits:

a. documentation submitted by a person licensed as a professional engineer or by any entity offering a continuing professional competency program approved by the board pursuant to section 2 of this act; or

b. any other proof acceptable to the board.

C.45:8-35.18 Requirements for professional engineer, land surveyor.

8. Notwithstanding the provisions of section 1 of P.L.1993, c.39 (C.45:8-35.2) and section 1 of this act, the board shall require each person licensed as both a professional engineer and a land surveyor, as a condition for biennial certification, to complete not less than 36 credits of continuing professional competency relating to the practice of professional engineering and land surveying, with not less than 12 credits to be completed in professional engineering and not less than 12 credits to be completed in land surveying.

C.45:8-35.19 Carryover of credits.

9. The board shall allow a professional engineer to carry over a maximum of 12 continuing professional competency credits to the next biennial licensure period.

10. Section 18 of P.L.1983, c.337 (C.45:3A-15) is amended to read as follows:

C.45:3A-15 Continuing education requirement.

18. a. Except as provided in subsections b. and c. of this section, two years from the effective date of P.L.2008, c.77 (C.45:3A-16 et al.) and every two years thereafter, each person licensed to practice landscape architecture in this State shall certify to the board, upon a form issued and distributed by the board, that the person has attended, or participated in not less than 24 hours of continuing education in landscape architecture as follows: college postgraduate courses, lectures, seminars, or workshops, as approved by the board or any other evidence of continuing education which the board may approve.

b. Two years from the effective date of P.L.2008, c.77 (C.45:3A-16 et al.) and every two years thereafter, each architect who is licensed to practice landscape architecture pursuant to subsection d. of section 11 of P.L.1983, c.337 (C.45:3A-8), shall certify to the board, upon a form issued and distributed by the board, that the person has attended or participated in not less than 12 hours of continuing education in landscape architecture as follows: college postgraduate courses, lectures, seminars, or workshops, as approved by the board or any other evidence of continuing education which the board may approve.

c. Two years from the effective date of P.L.2008, c.77 (C.45:3A-16 et al.) and every two years thereafter, each professional engineer who is licensed to practice landscape architecture pursuant to subsection d. of section 11 of P.L.1983, c.337 (C.45:3A-8), shall certify to the board, upon a form issued and distributed by the board, that the person has attended or participated in not less than 12 hours of continuing education in landscape architecture as follows: college postgraduate courses, lectures, seminars, or workshops, as approved by the board or any other evidence of continuing education which the board may approve.

11. This act shall take effect on the 360th day following enactment, but the board may take such anticipatory administrative action in advance as shall be necessary to effectuate the purposes of this act.

Approved January 17, 2010.

CHAPTER 295

AN ACT concerning owner-operators providing mover's services and amending P.L.2007, c.50.

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

1. Section 3 of P.L.2007, c.50 (C.45:14D-11.1) is amended to read as follows:

C.45:14D-11.1 Public mover, written notice provided to consumer of owner operators.

3. a. It shall be unlawful for a contracting public mover to utilize an owner-operator for purposes of the owner-operator providing to a consumer

any mover's services of the public mover, unless the public mover provides written notice to the consumer in the order for service provided pursuant to subsection b. of this section, or in an addendum to that order, stating that the mover's services may be performed by an owner-operator. The notice shall include:

(1) (Deleted by amendment, P.L.2009, c.295)

(2) the definition of an owner-operator as provided in section 2 of P.L.1981, c.311 (C.45:14D-2), accompanied by a description of the nature of the relationship between a public mover and owner-operator and list of typical mover's services to be performed by the owner-operator; and

(3) a statement that the public mover shall be liable for all mover's services to be performed by the owner-operator.

b. The contracting public mover shall perform any physical survey, and issue the estimate and order for service to the consumer, as required by P.L.1981, c.311 (C.45:14D-1 et seq.), for those household goods, office goods, or special commodities to be transported by the owner-operator.

c. If a contracting public mover utilizes an owner-operator to perform any mover's services, the owner-operator shall deliver to the consumer with the bill of lading a written statement, on the letterhead of the contracting public mover, which designates the owner-operator that will perform the mover's services. The designation shall contain the name of the owner-operator, and include relevant contact information for the Division of Consumer Affairs, including a telephone number and e-mail address, that the consumer may use to contact the division.

2. Section 5 of P.L.2007, c.50 (C.45:14D-25.2) is amended to read as follows:

C.45:14D-25.2 Public mover, proof of insurance, workers compensation coverage required of owner-operator.

5. a. An owner-operator, in order to enter into any contract with a public mover to perform any mover's services of the public mover, shall secure and maintain insurance, or other securities or agreements for workers' compensation coverage, of the type and amount required pursuant to regulation.

b. A public mover shall not contract with an owner-operator until the owner-operator presents the public mover with proof of adequate workers' compensation coverage.

3. This act shall take effect on the first day of the fourth month next following enactment, but the Director of the Division of Consumer Affairs

may take any anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 17, 2010.

CHAPTER 296

AN ACT concerning foreclosure on residential properties, supplementing and amending various sections of the statutory law.

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

C.2A:50-69 Short title.

1. This act shall be known and may be cited as the "New Jersey Foreclosure Fairness Act."

C.2A:50-70 Notice to tenants, protection from eviction.

2. a. A person who takes title, as a result of a sheriff's sale or deed in lieu of foreclosure, to a residential property containing one or more dwelling units occupied by residential tenants, shall provide notice to the tenants, in both English and Spanish, no later than 10 business days after the transfer of title, in accordance with the provisions of subsection c. of this section. The notice shall be in the following form:

NOTICE TO TENANTS

THE FORMER OWNER OF . . . . . (insert property address) HAS LOST THE PROPERTY AS A RESULT OF A FORECLOSURE. FROM THE TIME YOU RECEIVE THIS AND UNTIL FURTHER NOTICE, YOU SHOULD PAY RENT TO ..... (insert name and address of person to whom rent is due). PLEASE SEND RENT BY .....(insert method of transmission) ON THE ..... (insert day) OF EACH MONTH.

WITH LIMITED EXCEPTIONS, THE NEW JERSEY ANTI-EVICTION ACT, N.J.S.A.2A:18-61.1 ET SEQ., PROTECTS YOUR RIGHT TO REMAIN IN YOUR HOME. FORECLOSURE ALONE IS NOT GROUNDS FOR EVICTION OF A TENANT. YOU ARE PROTECTED BY THIS LAW EVEN IF YOU DO NOT HAVE A WRITTEN LEASE.

THE NEW OWNER CANNOT EVICT YOU WITHOUT "GOOD CAUSE," AS DETERMINED BY A COURT. EXAMPLES OF "GOOD

CAUSE" ARE FAILURE TO PAY RENT, WILLFULLY DAMAGING THE PREMISES, OR PERSONAL OCCUPANCY BY THE NEW OWNER OF THE HOUSE OR APARTMENT THAT YOU NOW LIVE IN.

A RESIDENTIAL TENANT IN NEW JERSEY CAN BE EVICTED ONLY THROUGH A COURT PROCESS. ONLY A COURT OFFICER WITH A COURT ORDER MAY REMOVE YOU FROM THE PREMISES, AND ONLY AFTER YOU HAVE BEEN GIVEN THE OPPORTUNITY TO DEFEND YOURSELF IN COURT.

INDIVIDUALS CAN BE SUBJECT TO BOTH CIVIL AND CRIMINAL PENALTIES FOR TRYING TO FORCE YOU TO LEAVE YOUR HOME IN ANY OTHER MANNER, INCLUDING SHUTTING OFF UTILITIES OR OTHER VITAL SERVICE OR FAILING TO MAINTAIN THE PREMISES. YOU MAY, HOWEVER, ACCEPT FINANCIAL COMPENSATION FOR LEAVING VOLUNTARILY IF THE NEW OWNER OFFERS SUCH COMPENSATION.

IF SOMEONE IS PRESSURING YOU TO LEAVE, CONSULT WITH AN ATTORNEY.

b. (1) The notice required pursuant to subsection a. of this section shall be printed in no less than 14 point bold point type, on paper at least eight and one-half inches by 11 inches in size, and shall contain contact information, including the name, mailing address, e-mail address, and telephone number of the new owner or a person authorized to act on behalf of the new owner.

(2) The Department of Community Affairs shall prepare and make available for distribution, both in print and in an easily printable format on the department's Internet website, a notice in English with a Spanish translation that may be used by the new owner or person authorized to act on behalf of the new owner to satisfy the notice requirements of this section.

c. (1) In buildings containing 10 or fewer dwelling units, the new owner shall make a good faith effort to obtain the names of all tenants occupying the property for which a notice is required pursuant to subsection a. of this section. The notice shall be addressed to tenants by name; provided, however, that in the event a good faith search fails to identify the tenant by name, the new owner shall address the notice required pursuant to subsection a. of this section to "Tenant." The new owner shall post the notice prominently on the front door of each tenant's unit and send the notice to each tenant via certified and regular mail.

(2) In a residential property containing more than 10 dwelling units, the new owner shall provide notice to tenants occupying the property for

which notice is required pursuant to subsection a. of this section by causing a copy of the notice to be conspicuously displayed in a prominent place in a common area of each residential building or structure on the property. If there is no common area, the notice shall be posted in a conspicuous location in each building or structure on the premises, including, but not limited to the walls of the front vestibule or any foyer or hallway near the main entrance of the building or structure.

d. Any person taking title to the residential property as a result of a sheriff's sale or deed in lieu of foreclosure, or that person's agent or employee, shall provide a copy of the notice as set forth in subsection a. of this section with the initial and final written or verbal communication to a tenant for the purposes of inducing a tenant to vacate the property in accordance with the provisions of section 3 of P.L.2009, c.296 (C.2A:50-71).

e. Service on any tenant of a summons and complaint in an action to foreclose a mortgage on any residential property by any person, or the initial written or verbal communication by a foreclosing creditor to a tenant in a residential property subject to ongoing foreclosure proceedings, or any written or verbal communication that seeks to induce the tenant to vacate the property prior to the transfer of the property through sheriff's sale or a deed in lieu of foreclosure, shall include a copy of the notice regarding residential tenant rights during foreclosure as required by the Rules Governing the Courts of the State of New Jersey, as adopted by the Supreme Court of New Jersey.

f. Any person, or that person's agent or employee, who violates the provisions of this section shall be subject to the same civil remedies as are provided for in subsection a. of section 3 of P.L.1975, c.311 (C.2A:18-61.6), or, at the tenant's sole discretion, damages in the amount of $2,000 per violation, plus attorney's fees and costs. Nothing in this subsection shall limit the liability, either civil or criminal, of a person, or a person's agent or employee, who violates any other law or regulation.

C.2A:50-71 Inducing tenant to vacate property prohibited.

3. a. No person, or the person's agent or employee, who has filed a complaint in an action to foreclose a mortgage on a residential property, as described in section 2 of P.L.2009, c.296 (C.2A:50-70), or who takes title to a residential property as a result of a sheriff's sale or other transaction following the filing of a complaint in an action to foreclose a mortgage on the property shall make any communication to induce the tenant to vacate the property except through a bona fide monetary offer, which shall be made in accordance with the provisions of subsections d. and e. of section 2 of

P.L.2009, c.296 (C.2A:50-70). A tenant shall have five business days from the date of receipt of any bona fide monetary offer to vacate the property in order to accept or reject the offer. An acceptance of an offer by a tenant shall be in writing, and include an affirmative acknowledgement of the date of receipt of the offer, and an understanding that the tenant had a five-day review period as required by this subsection to accept or reject the offer presented.

b. No person, or the person's agent or employee, who has filed a complaint in an action to foreclose a mortgage on a residential property, as described in section 2 of P.L.2009, c.296 (C.2A:50-70), or who takes title to a residential property as a result of a sheriff's sale or other transaction following the filing of a complaint in an action to foreclose a mortgage on the property shall, during the pendency of the foreclosure proceeding or within one year of the transfer of title following such proceeding, take any action placing pressure on a tenant to accept any offer to vacate the property, including, but not limited to:

(1) Mischaracterizing or misrepresenting the rights of the tenant under the Anti-Eviction Act, P.L.1974, c.49 (C.2A:18-61.1 et seq.), or any other State law or municipal ordinance;

(2) Implying the tenant is obligated to accept an offer or implying consequences against the tenant for failing to accept an offer;

(3) Any form of tenant harassment, including, but not limited to, discontinuance of electricity, heat, or other utilities, failure to maintain the common areas or facilities of the property, or any other failure to maintain the premises in a habitable condition;

(4) Implementing an increase in rent in excess of any governing municipal rent control or rent leveling ordinance, or in the event the property is not subject to rent control, an increase in rent exceeding the limitation imposed by the Anti-Eviction Act, P.L.1974, c.49 (C.2A:18-61.1 et seq.) or any other State or federal law or municipal ordinance.

c. Any person, their agent or employee, who violates the provisions of this section shall be subject to the civil remedies provided for in subsection a. of section 3 of P.L.1975, c.311 (C.2A:18-61.6), or, at the tenant's sole discretion, damages in the amount of $2,000 per violation, plus attorney's fees and costs. Nothing in this subsection shall limit the liability, either civil or criminal, of a person, or a person's agent or employee, who violates any other law or regulation.

4. Section 15 of P.L.2008, c.127 (C.46:10B-49) is amended to read as follows:

C.46:10B-49 Report of mortgage foreclosure actions.

15. a. (1) Except as provided in paragraph (2) of this subsection, a creditor that institutes a mortgage foreclosure action in the Superior Court of New Jersey shall report to the Department of Banking and Insurance, on a quarterly basis and on a form promulgated by the department, information about the number of mortgage foreclosure actions filed by the creditor in the State.

(2) When a creditor or other person is required by any Rule of Court or otherwise by law to file electronically with the Superior Court of New Jersey pleadings in an action to foreclose on a mortgage, and the Administrative Office of the Courts is capable of collecting and transmitting the data set forth in paragraphs (1) through (8) of subsection b. of this section in electronic form, the creditor or other person shall transmit the data to the Superior Court, in a manner prescribed by the Superior Court, as part of the pleadings in an action to foreclose a mortgage. The Administrative Office of the Courts shall collect the electronically submitted data and transmit it to the Department of Banking and Insurance, which shall produce and make available on its website quarterly reports, as set forth in subsection b. of this section.

b. The Department of Banking and Insurance shall produce a report, on a quarterly basis, detailing information about mortgage foreclosures filed by creditors in each county of the State, and shall make the report available to the public on its website. The report shall describe the type of mortgage being foreclosed on based on the following categories:

(1) prime rate mortgages foreclosed upon;

(2) subprime rate mortgages foreclosed upon;

(3) fixed rate mortgages foreclosed upon;

(4) adjustable rate mortgages foreclosed upon;

(5) nonconforming mortgages, as defined by Fannie Mae, Freddie Mac, or their successors;

(6) mortgages insured by the Federal Housing Administration foreclosed upon;

(7) mortgages insured by the Veteran's Administration foreclosed upon; and

(8) any other category of classification the department deems appropriate to effectuate the purpose of this section.

c. The Department of Banking and Insurance, pursuant to the "Administrative Procedure Act," P.L.1986, c.410 (C.52:14B-1 et seq.) shall adopt regulations necessary to effectuate the purpose of this section. Following the enactment of P.L.2009, c.296 (C.2A:50-69 et al.), the depart-

ment, in consultation with the Administrative Office of the Courts, shall adopt regulations necessary to effectuate the purpose of this section.

5. Section 17 of P.L.2008, c.127 (C.46:10B-51) is amended to read as follows:

C.46:10B-51 Procedure for serving summons and complaint in an action to foreclose on a mortgage.

17. a. (1) A creditor serving a summons and complaint in an action to foreclose on a mortgage on residential property in this State shall, within 10 days of serving the summons and complaint, notify the municipal clerk of the municipality in which the property is located that a summons and complaint in an action to foreclose on a mortgage has been filed against the subject property. The notice shall contain the name and contact information for the representative of the creditor who is responsible for receiving complaints of property maintenance and code violations, may contain information about more than one property, and shall be provided by mail or electronic communication, at the discretion of the municipal clerk. If the municipality has appointed a public officer pursuant to P.L.1942, c.112 (C.40:48-2.3 et seq.), the municipal clerk shall forward a copy of the notice to the public officer or shall otherwise provide it to any other local official responsible for administration of any property maintenance or public nuisance code.

In the event that the property being foreclosed on is an affordable unit pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), then the creditor shall identify that the property is subject to the "Fair Housing Act."

The notice shall also include the street address, lot and block number of the property, and the full name and contact information of an individual located within the State who is authorized to accept service on behalf of the creditor. The notice shall be provided to the municipal clerk within 10 days of service of a summons and complaint in an action to foreclose on a mortgage against the subject property.

(2) Within 30 days following the effective date of P.L.2009, c.296 (C.2A:50-69 et al.), any creditor that has initiated a foreclosure proceeding on any residential property which is pending in Superior Court shall provide to the municipal clerk of the municipality in which the property is located, a listing of all residential properties in the municipality for which the creditor has foreclosure actions pending by street address and lot and block number. If the municipality has appointed a public officer pursuant to

P.L.1942, c.112 (C.40:48-2.3 et seq.), the municipal clerk shall forward a copy of the notice to the public officer, or shall otherwise provide it to any other local official responsible for administration of any property maintenance or public nuisance code.

b. If the owner of a residential property vacates or abandons any property on which a foreclosure proceeding has been initiated or if a residential property becomes vacant at any point subsequent to the creditor's filing the summons and complaint in an action to foreclose on a mortgage against the subject property, but prior to vesting of title in the creditor or any other third party, and the property is found to be a nuisance or in violation of any applicable State or local code, the local public officer, municipal clerk, or other authorized municipal official shall notify the creditor, which shall have the responsibility to abate the nuisance or correct the violation in the same manner and to the same extent as the title owner of the property, to such standard or specification as may be required by State law or municipal ordinance.

c. If the municipality expends public funds in order to abate a nuisance or correct a violation on a residential property in situations in which the creditor was given notice pursuant to the provisions of subsection b. of this section but failed to abate the nuisance or correct the violation as directed, the municipality shall have the same recourse against the creditor as it would have against the title owner of the property, including but not limited to the recourse provided under section 23 of P.L.2003, c.210 (C.55:19-100).

C.2A:50-72 Supersedure.

6. The provisions of any regulation, ordinance, rule, or resolution of any municipality, county or other subdivision of the State, or any agency or instrumentality of that municipality, county or other subdivision, relating to foreclosure practices, or the extension, delay, forbearance or imposition of moratorium periods concerning foreclosures, are superseded by the provisions of the "Save New Jersey Homes Act of 2008," P.L.2008, c.86 (C.46:10B-36 et seq.) and the forbearance and nuisance abatement provisions of the "Mortgage Stabilization and Relief Act," P.L.2008, c.127 (C.55:14K-82 et al.).

7. Section 5 of this act shall take effect on the 10th day after the date of enactment, and the remainder of the act shall take effect on the 30th day after the date of enactment.

Approved January 17, 2010.

CHAPTER 297

AN ACT concerning the use of New Jersey Prescription Blanks and amending P.L.2003, c.280.

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

1. Section 18 of P.L.2003, c.280 (C.45:14-57) is amended to read as follows:

C.45:14-57 Requirements for prescription to be filled.

18. a. A prescription issued by a practitioner or health care facility licensed in New Jersey shall not be filled by a pharmacist unless the prescription is issued on a New Jersey Prescription Blank bearing the practitioner's license number or the unique provider number assigned to a health care facility.

b. Notwithstanding the provisions of subsection a. of this section to the contrary, a practitioner or health care facility licensed in New Jersey may utilize an electronic health record program to imprint the practitioner's name and license number or the unique provider number assigned to a health care facility on a blank New Jersey Prescription Blank for transmission to a pharmacist, provided that:

(1) any other requirements under section 20 of P.L.2003, c.280 (C.45:14-59) and any regulations adopted by the Director of the Division of Consumer Affairs in the Department of Law and Public Safety concerning New Jersey Prescription Blanks are met; and

(2) the electronic health record program will imprint on the blank form all such identifying information about the prescriber as is required by regulation of the Director of the Division of Consumer Affairs.

2. 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.

3. This act shall take effect on the 180th day after enactment, but the Director of the Division of Consumer Affairs may take such anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved January 17, 2010.

CHAPTER 298

AN ACT concerning the New Jersey Motor Vehicle Commission, amending various parts of Title 39 of the Revised Statutes and repealing R.S.39:11-3.

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

1. Section 10 of P.L.2003, c.13 (C.39:2A-10) is amended to read as follows:

C.39:2A-10 Powers of deputy chief administrator.

10. The Deputy Chief Administrator shall assist the chief administrator in the day-to-day administration of the commission and shall have all of the powers and duties of the chief administrator, as authorized and assigned by the chief administrator.

The deputy chief administrator shall carry out all of the chief administrator's duties and responsibilities during the chief administrator's absence, disqualification or inability to serve, and shall perform such other duties and responsibilities as the chief administrator shall determine and assign. If a vacancy occurs in the office of the chief administrator for any reason, the deputy chief administrator shall become acting chief administrator to serve until a successor is appointed in accordance with section 12 of P.L.2003, c.12 (C.39:2A-12). The deputy chief administrator shall serve at the pleasure of the chief administrator and shall receive such salary as fixed by the chief administrator in accordance with the table of organization. The deputy chief administrator shall be in the State unclassified service.

2. Section 12 of P.L.2003, c.13 (C.39:2A-12) is amended to read as follows:

C.39:2A-12 Board; membership; appointment; terms, vacancies.

12. a. Except as otherwise provided by law, the commission shall be governed by a board which shall consist of the following eight members:

(1) The Commissioner of Transportation, who shall serve as an ex officio voting member;

(2) The State Attorney General, who shall serve as an ex officio voting member;

(3) The Chair of the board who shall be a nonvoting member and who shall also be the person appointed and serving as the chief administrator.

The chief administrator shall be appointed by the Governor with the advice and consent of the Senate. The chief administrator shall serve at the pleasure of the Governor during the Governor's term of office, and shall receive such salary as shall be fixed by the Governor which is not greater than the salary of a cabinet-level official of the State. Prior to nomination, the Governor shall cause the Attorney General to conduct an inquiry into the nominee's background, financial stability, integrity and responsibility and reputation for good character, honesty and integrity. The person appointed and serving as chief administrator shall devote full time to the performance of the duties of that position. The chief administrator shall be in the State unclassified service;

(4) The State Treasurer, who shall serve as an ex officio voting member; and

(5) Four public members who shall be appointed by the Governor with the advice and consent of the Senate, not more than two of whom shall be of the same political party. The public members shall be voting members and serve for a term of four years. These members shall be New Jersey residents who shall provide appropriate geographic representation from throughout the State and who shall have experience and familiarity with public safety, customer service, security, or business operations. At least one member shall reside in a northern county (Bergen, Essex, Hudson, Morris, Passaic, Union, Sussex and Warren), at least one member shall reside in a central county (Hunterdon, Mercer, Middlesex, Monmouth and Somerset), and at least one member shall reside in a southern county (Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem).

b. Appointments of public members to the board shall be for terms of four years, except that in filling each vacancy, among the several public members, that first arises by expiration of the respective terms of those members following the effective date of P.L.2007, c.335 (C.39:2A-36.1 et al.), appointments shall be for terms as follows: one member for four years, one member for three years, one member for two years, and one member for one year. A public member may be appointed for any number of successive terms. The board may elect a secretary and a treasurer, who need not be members, and the same person may be elected to serve both as secretary and treasurer.

c. Each ex officio member of the board may designate two employees of the member's department or agency, who may represent the member at meetings of the board. A designee may lawfully vote and otherwise act on behalf of the member. The designation shall be in writing delivered to the

board and shall continue in effect until revoked or amended by writing delivered to the board.

d. Each public member shall continue in office after the expiration of the member's term until a successor is appointed and qualified. The successor shall be appointed in like manner for the unexpired term only.

e. A vacancy in the membership of the board occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

3. Section 13 of P.L.2003, c.13 (C.39:2A-13) is amended to read as follows:

C.39:2A-13 Powers, duties of board.

13. a. In addition to any powers and duties conferred upon it elsewhere in this act, the board shall be authorized to:

(1) Make, amend and repeal bylaws not inconsistent with State and federal law;

(2) Adopt an official seal;

(3) Maintain an office at such place or places within the State as it may designate;

(4) Apply for and accept grants from the State or federal government, or any agency thereof, or grants, gifts or other contributions from any foundation, corporation, association or individual, or any private source, and comply with the terms, conditions and limitations thereof, as necessary and proper to carry out the purposes of this act;

(5) Delegate to the chief administrator and any other officers of the commission such powers and duties as necessary and proper to carry out the purposes of this act;

(6) Operate, lease, license or contract in such manner as to produce revenue for the commission, as provided in this act, including engaging in advertising services pursuant to section 35 of P.L.2003, c.13 (C.39:2A-33);

(7) Accept and use any funds available to the commission;

(8) Enter into agreements or contracts to pay for goods from and services rendered by any public or private entity, and receive payment for services rendered to any public or private entity, including advertising services provided pursuant to section 35 of P.L.2003, c.13 (C.39:2A-33); and

(9) Enter into agreements or contracts, execute any and all instruments, and do and perform acts or things necessary, convenient or desirable for the purposes of the commission, or to carry out any power expressly or implicitly given in this act.

b. The board is further authorized to:

(1) Review and approve a statement of the vision, mission, and goals of the commission, as submitted by the chief administrator;

(2) Review and approve the strategic business plan of the commission which shall include the commission's long-term objectives, policies, and programs, including a facilities improvement and management plan and a table of organization, as submitted by the chief administrator;

(3) Review and approve the annual budget of the commission as submitted by the chief administrator and ensure that projected revenues and service charges are sufficient to adequately fund the commission both in the short and long-term;

(4) Receive reports and recommendations from any advisory council created pursuant to section 26 of P.L.2003, c.13 (C.39:2A-26) and provide policy direction related thereto to the chief administrator;

(5) Review and recommend all capital purchases and construction projects undertaken by the commission;

(6) Review any proposed bill, joint resolution or concurrent resolution introduced in either House of the Legislature which establishes or modifies any motor vehicle statute or regulation in this State. Such a review shall include, but not be limited to, an analysis of the fiscal impact of the bill or resolution on the commission and any comments upon or recommendations concerning the legislation including rejection, modification or approval. Additionally, the board shall suggest alternatives to the legislation which it deems may be appropriate; and

(7) Recommend to the Governor and the Legislature any statutory changes it deems appropriate, including, but not limited to, any revisions to fees or service charges or changes to programs, in order to insure the proper functioning and operation of the commission.

c. Except as provided in this section and section 21 of P.L.2003, c.13 (C.39:2A-21), all administrative functions, powers and duties of the commission may be exercised by the chief administrator and any reference to the commission in any law, rule or regulation may for this purpose be deemed to refer to the chief administrator.

4. Section 26 of P.L.2003, c.13 (C.39:2A-26) is amended to read as follows:

C.39:2A-26 Advisory council.

26. There is created within the commission one advisory council, which shall provide the board with advice, technical expertise, information,

guidance, and recommendations in the area of security and privacy. The board shall designate the appropriate State and local government representatives, interest group representatives, technical experts, and constituent representatives as appropriate to serve on the council. Federal government representatives and representatives of national organizations shall be asked to serve, and if willing, may be designated by the board to serve. All council members shall be designated by board action. The Chair, or the Chair's designee, shall serve on the council. The council shall meet and report to the board as frequently as the board requests. The council is as follows:

a. (Deleted by amendment, P.L.2009, c.298).

b. (Deleted by amendment, P.L.2009, c.298).

c. The Security and Privacy Advisory Council, which shall: advise the board as to how to effectively maintain the commission's system and business processes in the securest manner; help the board to address the commission's most serious security breaches; advise as to new or modified programs needed to achieve heightened security; and recommend methods to curtail fraudulent and criminal activities that present threats to the State's security as well as measures to protect the privacy of driver information, including but not limited to the Driver's Privacy Protection Act of 1994, Pub.L.103-322.

d. (Deleted by amendment, P.L.2009, c.298).

e. (Deleted by amendment, P.L.2009, c.298).

In addition to the council created above, the chief administrator may create and establish as necessary within the commission any other advisory council to examine issues affecting or identified by the commission. The members of such councils shall be designated, serve, meet and report to the board as provided for the members of the council created above. The Chair or Chair's designee shall serve on each council. The Safety Advisory Council, the Customer Service Advisory Council, the Business Advisory Council, and the Technology Advisory Council are abolished.

5. Section 35 of P.L.2003, c.13 (C.39:2A-33) is amended to read as follows:

C.39:2A-33 Contracts for ancillary services; use of revenues; rules, regulations.

35. a. The commission may contract for ancillary services at facilities used by the commission, including but not limited to food and beverage concessions, service concessions that would be beneficial to its customers, and information services that would be of interest or informative to its customers, such as television displays, public service displays, and the like.

b. In entering into a contract pursuant to subsection a. of this section, the commission shall award a contract on the basis of competitive public bids or proposals to the responsible bidder or proposer whose bid or proposal is determined to be in the best interest of the State, price and other factors considered.

c. The commission may also sell, lease, or otherwise contract for advertising in or on its equipment or facilities, in any mailing it conducts, or in any publication it produces, including, but not limited to, the New Jersey Driver Manual distributed pursuant to R.S.39:3-41.

d. The commission is authorized to receive funds from contracts entered into pursuant to subsections a. and c. of this section and shall have the right to use the same. The revenue shall not be subject to appropriation as Direct State Services by the Legislature. In addition, this revenue shall not be restricted from use by the commission in any manner except as provided by law. This revenue shall be used in the furtherance of commission purposes. This revenue shall be considered revenue of the commission and shall not be subject to the calculation of proportional revenue remitted to the commission pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36).

e. In accordance with the "Administrative Procedure Act," P.L.1968, c.401 (C.52:14B-1 et seq.), the commission shall promulgate rules and regulations necessary to effectuate the purposes of this section, including, but not limited to, the criteria for determining the appropriateness of any advertising and the suitability of any advertising message.

6. Section 1 of P.L.1969, c.261 (C.39:5-30.2) is amended to read as follows:

C.39:5-30.2 Review by chief administrator, alternatives to suspension, revocation.

1. Any moving violation of the motor vehicle law which carries with it a penalty of suspension or revocation of a driver's license may be subject to review by the chief administrator. The chief administrator, in his or his designee's discretion, may permit a driver subject to suspension or revocation to elect to attend a New Jersey Motor Vehicle Commission Driver Improvement Program in lieu of all or part of a period of suspension. This discretionary authority shall not apply to those sections of the motor vehicle law which require the imposition of a mandatory suspension term. In addition to, or in lieu of, the Driver Improvement Program offered by the commission, the chief administrator may authorize a drivers' school licensed pursuant to section 2 of P.L.1951, c.216 (C.39:12-2) or any statewide safety organization to provide a Driver Improvement Program, the course of

which shall be subject to the oversight of, and any guidelines established by, the commission. The authority of the chief administrator to suspend, revoke, or deny issuance of an initial or renewal license to operate a driving school, or an instructor's license, and to assess fines, pursuant to P.L.1951, c.216 (C.39:12-1 et seq.) shall apply to any violations related to the administration of a Driver Improvement Program.

7. Section 1 of P.L.1972, c.38 (C.39:5-30.4) is amended to read as follows:

C.39:5-30.4 Driver Improvement Program; fee.

1. Persons attending a Driver Improvement Program offered by the New Jersey Motor Vehicle Commission, an approved drivers' school, or a Statewide safety organization, as approved by the commission, shall pay such fee therefor not to exceed $100, as prescribed in regulations promulgated by the chief administrator. The driver's license of any person failing to pay the prescribed fee shall be subject to suspension or revocation.

8. R.S.39:11-2 is amended to read as follows:

"Motor vehicle junk business," "motor vehicle junk yard" defined.

39:11-2. The terms "motor vehicle junk business" or "motor vehicle junk yard" shall mean and describe any business and any place of storage or deposit of two or more unregistered motor vehicles which, in the opinion of the commission, are unfit for reconditioning for use for highway transportation, or used parts of motor vehicles or material which has been a part of a motor vehicle, the sum of which parts or material shall, in the opinion of the commission, be equal in bulk to two or more motor vehicles, but shall not include a salvage pool or auto auction whose primary business is the sale of total loss vehicles on behalf of insurance companies.

9. R.S.39:11-4 is amended to read as follows:

Permit or certificate from municipality required.

39:11-4. A motor vehicle junk business or motor vehicle junk yard shall obtain a permit or certificate approving its proposed location from the governing body or zoning commission of the municipality in which it is proposed to establish or maintain the junk yard or business.

10. R.S.39:11-7 is amended to read as follows:

Discretion of commission relative to junk yard, business.

39:11-7. The commission or its representative, in connection with a request for a hearing made by a municipal governing body or zoning commission pursuant to R.S.39:11-6, may examine the location of the motor vehicle junk yard or business proposed to be established or maintained. The commission may recommend such conditions as it deems advisable, having regard to the depreciation of surrounding property and the health, safety, and general welfare of the public.

11. R.S.39:11-8 is amended to read as follows:

Fee.

39:11-8. A fee of $50 shall be paid by the applicant to the commission for the examination of the proposed location of each motor vehicle junk yard or business.

12. R.S.39:11-9 is amended to read as follows:

Certification of vehicle's condition.

39:11-9. Every person owning or operating a motor vehicle junk business or motor vehicle junk yard and who is also licensed as a motor vehicle dealer pursuant to the provisions of R.S.39:10-19 shall certify to the commission, upon the sale by him of a motor vehicle, that, at the time of the sale, the motor vehicle was or was not, as the case may be, in suitable condition to be operated on the highways.

13. R.S.39:11-11 is amended to read as follows:

Violations, penalties.

39:11-11. A person who violates any provision of R.S.39:11-9 of this Title shall be fined not less than $25 nor more than $100 or be imprisoned not more than 90 days, or both.

The provisions of said section shall be enforced and all penalties for the violation thereof shall be recovered in accordance with the provisions of "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) and in addition to the provisions and remedies therein contained, the following provisions and remedies shall be applicable in any proceeding brought for a violation of any of the provisions of said section:

a. The several municipal courts shall have jurisdiction of any such proceeding, in addition to the courts prescribed in "The Penalty Enforcement Law of 1999";

b. The complaint in any such proceeding may be made on information and belief by the commission, or any police or peace officer of any municipality, any county or the State;

c. A warrant may issue in lieu of summons;

d. Any police or peace officer shall be empowered to serve and execute process in any such proceeding;

e. The hearing in any such proceeding shall be without a jury;

f. Any such proceeding may be brought in the name of the commission or in the name of the State of New Jersey; and

g. Any sums received in payment of any fines imposed in any such proceeding shall be paid to the commission and shall be paid by it into the State treasury.

14. Nothing in P.L.2009, c.298 shall be construed to permit the New Jersey Motor Vehicle Commission to increase fees and surcharges beyond the amounts authorized by law as of the effective date of P.L.2009, c.298.

Repealer.

15. R.S.39:11-3 is repealed.

16. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 299

AN ACT concerning family child care providers and supplementing P.L.1987, c.27 (C.30:5B-16 et seq.).

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

C.30:5B-22.1 Findings, declarations relative to family child care providers.

1. The Legislature finds and declares that:

a. Family child care providers in the State of New Jersey provide an invaluable and essential service to working parents and guardians by providing a healthy, safe and productive environment for their children while they are engaged in work or training;

b. The State recognizes the importance of these services and recognizes the need to continue and improve both the quality of care and the living and working conditions of the providers;

c. The Department of Children and Families is vested with the authority to regulate and set standards for the registration of family child care homes, and the Department of Human Services provides funding for the administration and enforcement of the operation of family child care homes, establishes reimbursement rates, and administers child care subsidy services for the Child Care Development Fund;

d. To ensure quality standards of care, it is in the public interest for New Jersey to maintain a child care delivery system that encourages the recruitment and retention of quality family child care providers to deliver these vital services;

e. In 2006, a majority of family child care providers selected a union to be their representative by individually signed authorization cards, and the State Board of Mediation certified the Child Care Workers Union (CCWU), a union formed by the American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) and the Communications Workers of America, AFL-CIO (CWA) to be the providers' exclusive majority representative; and

f. The State subsequently entered into an agreement with the CCWU in its capacity as exclusive majority representative for the family child care providers.

C.30:5B-22.2 Meeting of departments, representative; agreement.

2. a. The Commissioner of the Department of Human Services or, if applicable, the Commissioner of the Department of Children and Families, on behalf of the State of New Jersey, shall, in a timely manner, meet in good faith with a recognized exclusive majority representative of all family child care providers who are registered and approved as family day care providers pursuant to P.L.1987, c.27 (C.30:5B-16 et seq.), for the purpose of entering into an agreement, or negotiating a renewal or extension, with any agreed upon modifications, of any agreement in effect upon the effective date of this act, regarding reimbursement rates, collection and payment of fees, dispute resolution, reporting procedures, benefits, health and safety conditions, and any other matters that would improve recruitment and retention of qualified family child care providers and the quality of the programs they provide, subject to the provisions of this section. Although family child care providers are not State employees, the subjects which may be included in an agreement shall be consistent with the areas which are considered negotiable

for public employees who are subject to the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.). Nothing in this act shall require that an agreement be reached on any particular matter, provided the parties act in good faith.

b. The purpose of this section is to permit family child care providers to select an exclusive majority representative to represent them as provided in this section. This act is intended by the Legislature to provide state action immunity under federal and State antitrust laws for any actions of the State, or joint actions of family child care providers and their exclusive majority representative, to the extent those actions are authorized by this act. The protections and prohibitions regarding unfair practices provided by section 1 of P.L.1974, c.123 (C.34:13A-5.4) shall apply to any family child care providers subject to this act, to the State as their employer, and to their employee organizations, representatives or agents.

c. Any agreement entered into, renewed or extended pursuant to this section shall be embodied in writing, shall be binding upon the State of New Jersey, and shall provide for the payment of union dues and representation fees in a manner consistent with the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.) which apply to the payment of union dues and representation fees by public employees.

d. For the purposes of this act, "family child care provider" shall include all in-home, voluntary, registered, approved family friend and neighbor caregivers and nationally accredited child care providers included in any agreement entered into under the provisions of Executive Order 23, signed August 2, 2006.

C.30:5B-22.3 Construction of act.

3. No provision of this act or provision of any agreement entered into, renewed or extended pursuant to this act, shall be construed as:

a. Interfering with the rights of parents or guardians to choose family child care providers;

b. Granting family child care providers any right to engage in a strike or collective cessation of the delivery of child care services; or

c. Granting family child care providers status as employees of the State for the purposes of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), the New Jersey "unemployment compensation law," R.S.43:21-1 et seq., and the workers' compensation law, R.S.34:15-1 et seq., nor status as employees of the State for any other purposes except for the purposes indi-

cated in sections 1 and 2 of this act, including selecting representatives to negotiate and enter into agreements with the State as provided in section 2.

C.30:5B-22.4 Limitations of act.

4. No action may be taken under this act that would derogate from the status, functions or authority of the Department of Human Services in its capacity as Lead Agency pursuant to the State Plan for Child Care Development Services filed by the Commissioner of Human Services with the U.S. Secretary of Health and Human Services. No provision of this act shall supersede the authority of the Commissioner of the Department of Children and Families under the provisions of P.L.1987, c.27 (C.30:5B-16 et seq.).

5. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 300

AN ACT concerning covenants not to sue and amending P.L.1997, c.278.

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

1. Section 6 of P.L.1997, c.278 (C.58:10B-13.1) is amended to read as follows:

C.58:10B-13.1 No further action letter; covenant not to sue.

6. a. Whenever on or after October 16, 2009 the Department of Environmental Protection issues a no further action letter pursuant to a remediation, the person responsible for conducting the remediation shall be deemed by operation of law to have received a covenant not to sue with respect to the real property upon which the remediation has been conducted. The covenant not to sue shall be consistent with any conditions and limitations contained in the no further action letter. The covenant not to sue shall be for any area of concern remediated and may apply to the entire real property if the remediation included a preliminary assessment and, if necessary, a site investigation of the entire real property, and any other necessary remedial actions. The covenant remains effective only for as long as the real property for which the covenant was issued continues to meet the conditions of

the no further action letter. Upon a finding by the department that real property or a portion thereof to which a covenant not to sue pertains, no longer meets with the conditions of the no further action letter, the department shall provide notice of that fact to the person responsible for maintaining compliance with the no further action letter. The department may allow the person a reasonable time to come into compliance with the terms of the original no further action letter. If the property does not meet the conditions of the no further action letter and if the department does not allow for a period of time to come into compliance or if the person fails to come into compliance within the time period, the covenant not to sue shall be deemed to be revoked by operation of law.

Except as provided in subsection e. of this section, a covenant not to sue shall by operation of law provide for the following, as applicable:

(1) a provision releasing the person who undertook the remediation from all civil liability to the State to perform any additional remediation, to pay compensation for damage to, or loss of, natural resources, for the restoration of natural resources in connection with the discharge on the property or for any cleanup and removal costs;

(2) for a remediation that involves the use of engineering or institutional controls:

(a) a provision requiring the person, or any subsequent owner, lessee, or operator during the person's period of ownership, tenancy, or operation, to maintain those controls, conduct periodic monitoring for compliance, and submit to the department, on a biennial basis, a certification that the engineering and institutional controls are being properly maintained and continue to be protective of public health and safety and of the environment. The certification shall state the underlying facts and shall include the results of any tests or procedures performed that support the certification; and

(b) a provision that the covenant is revoked by operation of law if the engineering or institutional controls are not being maintained or are no longer in place; and

(3) for a remediation that involves the use of engineering controls but not for any remediation that involves the use of institutional controls only, a provision barring the person or persons whom the covenant not to sue benefits, from making a claim against the New Jersey Spill Compensation Fund and the Sanitary Landfill Facility Contingency Fund for any costs or damages relating to the real property and remediation covered by the covenant not to sue. The covenant not to sue shall not bar a claim by any person against the New Jersey Spill Compensation Fund and the Sanitary Landfill Contingency Fund for any remediation that involves only the use of institu-

tional controls if, after a valid no further action letter has been issued, the department orders additional remediation, except that the covenant shall bar such a claim if the department ordered additional remediation in order to remove the institutional control.

b. Unless a covenant not to sue issued under this section is revoked by the department, or by operation of law, the covenant shall remain effective. The covenant not to sue shall apply to all successors in ownership of the property and to all persons who lease the property or who engage in operations on the property.

c. If a covenant not to sue is revoked, liability for any additional remediation shall not be applied retroactively to any person for whom the covenant remained in effect during that person's ownership, tenancy, or operation of the property.

d. A covenant not to sue and the protections it affords shall not apply to any discharge that occurs subsequent to the issuance of the no further action letter which was the basis of the issuance of the covenant, nor shall a covenant not to sue and the protections it affords relieve any person of the obligations to comply in the future with laws and regulations.

e. The covenant not to sue shall be deemed to apply to any person who obtains a no further action letter as provided in subsection a. of this section. The covenant not to sue shall not provide relief from any liability, either under statutory or common law, to any person who is 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.

f. (1) Except as provided in paragraphs (2) and (3) of this subsection, the department shall not issue covenants not to sue after the issuance of licenses to site remediation professionals pursuant to the provisions of section 12 of P.L.2009, c.60 (C.58:10C-12).

(2) The department may issue a covenant not to sue that is consistent with the provisions of this section when it issues a no further action letter for a remediation of a discharge from an unregulated heating oil tank.

(3) The department may issue a covenant not to sue as part of a settlement of litigation.

2. This act shall take effect immediately and shall be retroactive to October 16, 2009.

Approved January 17, 2010.

CHAPTER 301

AN ACT increasing representation for Hispanic communities and amending P.L.1983, c.567.

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

1. Section 6 of P.L.1983, c.567 (C.40:10C-1) is amended to read as follows:

C.40:10C-1 Establishment of municipal or county Hispanic advisory commission.

6. A municipality or a county with an Hispanic population of 10% or more, according to the latest federal decennial census, may by resolution establish a municipal or county Hispanic advisory commission, as appropriate, which shall advise the municipal and county governing bodies on matters concerning the needs of the Hispanic community and the impact of local legislation on the Hispanic community in the municipality or the county. A municipal or county Hispanic advisory commission so established shall consist of at least five members, to be appointed by majority vote of the governing body of the municipality or county. The members of the commission shall be residents of the municipality or county and shall represent the Hispanic community within the municipality or county. The members shall serve for a term of three years from the date of their appointment and until their successors are appointed and qualified; except that of the first appointments or appointments increasing the membership of the commission, the resolution shall designate staggered terms for the members appointed to the commission. Vacancies resulting from causes other than by expiration of term shall be filled for the unexpired term only and shall be filled in the same manner as the original appointments were made. The municipal or county advisory commission shall periodically report to and meet with the commission. The governing body of the municipality or county may provide for the employment of officers and employees as may be necessary or desirable for the proper functioning of the municipal or county Hispanic advisory commission.

2. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 302

AN ACT concerning site remediation grants for redevelopment of contaminated property for renewable energy generation projects, and amending P.L.1993, c.139.

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

1. Section 27 of P.L.1993, c.139 (C.58:10B-5) is amended to read as follows:

C.58:10B-5 Financial assistance from remediation fund.

27. a. (1) Except as provided in section 4 of P.L.2007, c.135 (C.52:27D-130.7), financial assistance from the remediation fund may only be rendered to persons who cannot establish a remediation funding source for the full amount of a remediation. Financial assistance pursuant to this act may be rendered only for that amount of the cost of a remediation for which the person cannot establish a remediation funding source. The limitations on receiving financial assistance established in this paragraph (1) shall not limit the ability of municipalities, counties, redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), persons who are not required to establish a remediation funding source for the part of the remediation involving an innovative technology, an unrestricted use remedial action or a limited restricted use remedial action, persons performing a remediation in an environmental opportunity zone, or persons who voluntarily perform a remediation, from receiving financial assistance from the fund.

(2) Financial assistance rendered to persons who voluntarily perform a remediation or perform a remediation in an environmental opportunity zone may only be made for that amount of the cost of the remediation that the person cannot otherwise fund by any of the authorized methods to establish a remediation funding source.

(3) Financial assistance rendered to persons who do not have to provide a remediation funding source for the part of the remediation that involves an innovative technology, an unrestricted use remedial action, or a limited restricted use remedial action may only be made for that amount of the cost of the remediation that the person cannot otherwise fund by any of the authorized methods to establish a remediation funding source.

b. Financial assistance may be rendered from the remediation fund to (1) owners or operators of industrial establishments who are required to perform remediation activities pursuant to P.L.1983, c.330 (C.13:1K-6 et al.), upon closing operations or prior to the transfer of ownership or operations of an industrial establishment, (2) persons who are liable for the cleanup and removal costs of a hazardous substance pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.), and (3) persons who voluntarily perform a remediation of a discharge of a hazardous substance or hazardous waste.

c. Financial assistance and grants may be made from the remediation fund to a municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for real property: (1) on which it holds a tax sale certificate; (2) that it has acquired through foreclosure or other similar means; or (3) that it has acquired, or in the case of a county governed by a board of chosen freeholders, has passed a resolution or, in the case of a municipality or a county operating under the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), has passed an ordinance or other appropriate document to acquire, by voluntary conveyance for the purpose of redevelopment, for renewable energy generation or for recreation and conservation purposes. Financial assistance and grants may only be awarded for real property on which there has been a discharge or on which there is a suspected discharge of a hazardous substance or hazardous waste.

d. Grants may be made from the remediation fund to persons who own real property on which there has been a discharge of a hazardous substance or a hazardous waste and that person qualifies for an innocent party grant pursuant to section 28 of P.L.1993, c.139 (C.58:10B-6).

e. Grants may be made from the remediation fund to qualifying persons who propose to perform a remedial action that uses an innovative technology or that would result in an unrestricted use remedial action or a limited restricted use remedial action.

f. Grants may be made from the remediation fund to municipalities, counties, and redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for the preliminary assessment, site investigation, remedial investigation and remedial action on contaminated real property within a brownfield development area. An ownership interest in the contaminated property shall not be required in order for a municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) to receive a grant for a remediation of property in a brownfield redevelopment area. Notwithstanding the limitation on the total

amount of financial assistance and grants that may be awarded in any one year pursuant to subsection b. of section 28 of P.L.1993, c.139 (C.58:10B-6), the authority may award an additional amount of financial assistance and grants in any one year, of up to $2,000,000, to any one municipality, county, or redevelopment entity for the remediation of property in a brownfield development area. Any property on which a municipality, county, or redevelopment entity makes expenditures for a remedial action and the property is not owned by that entity shall be subject to the provisions of section 8 of P.L.2005, c.223 (C.58:10B-25.2).

2. Section 28 of P.L.1993, c.139 (C.58:10B-6) is amended to read as follows:

C.58:10B-6 Financial assistance and grants from the fund; allocations; purposes.

28. a. Except for moneys deposited in the remediation fund for specific purposes, and as provided in section 4 of P.L.2007, c.135 (C.52:27D-130.7), financial assistance and grants from the remediation fund shall be rendered for the following purposes. A written report shall be sent to the Senate Environment Committee, and the Assembly Environment and Solid Waste Committee, or their successors at the end of each calendar quarter detailing the allocation and expenditures related to the financial assistance and grants from the fund.

(1) Moneys shall be allocated for financial assistance to persons, for remediation of real property located in a qualifying municipality as defined in section 1 of P.L.1978, c.14 (C.52:27D-178);

(2) Moneys shall be allocated to: (a) municipalities, counties, or redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for:

(i) projects in brownfield development areas pursuant to subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5),

(ii) matching grants up to a cumulative total amount from the fund of $5,000,000 per year of up to 75% of the costs of the remedial action for projects involving the redevelopment of contaminated property for recreation and conservation purposes, provided that the use of the property for recreation and conservation purposes is included in the comprehensive plan for the development or redevelopment of contaminated property, up to 75% of the costs of the remedial action for projects involving the redevelopment of contaminated property for renewable energy generation, or up to 50% of the costs of the remedial action for projects involving the redevelopment of

contaminated property for affordable housing pursuant to P.L.1985, c.222 (C.52:27D-301 et al.),

(iii) grants for preliminary assessment, site investigation or remedial investigation of a contaminated site,

(iv) financial assistance for the implementation of a remedial action, or

(v) financial assistance for remediation activities at sites that have been contaminated by a discharge of a hazardous substance or hazardous waste, or at which there is an imminent and significant threat of a discharge of a hazardous substance or hazardous waste, and the discharge or threatened discharge poses or would pose an imminent and significant threat to a drinking water source, to human health, or to a sensitive or significant ecological area; or

(b) persons for financial assistance for remediation activities at sites that have been contaminated by a discharge of a hazardous substance or hazardous waste, or at which there is an imminent and significant threat of a discharge of a hazardous substance or hazardous waste, and the discharge or threatened discharge poses or would pose an imminent and significant threat to a drinking water source, to human health, or to a sensitive or significant ecological area.

Except as provided in subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5), financial assistance and grants to municipalities, counties, or redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may be made for real property: (1) on which they hold a tax sale certificate; (2) that they have acquired through foreclosure or other similar means; or (3) that they have acquired, or, in the case of a county governed by a board of chosen freeholders, have passed a resolution or, in the case of a municipality or a county operating under the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), have passed an ordinance or other appropriate document to acquire, by voluntary conveyance for the purpose of redevelopment, or for recreation and conservation purposes. Financial assistance and grants may only be awarded for real property on which there has been or on which there is suspected of being a discharge of a hazardous substance or a hazardous waste. Grants and financial assistance provided pursuant to this paragraph shall be used for performing preliminary assessments, site investigations, remedial investigations, and remedial actions on real property in order to determine the existence or extent of any hazardous substance or hazardous waste contamination, and to remediate the site in compliance with the applicable health risk and environmental standards on those properties. No financial assistance or grants for a remedial action shall be awarded until the

municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), actually owns the real property, provided that a matching grant for 75% of the costs of a remedial action for a project involving the redevelopment of contaminated property for recreation and conservation purposes, or a matching grant for 50% of the costs of a remedial action for a project involving the redevelopment of contaminated property for affordable housing pursuant to P.L.1985, c.222 (C.52:27D-301 et al.) may be made to a municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) even if it does not own the real property and a grant may be made to a municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) for a remediation in a brownfield development area pursuant to subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5) even if the entity does not own the real property. No grant shall be awarded for a remedial action for a project involving the redevelopment of contaminated property for recreation or conservation purposes unless the use of the property is preserved for recreation and conservation purposes by conveyance of a development easement, conservation restriction or easement, or other restriction or easement permanently restricting development, which shall be recorded and indexed with the deed in the registry of deeds for the county. A municipality that has performed, or on which there has been performed, a preliminary assessment, site investigation or remedial investigation on property may obtain a loan for the purpose of continuing the remediation on those properties as necessary to comply with the applicable remediation regulations adopted by the department. No grant shall be awarded pursuant to this paragraph to a municipality, a county, or a redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) unless that entity has adopted by ordinance or resolution a comprehensive plan specifically for the development or redevelopment of contaminated or potentially contaminated real property in that municipality or the entity can demonstrate to the authority that a realistic opportunity exists that the subject real property will be developed or redeveloped within a three-year period from the completion of the remediation;

(3) Moneys shall be allocated for financial assistance to persons who voluntarily perform a remediation of a hazardous substance or hazardous waste discharge;

(4) Moneys shall be allocated for grants to persons who own real property on which there has been a discharge of a hazardous substance or a haz-

ardous waste and that person qualifies for an innocent party grant. A person qualifies for an innocent party grant if that person acquired the property prior to December 31, 1983, the hazardous substance or hazardous waste that was discharged at the property was not used by the person at that site, and that person certifies that he did not discharge any hazardous substance or hazardous waste at an area where a discharge is discovered. A grant authorized pursuant to this paragraph may be for up to 50% of the remediation costs at the area of concern for which the person qualifies for an innocent party grant, except that no grant awarded pursuant to this paragraph to any person may exceed $1,000,000;

(5) Moneys shall be allocated for (a) financial assistance to persons who own and plan to remediate an environmental opportunity zone for which an exemption from real property taxes has been granted pursuant to section 5 of P.L.1995, c.413 (C.54:4-3.154), or (b) matching grants for up to 25% of the project costs to qualifying persons, municipalities, counties, and redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), who propose to perform a remedial action that uses an innovative technology, or for the implementation of a limited restricted use remedial action or an unrestricted use remedial action except that no grant awarded pursuant to this paragraph may exceed $250,000; and

(6) Twenty percent of the moneys in the remediation fund shall be allocated for financial assistance or grants for any of the purposes enumerated in paragraphs (1) through (5) of this subsection.

For the purposes of paragraph (5) of this subsection, "qualifying persons" means any person who has a net worth of not more than $2,000,000 and "project costs" means that portion of the total costs of a remediation that is specifically for the use of an innovative technology or to implement an unrestricted use remedial action or a limited restricted use remedial action, as applicable.

b. Loans issued from the remediation fund shall be for a term not to exceed ten years, except that upon the transfer of ownership of any real property for which the loan was made, the unpaid balance of the loan shall become immediately payable in full. The unpaid balance of a loan for the remediation of real property that is transferred by devise or succession shall not become immediately payable in full, and loan repayments shall be made by the person who acquires the property. Loans to municipalities, counties, and redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), shall bear an interest rate equal to 2 points below the Federal Discount Rate at the time of

approval or at the time of loan closing, whichever is lower, except that the rate shall be no lower than 3 percent. All other loans shall bear an interest rate equal to the Federal Discount Rate at the time of approval or at the time of the loan closing, whichever is lower, except that the rate on such loans shall be no lower than five percent. Financial assistance and grants may be issued for up to 100% of the estimated applicable remediation cost, except that the cumulative maximum amount of financial assistance which may be issued to a person, in any calendar year, for one or more properties, shall be $1,000,000. Financial assistance and grants to any one municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may not exceed $3,000,000 in any calendar year except as provided in subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5). Grants to a municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may be for up to 100% of the total costs of the preliminary assessment, site investigation, or remedial investigation regardless of when the application was received by the department. Grants to a municipality, a county, or a redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may not exceed 75% of the total costs of the remedial action at any one site for any application received by the department on or after September 15, 2005. Repayments of principal and interest on the loans issued from the remediation fund shall be paid to the authority and shall be deposited into the remediation fund.

c. No person, other than a qualified person planning to use an innovative technology for the cost of that technology, a qualified person planning to use a limited restricted use remedial action or an unrestricted use remedial action for the cost of the remedial action, a person performing a remediation in an environmental opportunity zone, or a person voluntarily performing a remediation, shall be eligible for financial assistance from the remediation fund to the extent that person is capable of establishing a remediation funding source for the remediation as required pursuant to section 25 of P.L.1993, c.139 (C.58:10B-3).

d. The authority may use a sum that represents up to 2% of the moneys issued as financial assistance or grants from the remediation fund each year for administrative expenses incurred in connection with the operation of the fund and the issuance of financial assistance and grants.

e. Prior to March 1 of each year, the authority shall submit to the Senate Environment Committee and the Assembly Environment and Solid Waste Committee, or their successors, a report detailing the amount of

money that was available for financial assistance and grants from the remediation fund for the previous calendar year, the amount of money estimated to be available for financial assistance and grants for the current calendar year, the amount of financial assistance and grants issued for the previous calendar year and the category for which each financial assistance and grant was rendered, and any suggestions for legislative action the authority deems advisable to further the legislative intent to facilitate remediation and promote the redevelopment and use of existing industrial sites.

3. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 303

AN ACT concerning certain grants from the "Hazardous Discharge Site Remediation Fund" and amending P.L.1993, c.139.

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

1. Section 28 of P.L.1993, c.139 (C.58:10B-6) is amended to read as follows:

C.58:10B-6 Financial assistance and grants from the fund; allocations; purposes.

28. a. Except for moneys deposited in the remediation fund for specific purposes, and as provided in section 4 of P.L.2007, c.135 (C.52:27D-130.7), financial assistance and grants from the remediation fund shall be rendered for the following purposes. A written report shall be sent to the Senate Environment Committee, and the Assembly Environment and Solid Waste Committee, or their successors at the end of each calendar quarter detailing the allocation and expenditures related to the financial assistance and grants from the fund.

(1) Moneys shall be allocated for financial assistance to persons, for remediation of real property located in a qualifying municipality as defined in section 1 of P.L.1978, c.14 (C.52:27D-178);

(2) Moneys shall be allocated to: (a) municipalities, counties, or redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for:

(i) projects in brownfield development areas pursuant to subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5),

(ii) matching grants up to a cumulative total amount from the fund of $5,000,000 per year of up to 75% of the costs of the remedial action for projects involving the redevelopment of contaminated property for recreation and conservation purposes, provided that the use of the property for recreation and conservation purposes is included in the comprehensive plan for the development or redevelopment of contaminated property, up to 75% of the costs of the remedial action for projects involving the redevelopment of contaminated property for renewable energy generation, or up to 50% of the costs of the remedial action for projects involving the redevelopment of contaminated property for affordable housing pursuant to P.L.1985, c.222 (C.52:27D-301 et al.),

(iii)grants for preliminary assessment, site investigation or remedial investigation of a contaminated site,

(iv) financial assistance for the implementation of a remedial action, or

(v) financial assistance for remediation activities at sites that have been contaminated by a discharge of a hazardous substance or hazardous waste, or at which there is an imminent and significant threat of a discharge of a hazardous substance or hazardous waste, and the discharge or threatened discharge poses or would pose an imminent and significant threat to a drinking water source, to human health, or to a sensitive or significant ecological area; or

(b) persons for financial assistance for remediation activities at sites that have been contaminated by a discharge of a hazardous substance or hazardous waste, or at which there is an imminent and significant threat of a discharge of a hazardous substance or hazardous waste, and the discharge or threatened discharge poses or would pose an imminent and significant threat to a drinking water source, to human health, or to a sensitive or significant ecological area.

Except as provided in subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5), financial assistance and grants to municipalities, counties, or redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may be made for real property: (1) on which they hold a tax sale certificate; (2) that they have acquired through foreclosure or other similar means; or (3) that they have acquired, or, in the case of a county governed by a board of chosen freeholders, have passed a resolution or, in the case of a municipality or a county operating under the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), have passed an ordinance or other appropriate docu-

ment to acquire, by voluntary conveyance for the purpose of redevelopment, or for recreation and conservation purposes. Financial assistance and grants may only be awarded for real property on which there has been or on which there is suspected of being a discharge of a hazardous substance or a hazardous waste. Grants and financial assistance provided pursuant to this paragraph shall be used for performing preliminary assessments, site investigations, remedial investigations, and remedial actions on real property in order to determine the existence or extent of any hazardous substance or hazardous waste contamination, and to remediate the site in compliance with the applicable health risk and environmental standards on those properties. No financial assistance or grants for a remedial action shall be awarded until the municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), actually owns the real property, provided that a matching grant for 75% of the costs of a remedial action for a project involving the redevelopment of contaminated property for recreation and conservation purposes, or a matching grant for 50% of the costs of a remedial action for a project involving the redevelopment of contaminated property for affordable housing pursuant to P.L.1985, c.222 (C.52:27D-301 et al.) may be made to a municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) even if it does not own the real property and a grant may be made to a municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) for a remediation in a brownfield development area pursuant to subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5) even if the entity does not own the real property. No grant shall be awarded for a remedial action for a project involving the redevelopment of contaminated property for recreation or conservation purposes unless the use of the property is preserved for recreation and conservation purposes by conveyance of a development easement, conservation restriction or easement, or other restriction or easement permanently restricting development, which shall be recorded and indexed with the deed in the registry of deeds for the county. A municipality that has performed, or on which there has been performed, a preliminary assessment, site investigation or remedial investigation on property may obtain a loan for the purpose of continuing the remediation on those properties as necessary to comply with the applicable remediation regulations adopted by the department. No grant shall be awarded pursuant to this paragraph to a municipality, a county, or a redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) unless that entity has adopted

by ordinance or resolution a comprehensive plan specifically for the development or redevelopment of contaminated or potentially contaminated real property in that municipality or the entity can demonstrate to the authority that a realistic opportunity exists that the subject real property will be developed or redeveloped within a three-year period from the completion of the remediation;

(3) Moneys shall be allocated for financial assistance to persons who voluntarily perform a remediation of a hazardous substance or hazardous waste discharge;

(4) Moneys shall be allocated for grants to persons who own real property on which there has been a discharge of a hazardous substance or a hazardous waste and that person qualifies for an innocent party grant. A person qualifies for an innocent party grant if that person acquired the property prior to December 31, 1983 and continues to own the property until such time as the authority approves the grant, the hazardous substance or hazardous waste that was discharged at the property was not used by the person at that site, and that person certifies that he did not discharge any hazardous substance or hazardous waste at an area where a discharge is discovered. A grant authorized pursuant to this paragraph may be for up to 50% of the remediation costs at the area of concern for which the person qualifies for an innocent party grant, except that no grant awarded pursuant to this paragraph to any person may exceed $1,000,000;

(5) Moneys shall be allocated for (a) financial assistance to persons who own and plan to remediate an environmental opportunity zone for which an exemption from real property taxes has been granted pursuant to section 5 of P.L.1995, c.413 (C.54:4-3.154), or (b) matching grants for up to 25% of the project costs to qualifying persons, municipalities, counties, and redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), who propose to perform a remedial action that uses an innovative technology, or for the implementation of a limited restricted use remedial action or an unrestricted use remedial action except that no grant awarded pursuant to this paragraph may exceed $250,000; and

(6) Twenty percent of the moneys in the remediation fund shall be allocated for financial assistance or grants for any of the purposes enumerated in paragraphs (1) through (5) of this subsection.

For the purposes of paragraph (5) of this subsection, "qualifying persons" means any person who has a net worth of not more than $2,000,000 and "project costs" means that portion of the total costs of a remediation that is specifically for the use of an innovative technology or to implement

an unrestricted use remedial action or a limited restricted use remedial action, as applicable.

b. Loans issued from the remediation fund shall be for a term not to exceed ten years, except that upon the transfer of ownership of any real property for which the loan was made, the unpaid balance of the loan shall become immediately payable in full. The unpaid balance of a loan for the remediation of real property that is transferred by devise or succession shall not become immediately payable in full, and loan repayments shall be made by the person who acquires the property. Loans to municipalities, counties, and redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), shall bear an interest rate equal to 2 points below the Federal Discount Rate at the time of approval or at the time of loan closing, whichever is lower, except that the rate shall be no lower than 3 percent. All other loans shall bear an interest rate equal to the Federal Discount Rate at the time of approval or at the time of the loan closing, whichever is lower, except that the rate on such loans shall be no lower than five percent. Financial assistance and grants may be issued for up to 100% of the estimated applicable remediation cost, except that the cumulative maximum amount of financial assistance which may be issued to a person, in any calendar year, for one or more properties, shall be $1,000,000. Financial assistance and grants to any one municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may not exceed $3,000,000 in any calendar year except as provided in subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5). Grants to a municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may be for up to 100% of the total costs of the preliminary assessment, site investigation, or remedial investigation regardless of when the application was received by the department. Grants to a municipality, a county, or a redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may not exceed 75% of the total costs of the remedial action at any one site for any application received by the department on or after September 15, 2005. Repayments of principal and interest on the loans issued from the remediation fund shall be paid to the authority and shall be deposited into the remediation fund.

c. No person, other than a qualified person planning to use an innovative technology for the cost of that technology, a qualified person planning to use a limited restricted use remedial action or an unrestricted use remedial action for the cost of the remedial action, a person performing a reme-

diation in an environmental opportunity zone, or a person voluntarily performing a remediation, shall be eligible for financial assistance from the remediation fund to the extent that person is capable of establishing a remediation funding source for the remediation as required pursuant to section 25 of P.L.1993, c.139 (C.58:10B-3).

d. The authority may use a sum that represents up to 2% of the moneys issued as financial assistance or grants from the remediation fund each year for administrative expenses incurred in connection with the operation of the fund and the issuance of financial assistance and grants.

e. Prior to March 1 of each year, the authority shall submit to the Senate Environment Committee and the Assembly Environment and Solid Waste Committee, or their successors, a report detailing the amount of money that was available for financial assistance and grants from the remediation fund for the previous calendar year, the amount of money estimated to be available for financial assistance and grants for the current calendar year, the amount of financial assistance and grants issued for the previous calendar year and the category for which each financial assistance and grant was rendered, and any suggestions for legislative action the authority deems advisable to further the legislative intent to facilitate remediation and promote the redevelopment and use of existing industrial sites.

2. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 304

AN ACT concerning the annual reporting of the State's long-term liabilities, amending P.L.1975, c.208.

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

1. Section 3 of P.L.1975, c.208 (C.52:9S-3) is amended to read as follows:

C.52:9S-3 Preparation of State Capital Improvement Plan.

3. a. The commission shall each year prepare a State Capital Improvement Plan containing its proposals for State spending for capital projects,

which shall be consistent with the goals and provisions of the State Development and Redevelopment Plan adopted by the State Planning Commission and shall be prepared after consultation with the New Jersey Council of Economic Advisors, created pursuant to P.L.1993, c.149 (C.52:9H-34 et seq.). Copies of the plan shall be submitted to the Governor and the Legislature no later than December 1 of each year. The plan shall provide:

(1) A detailed list of all capital projects of the State which the commission recommends be undertaken or continued by any State agency in the next three fiscal years, together with information as to the effect of such capital projects on future operating expenses of the State, and with recommendations as to the priority of such capital projects and the means of funding them;

(2) The forecasts of the commission as to the requirements for capital projects of State agencies for the four fiscal years next following such three fiscal years and for such additional periods, if any, as may be necessary or desirable for adequate presentation of particular capital projects, and a schedule for the planning and implementation or construction of such capital projects;

(3) A schedule for the next fiscal year of recommended appropriations of bond funds from issues of bonds previously authorized;

(4) A review of capital projects which have recently been implemented or completed or are in process of implementation or completion;

(5) Recommendations as to the maintenance of physical properties and equipment of State agencies;

(6) Recommendations which the commission deems appropriate as to the use of properties reported in subsection c. of this section;

(7) A report on the State's overall debt. This report shall include information on the outstanding general obligation debt and debt service costs for the prior fiscal year, the current fiscal year, and the estimated amount for the subsequent five fiscal years. In addition, the report shall provide similar information on capital leases and installment obligations. In addition, the report shall provide similar information on the following long-term obligations: all items comprising long-term liabilities as recorded in a schedule of long-term debt changes (bonded and non-bonded) in the State's annual comprehensive financial report prepared pursuant to section 37 of article 3 of P.L.1944, c.112 (C.52:27B-46), the unfunded actuarial accrued liability for State administered retirement systems, and the unfunded actuarial accrued liabilities for post-retirement medical and other benefits;

(8) An assessment of the State's ability to increase its overall debt and a recommendation on the amount of any such increase. In developing this assessment and recommendation, the commission shall consider those crite-

ria used by municipal securities rating services in rating governmental obligations; and

(9) Such other information as the commission deems relevant to the foregoing matters.

b. Each State agency shall no later than August 15 of each year provide the commission with:

(1) A detailed list of capital projects which each State agency seeks to undertake or continue for its purposes in the next three fiscal years, together with information as to the effect of such capital projects on future operating expenses of the State, and with such relevant supporting data as the commission requests;

(2) Forecasts as to the requirements for capital projects of such agency for the four fiscal years next following such three fiscal years and for such additional periods, if any, as may be necessary or desirable for adequate presentation of particular capital projects, and a schedule for the planning and implementation or construction of such capital projects;

(3) A schedule for the next fiscal year of requested appropriations of bond funds from issues of bonds previously authorized;

(4) A report on capital projects which have recently been implemented or completed or are in process of implementation or completion;

(5) A report as to the maintenance of its physical properties and capital equipment;

(6) Such other information as the commission may request.

c. Each State agency shall, when requested, provide the commission with supplemental information in addition to that to be available to the commission under the computerized record keeping of the Department of the Treasury, Bureau of Real Property Management, concerning any real property owned or leased by the agency including its current or future availability for other State uses.

d. A copy of the plan shall also be forwarded to the Division of Budget and Accounting each year upon its completion, and the portion of the plan relating to the first fiscal year thereof shall, to the extent it treats of capital appropriations in the annual budget, constitute the recommendations of the commission with respect to such capital appropriations in the budget for the next fiscal year.

2. This act shall take effect immediately and apply to reports submitted after the date of enactment.

Approved January 17, 2010.

CHAPTER 305

AN ACT providing for the extension of a pilot program in the Department of Education and amending P.L.2009, c.51.

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

1. Section 3 of P.L.2009, c.51 is amended to read as follows:

3. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Education may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the commissioner deems necessary to effectuate the purposes of this act which shall be effective for a period not to exceed 30 months following the effective date of P.L.2009, c.51.

2. Section 4 of P.L.2009, c.51 is amended to read as follows:

4. This act shall take effect two months following the date of enactment, but the Commissioner of Education may take such anticipatory administrative actions in advance thereof as shall be necessary for the implementation of this act; and this act shall expire 30 months after the effective date of P.L.2009, c.51.

3. This act shall take effect immediately.

Approved January 17, 2010.

CHAPTER 306

AN ACT concerning certain retail food establishments and supplementing Title 26 of the Revised Statutes.

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

C.26:3E-16 Findings, declarations relative to provision of calorie information by certain chain restaurants.

1. The Legislature finds and declares that:

a. Research continues to demonstrate that there is a strong link between diet and health; in 2004, an estimated 65% of adults in the United States were overweight or obese and 18% of children and adolescents were overweight; today there are nearly twice as many overweight children and almost three times as many overweight adolescents as there were in 1980; while the rates of overweight and obesity are rising, Americans are increasingly eating meals away from home, and the food industry spends millions of dollars every year encouraging families to eat in restaurants and other food establishments; in 1970, Americans spent just 26% of their food budget eating away from home, but currently, Americans spend almost half of their food dollars dining out; furthermore, portion sizes in restaurants have been increasing and it is not uncommon for a restaurant entree to provide half of an individual's total recommended daily allowance of calories, fat and sodium;

b. Surveys conducted by academicians from the University of Arkansas and Villanova University, and reported in the *American Journal of Public Health* article entitled "Attacking the Obesity Epidemic: The Potential Health Benefits of Providing Nutrition Information in Restaurants," showed that levels of calories and saturated fats in less-healthful restaurant items were significantly underestimated by consumers; actual fat and saturated fat levels were twice consumers' estimates and calories approached two times more than what consumers expected; based on these findings, the authors of the article conducted an experiment demonstrating that for food items for which levels of calories, fat and saturated fats substantially exceeded consumers' expectations, the provision of nutrition information had a significant influence on product attitude, purchase intention, and choice;

c. A recent report of the Surgeon General of the United States on overweight and obesity recommended that the food industry provide reasonable food and beverage portions and increase the availability of nutrition information on foods prepared and eaten away from home; and

d. Therefore, it is in the public's interest to enable families to make more informed choices about a significant part of their diets and help reduce the problem of overweight and obesity in the State.

C.26:3E-17 Requirements for certain retail food establishments.

2. Notwithstanding any provision of law to the contrary:

a. (1) A retail food establishment using a standard printed menu shall list next to each food or beverage item on the menu, the total number of calories for that item as usually prepared and offered for sale;

(2) A retail food establishment using a menu board system or similar signage shall list next to each food or beverage item on the board or sign, the total number of calories for that item as usually prepared and offered for sale;

(3) A retail food establishment that has a drive-through window shall display calorie content values either on the drive-through menu board or on an adjacent stanchion visible at the point of ordering, and the calorie content values shall be posted adjacent to their respective menu item names as clearly and conspicuously as the price or menu item is on the drive-through menu board; and

(4) A retail food establishment which offers alcoholic beverages for sale may, as an alternative to listing calorie information for each individual alcoholic beverage, list the average caloric value for beers, wines, and spirits as established by the United States Department of Agriculture, Agriculture Research Service in the National Nutrient Database for Standard Reference.

A retail food establishment that lists the average caloric values for alcoholic beverages pursuant to this paragraph shall add to the labeling the following statement: "Signature drinks or liqueurs with added ingredients may increase calorie content."

b. The calorie information listed pursuant to paragraphs (1) and (2) of subsection a. of this section shall be posted clearly and conspicuously adjacent or in close proximity to the applicable menu item using a font and format that is at least as prominent, in size and appearance, as that used to post either the name or price of the menu item.

The calorie content values required by this act shall be based upon a verifiable analysis of the menu item, which may include the use of nutrient databases, laboratory testing, or other reliable methods of analysis, and shall be rounded to the nearest 10 calories for calorie content values above 50 calories and to the nearest five calories for calorie content values 50 calories and below.

c. The provisions of this section shall apply to each menu item that is served in portions the size and content of which are standardized.

d. For menu items that come in different flavors and varieties but that are listed as a single menu item, the minimum to maximum numbers of calories for all flavors and varieties of that item shall be listed on the menu, menu board, or stanchion, as applicable, for each size offered for sale.

e. (1) The disclosure of calorie information on a menu, menu board, or stanchion next to a standard menu item that is a combination of at least two standard menu items on the menu, menu board, or stanchion, shall, based upon all possible combinations for that standard menu item, include both

the minimum and the maximum amount of calories. If there is only one possible total amount of calories, that total shall be disclosed.

(2) The disclosure of calorie information on a menu, menu board, or stanchion next to a standard menu item that is not an appetizer or dessert, but is intended to serve more than one individual, shall include both:

(a) the number of individuals intended to be served by the standard menu item; and

(b) the calorie information per individual serving.

If the standard menu item is a combination of at least two standard menu items, the disclosure shall, based upon all possible combinations for that standard menu item, include both the minimum and the maximum amount of calories. If there is only one possible total amount of calories, that total shall be disclosed.

f. Nothing in this section shall prohibit a retail food establishment from providing additional nutrition information to its customers for each food or beverage item listed on its menu.

g. The provisions of this section shall not apply to any:

(1) item not listed on a standard printed menu or menu board system or similar signage, including, but not limited to, condiments or other products placed on a table or counter for general use; or

(2) daily specials, temporary menu items appearing on the menu for less than 60 days per calendar year, customized orders, or food or beverage items from a consumer self-serve salad bar or buffet.

h. (1) The Department of Health and Senior Services or the local board of health or the board, body or officers exercising the functions of the local board of health according to law, upon written complaint or having reason to suspect that a violation of this act has occurred, shall, by written notification, advise the proprietor of the retail food establishment accordingly and order appropriate action to be taken.

(2) A proprietor of a retail food establishment who violates the provisions of this section by failing to provide the information about food and beverage items as required in this section, or knowingly misstating the number of calories in a food or beverage item, shall be subject to a penalty of not less than $50 or more than $100 for the first offense, and not less than $250 or more than $500 for the second or any subsequent offense. A municipal court shall have jurisdiction over proceedings to enforce and collect any penalty imposed because of a violation of this act, if the violation has occurred within the territorial jurisdiction of the court. The proceedings shall be summary and in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Process shall be in the nature

of a summons or warrant and shall issue only at the suit of the Commissioner of Health and Senior Services, or the local board of health, as the case may be, as plaintiff.

When the plaintiff is the Commissioner of Health and Senior Services, the penalty recovered shall be paid by the commissioner into the treasury of the State. When the plaintiff is a local board of health, the penalty recovered shall be paid by the local board into the treasury of the municipality where the violation occurred.

i. The provisions of this section shall not be construed to create or enhance any claim, right of action, or civil liability that did not previously exist under State law or limit any claim, right of action, or civil liability that otherwise exists under State law.

j. There shall be no private right of action against the proprietor of a retail food establishment for failure to comply with the provisions of this section.

k. To the extent consistent with federal law, the provisions of this section, as well as any other State law that regulates the disclosure of caloric information, shall be a matter of Statewide concern and shall occupy the entire field of regulation regarding the disclosure of caloric information by a retail food establishment, as well as content required to be posted on menus, menu board systems or similar signage, or stanchions, as applicable. No ordinance or regulation of a local government or local board of health shall regulate the dissemination of caloric information or the content required to be placed on menus, menu board systems or similar signage, or stanchions by a retail food establishment. Any local government or local board of health ordinance or regulation that violates this prohibition is void and shall have no force or effect.

l. As used in this section, "retail food establishment" means a fixed restaurant or any similar place that is part of a chain with 20 or more locations nationally and doing business

(1) under the same trade name or under common ownership or control or

(2) as franchised outlets of a parent business,

the principal activity of which consists of preparing for consumption within the establishment a meal or food to be eaten on the premises or picked up at a drive-through window.

C.26:3E-18 Rules, regulations.

3. 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 effectuate the purposes of this act.

4. This act shall take effect one year after the date of enactment, but the Commissioner of Health and Senior Services may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 17, 2010.

CHAPTER 307

AN ACT concerning the medical use of marijuana and revising parts of statutory law.

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

C.24:6I-1 Short title.

1. This act shall be known and may be cited as the "New Jersey Compassionate Use Medical Marijuana Act."

C.24:6I-2 Findings, declarations relative to the medical use of marijuana.

2. The Legislature finds and declares that:

a. Modern medical research has discovered a beneficial use for marijuana in treating or alleviating the pain or other symptoms associated with certain debilitating medical conditions, as found by the National Academy of Sciences' Institute of Medicine in March 1999;

b. According to the U.S. Sentencing Commission and the Federal Bureau of Investigation, 99 out of every 100 marijuana arrests in the country are made under state law, rather than under federal law. Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill people who have a medical need to use marijuana;

c. Although federal law currently prohibits the use of marijuana, the laws of Alaska, California, Colorado, Hawaii, Maine, Michigan, Montana, Nevada, New Mexico, Oregon, Rhode Island, Vermont, and Washington permit the use of marijuana for medical purposes, and in Arizona doctors are permitted to prescribe marijuana. New Jersey joins this effort for the health and welfare of its citizens;

d. States are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law; therefore, compliance

with this act does not put the State of New Jersey in violation of federal law; and

e. Compassion dictates that a distinction be made between medical and non-medical uses of marijuana. Hence, the purpose of this act is to protect from arrest, prosecution, property forfeiture, and criminal and other penalties, those patients who use marijuana to alleviate suffering from debilitating medical conditions, as well as their physicians, primary caregivers, and those who are authorized to produce marijuana for medical purposes.

C.24:6I-3 Definitions relative to the medical use of marijuana.

3. As used in this act:

"Bona fide physician-patient relationship" means a relationship in which the physician has ongoing responsibility for the assessment, care and treatment of a patient's debilitating medical condition.

"Certification" means a statement signed by a physician with whom a qualifying patient has a bona fide physician-patient relationship, which attests to the physician's authorization for the patient to apply for registration for the medical use of marijuana.

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

"Debilitating medical condition" means:

(1) one of the following conditions, if resistant to conventional medical therapy: seizure disorder, including epilepsy; intractable skeletal muscular spasticity; or glaucoma;

(2) one of the following conditions, if severe or chronic pain, severe nausea or vomiting, cachexia, or wasting syndrome results from the condition or treatment thereof: positive status for human immunodeficiency virus, acquired immune deficiency syndrome, or cancer;

(3) amyotrophic lateral sclerosis, multiple sclerosis, terminal cancer, muscular dystrophy, or inflammatory bowel disease, including Crohn's disease;

(4) terminal illness, if the physician has determined a prognosis of less than 12 months of life; or

(5) any other medical condition or its treatment that is approved by the department by regulation.

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

"Marijuana" has the meaning given in section 2 of the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-2).

"Medical marijuana alternative treatment center" or "alternative treatment center" means an organization approved by the department to perform

activities necessary to provide registered qualifying patients with usable marijuana and related paraphernalia in accordance with the provisions of this act. This term shall include the organization's officers, directors, board members, and employees.

"Medical use of marijuana" means the acquisition, possession, transport, or use of marijuana or paraphernalia by a registered qualifying patient as authorized by this act.

"Minor" means a person who is under 18 years of age and who has not been married or previously declared by a court or an administrative agency to be emancipated.

"Paraphernalia" has the meaning given in N.J.S.2C:36-1.

"Physician" means a person licensed to practice medicine and surgery pursuant to Title 45 of the Revised Statutes with whom the patient has a bona fide physician-patient relationship and who is the primary care physician, hospice physician, or physician responsible for the ongoing treatment of a patient's debilitating medical condition, provided, however, that such ongoing treatment shall not be limited to the provision of authorization for a patient to use medical marijuana or consultation solely for that purpose.

"Primary caregiver" or "caregiver" means a resident of the State who:

a. is at least 18 years old;

b. has agreed to assist with a registered qualifying patient's medical use of marijuana, is not currently serving as primary caregiver for another qualifying patient, and is not the qualifying patient's physician;

c. has never been convicted of possession or sale of a controlled dangerous substance, unless such conviction occurred after the effective date of this act and was for a violation of federal law related to possession or sale of marijuana that is authorized under this act;

d. has registered with the department pursuant to section 4 of this act, and has satisfied the criminal history record background check requirement of section 4 of this act; and

e. has been designated as primary caregiver on the qualifying patient's application or renewal for a registry identification card or in other written notification to the department.

"Qualifying patient" or "patient" means a resident of the State who has been provided with a certification by a physician pursuant to a bona fide physician-patient relationship.

"Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient or primary caregiver.

"Usable marijuana" means the dried leaves and flowers of marijuana, and any mixture or preparation thereof, and does not include the seeds, stems, stalks or roots of the plant.

C.24:6I-4 Registry of qualifying patients, primary caregivers.

4. a. The department shall establish a registry of qualifying patients and their primary caregivers, and shall issue a registry identification card, which shall be valid for two years, to a qualifying patient and primary caregiver, if applicable, who submits the following, in accordance with regulations adopted by the department:

(1) a certification that meets the requirements of section 5 of this act;

(2) an application or renewal fee, which may be based on a sliding scale as determined by the commissioner;

(3) the name, address and date of birth of the patient and caregiver, as applicable; and

(4) the name, address and telephone number of the patient's physician.

b. Before issuing a registry identification card, the department shall verify the information contained in the application or renewal form submitted pursuant to this section. In the case of a primary caregiver, the department shall provisionally approve an application pending the results of a criminal history record background check, if the caregiver otherwise meets the requirements of this act. The department shall approve or deny an application or renewal within 30 days of receipt of the completed application or renewal, and shall issue a registry identification card within five days of approving the application or renewal. The department may deny an application or renewal only if the applicant fails to provide the information required pursuant to this section, or if the department determines that the information was incorrect or falsified or does not meet the requirements of this act. Denial of an application shall be a final agency decision, subject to review by the Superior Court, Appellate Division.

c. (1) The commissioner shall require each applicant seeking to serve as a primary caregiver to undergo a criminal history record background check. The commissioner is authorized to exchange fingerprint data with and receive criminal history record background information from the Division of State Police and the Federal Bureau of Investigation consistent with the provisions of applicable federal and State laws, rules, and regulations. The Division of State Police shall forward criminal history record background information to the commissioner in a timely manner when requested pursuant to the provisions of this section.

An applicant seeking to serve as a primary caregiver shall submit to being fingerprinted in accordance with applicable State and federal laws, rules, and regulations. No check of criminal history record background information shall be performed pursuant to this section unless the applicant has furnished his written consent to that check. An applicant who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for inclusion in the registry as a primary caregiver or issuance of an identification card. An applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

(2) The commissioner shall not approve an applicant seeking to serve as a primary caregiver if the criminal history record background information of the applicant reveals a disqualifying conviction. For the purposes of this section, a disqualifying conviction shall mean a conviction of a crime 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, or any similar law of the United States or of any other state.

(3) Upon receipt of the criminal history record background information from the Division of State Police and the Federal Bureau of Investigation, the commissioner shall provide written notification to the applicant of his qualification or disqualification for serving as a primary caregiver.

If the applicant is disqualified because of a disqualifying conviction pursuant to the provisions of this section, the conviction that constitutes the basis for the disqualification shall be identified in the written notice.

(4) The Division of State Police shall promptly notify the commissioner in the event that an individual who was the subject of a criminal history record background check conducted pursuant to this section is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of that notification, the commissioner shall make a determination regarding the continued eligibility of the applicant to serve as a primary caregiver.

(5) Notwithstanding the provisions of subsection b. of this section to the contrary, no applicant shall be disqualified from serving as a registered primary caregiver on the basis of any conviction disclosed by a criminal history record background check conducted pursuant to this section if the individual has affirmatively demonstrated to the commissioner clear and convincing evidence of rehabilitation. In determining whether clear and convincing evidence of rehabilitation has been demonstrated, the following factors shall be considered:

(a) the nature and responsibility of the position which the convicted individual would hold, has held, or currently holds;

(b) the nature and seriousness of the crime or offense;

(c) the circumstances under which the crime or offense occurred;

(d) the date of the crime or offense;

(e) the age of the individual when the crime or offense was committed;

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

(g) any social conditions which may have contributed to the commission of the crime or offense; and

(h) 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 individual under their supervision.

d. A registry identification card shall contain the following information:

(1) the name, address and date of birth of the patient and primary caregiver, if applicable;

(2) the expiration date of the registry identification card;

(3) photo identification of the cardholder; and

(4) such other information that the department may specify by regulation.

e. (1) A patient who has been issued a registry identification card shall notify the department of any change in the patient's name, address, or physician or change in status of the patient's debilitating medical condition, within 10 days of such change, or the registry identification card shall be deemed null and void.

(2) A primary caregiver who has been issued a registry identification card shall notify the department of any change in the caregiver's name or address within 10 days of such change, or the registry identification card shall be deemed null and void.

f. The department shall maintain a confidential list of the persons to whom it has issued registry identification cards. Individual names and other identifying information on the list, and information contained in any application form, or accompanying or supporting document shall be confidential, and shall not be considered a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.), and shall not be disclosed except to:

(1) authorized employees of the department and the Division of Consumer Affairs in the Department of Law and Public Safety as necessary to perform official duties of the department and the division, as applicable; and

(2) authorized employees of State or local law enforcement agencies, only as necessary to verify that a person who is engaged in the suspected or alleged medical use of marijuana is lawfully in possession of a registry identification card.

g. Applying for or receiving a registry card does not constitute a waiver of the qualifying patient's patient-physician privilege.[2]

C.24:6I-5 Certification authorizing medical use of marijuana.

5. a. Medical use of marijuana by a qualifying patient may be authorized pursuant to a certification which meets the requirements of this act. In order to provide such certification, a physician shall be licensed and in good standing to practice in the State.

The certification shall attest that the above criteria have been met.

b. The provisions of subsection a. of this section shall not apply to a qualifying patient who is a minor unless the custodial parent, guardian, or person who has legal custody of the minor, consents in writing that the minor patient has that person's permission for the medical use of marijuana and that the person will control the acquisition and possession of the medical marijuana and any related paraphernalia from the alternative treatment center.

C.24:6I-6 Applicability of N.J.S.2C:35-18.

6. a. The provisions of N.J.S.2C:35-18 shall apply to any qualifying patient, primary caregiver, alternative treatment center, physician, or any other person acting in accordance with the provisions of this act.

b. A qualifying patient, primary caregiver, alternative treatment center, physician, or any other person acting in accordance with the provisions of this act shall not be subject to any civil or administrative penalty, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a professional licensing board, related to the medical use of marijuana as authorized under this act.

c. Possession of, or application for, a registry identification card shall not alone constitute probable cause to search the person or the property of the person possessing or applying for the registry identification card, or otherwise subject the person or his property to inspection by any governmental agency.

d. The provisions of section 2 of P.L.1939, c.248 (C.26:2-82), relating to destruction of marijuana determined to exist by the department, shall not apply if a qualifying patient or primary caregiver has in his possession a registry identification card and no more than the maximum amount of usable marijuana that may be obtained in accordance with section 10 of this act.

e. No person shall be subject to arrest or prosecution for constructive possession, conspiracy or any other offense for simply being in the presence or vicinity of the medical use of marijuana as authorized under this act.

f. No custodial parent, guardian, or person who has legal custody of a qualifying patient who is a minor shall be subject to arrest or prosecution for constructive possession, conspiracy or any other offense for assisting the minor in the medical use of marijuana as authorized under this act.

C.24:6I-7 Applications for permits to operate as alternative treatment center; regulations.

7. a. The department shall accept applications from entities for permits to operate as alternative treatment centers, and may charge a reasonable fee for the issuance of a permit under this section. The department shall seek to ensure the availability of a sufficient number of alternative treatment centers throughout the State, pursuant to need, including at least two each in the northern, central, and southern regions of the State. The first two centers issued a permit in each region shall be nonprofit entities, and centers subsequently issued permits may be nonprofit or for-profit entities.

An alternative treatment center shall be authorized to acquire a reasonable initial and ongoing inventory, as determined by the department, of marijuana seeds or seedlings and paraphernalia, possess, cultivate, plant, grow, harvest, process, display, manufacture, deliver, transfer, transport, distribute, supply, sell, or dispense marijuana, or related supplies to qualifying patients or their primary caregivers who are registered with the department pursuant to section 4 of this act.

Applicants for authorization as nonprofit alternative treatment centers shall be subject to all applicable State laws governing nonprofit entities, but need not be recognized as a 501(c)(3) organization by the federal Internal Revenue Service.

b. The department shall require that an applicant provide such information as the department determines to be necessary pursuant to regulations adopted pursuant to this act.

c. A person who has been convicted of a crime 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, or any similar law of the United States or any other state shall not be issued a permit to operate as an alternative treatment center or be a director, officer, or employee of an alternative treatment center, unless such conviction occurred after the effective date of

this act and was for a violation of federal law relating to possession or sale of marijuana for conduct that is authorized under this act.

d. (1) The commissioner shall require each applicant seeking a permit to operate as an alternative treatment center to undergo a criminal history record background check. For purposes of this section, the term "applicant" shall include any owner, director, officer, or employee of an alternative treatment center. The commissioner is authorized to exchange fingerprint data with and receive criminal history record background information from the Division of State Police and the Federal Bureau of Investigation consistent with the provisions of applicable federal and State laws, rules, and regulations. The Division of State Police shall forward criminal history record background information to the commissioner in a timely manner when requested pursuant to the provisions of this section.

An applicant shall submit to being fingerprinted in accordance with applicable State and federal laws, rules, and regulations. No check of criminal history record background information shall be performed pursuant to this section unless the applicant has furnished his written consent to that check. An applicant who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for a permit to operate, or authorization to be employed at, an alternative treatment center. An applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

(2) The commissioner shall not approve an applicant for a permit to operate, or authorization to be employed at, an alternative treatment center if the criminal history record background information of the applicant reveals a disqualifying conviction as set forth in subsection c. of this section.

(3) Upon receipt of the criminal history record background information from the Division of State Police and the Federal Bureau of Investigation, the commissioner shall provide written notification to the applicant of his qualification for or disqualification for a permit to operate or be a director, officer, or employee of an alternative treatment center.

If the applicant is disqualified because of a disqualifying conviction pursuant to the provisions of this section, the conviction that constitutes the basis for the disqualification shall be identified in the written notice.

(4) The Division of State Police shall promptly notify the commissioner in the event that an individual who was the subject of a criminal history record background check conducted pursuant to this section is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of that notification, the commissioner

shall make a determination regarding the continued eligibility to operate or be a director, officer, or employee of an alternative treatment center.

(5) Notwithstanding the provisions of subsection b. of this section to the contrary, the commissioner may offer provisional authority for an applicant to be an employee of an alternative treatment center for a period not to exceed three months if the applicant submits to the commissioner a sworn statement attesting that the person has not been convicted of any disqualifying conviction pursuant to this section.

(6) Notwithstanding the provisions of subsection b. of this section to the contrary, no employee of an alternative treatment center shall be disqualified on the basis of any conviction disclosed by a criminal history record background check conducted pursuant to this section if the individual has affirmatively demonstrated to the commissioner clear and convincing evidence of rehabilitation. In determining whether clear and convincing evidence of rehabilitation has been demonstrated, the following factors shall be considered:

(a) the nature and responsibility of the position which the convicted individual would hold, has held or currently holds;

(b) the nature and seriousness of the crime or offense;

(c) the circumstances under which the crime or offense occurred;

(d) the date of the crime or offense;

(e) the age of the individual when the crime or offense was committed;

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

(g) any social conditions which may have contributed to the commission of the crime or offense; and

(h) 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 individual under their supervision.

e. The department shall issue a permit to a person to operate as an alternative treatment center if the department finds that issuing such a permit would be consistent with the purposes of this act and the requirements of this section are met and the department has verified the information contained in the application. The department shall approve or deny an application within 60 days after receipt of a completed application. The denial of an application shall be considered a final agency decision, subject to review by the Appellate Division of the Superior Court. The department may suspend or revoke a permit to operate as an alternative treatment center for

cause, which shall be subject to review by the Appellate Division of the Superior Court.

f. A person who has been issued a permit pursuant to this section shall display the permit at the premises of the alternative treatment center at all times when marijuana is being produced, or dispensed to a registered qualifying patient or the patient's primary caregiver.

g. An alternative treatment center shall report any change in information to the department not later than 10 days after such change, or the permit shall be deemed null and void.

h. An alternative treatment center may charge a registered qualifying patient or primary caregiver for the reasonable costs associated with the production and distribution of marijuana for the cardholder.

i. The commissioner shall adopt regulations to:

(1) require such written documentation of each delivery of marijuana to, and pickup of marijuana for, a registered qualifying patient, including the date and amount dispensed, to be maintained in the records of the alternative treatment center, as the commissioner determines necessary to ensure effective documentation of the operations of each alternative treatment center;

(2) monitor, oversee, and investigate all activities performed by an alternative treatment center; and

(3) ensure adequate security of all facilities 24 hours per day, including production and retail locations, and security of all delivery methods to registered qualifying patients.

C.24:6I-8 Inapplicability of act.

8. The provisions of this act shall not be construed to permit a person to:

a. operate, navigate, or be in actual physical control of any vehicle, aircraft, railroad train, stationary heavy equipment or vessel while under the influence of marijuana; or

b. smoke marijuana in a school bus or other form of public transportation, in a private vehicle unless the vehicle is not in operation, on any school grounds, in any correctional facility, at any public park or beach, at any recreation center, or in any place where smoking is prohibited pursuant to N.J.S.2C:33-13.

A person who commits an act as provided in this section shall be subject to such penalties as are provided by law.

C.24:6I-9 Falsification of registration card, degree of crime.

9. 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 transfer a document that falsely purports to be a registration card issued pursuant to this act, or a registration card issued pursuant to this act that has been altered, is guilty of a crime of the third degree. A person who knowingly presents to a law enforcement officer a document that falsely purports to be a registration card issued pursuant to this act, or a registration card that has been issued pursuant to this act that has been altered, is guilty of a crime of the fourth degree. The provisions of this section are intended to supplement current law and shall not limit prosecution or conviction for any other offense.

C.24:6I-10 Written instructions to patient, caregiver.

10. a. A physician shall provide written instructions for a registered qualifying patient or his caregiver to present to an alternative treatment center concerning the total amount of usable marijuana that a patient may be dispensed, in weight, in a 30-day period, which amount shall not exceed two ounces. If no amount is noted, the maximum amount that may be dispensed at one time is two ounces.

b. A physician may issue multiple written instructions at one time authorizing the patient to receive a total of up to a 90-day supply, provided that the following conditions are met:

(1) Each separate set of instructions shall be issued for a legitimate medical purpose by the physician, as provided in this act;

(2) Each separate set of instructions shall indicate the earliest date on which a center may dispense the marijuana, except for the first dispensation if it is to be filled immediately; and

(3) The physician has determined that providing the patient with multiple instructions in this manner does not create an undue risk of diversion or abuse.

c. A registered qualifying patient or his primary caregiver shall present the patient's or caregiver's registry identification card, as applicable, and these written instructions to the alternative treatment center, which shall verify and log the documentation presented. A physician may provide a copy of a written instruction by electronic or other means, as determined by the commissioner, directly to an alternative treatment center on behalf of a registered qualifying patient. The dispensation of marijuana pursuant to any written instructions shall occur within one month of the date that the instructions were written or the instructions are void.

d. A patient may be registered at only one alternative treatment center at any time.

C.45:1-45.1 Information required for monitoring; rules, regulations.

11. a. A physician who provides a certification or written instruction for the medical use of marijuana to a qualifying patient pursuant to P.L.2009, c.307 (C.24:6I-1 et al.) and any alternative treatment center shall furnish to the Director of the Division of Consumer Affairs in the Department of Law and Public Safety such information, in such a format and at such intervals, as the director shall prescribe by regulation, for inclusion in a system established to monitor the dispensation of marijuana in this State for medical use as authorized by the provisions of P.L.2009, c.307 (C.24:6I-1 et al.), which system shall serve the same purpose as, and be cross-referenced with, the electronic system for monitoring controlled dangerous substances established pursuant to section 25 of P.L.2007, c.244 (C.45:1-45).

b. The Director of the Division of Consumer Affairs, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and in consultation with the Commissioner of Health and Senior Services, shall adopt rules and regulations to effectuate the purposes of subsection a. of this section.

c. Notwithstanding any provision of P.L.1968, c.410 to the contrary, the Director of the Division of Consumer Affairs shall adopt, immediately upon filing with the Office of Administrative Law and no later than the 90th day after the effective date of P.L.2009, c.307 (C.24:6I-1 et al.), such regulations as the director deems necessary to implement the provisions of subsection a. of this section. Regulations adopted pursuant to this subsection shall be effective until the adoption of rules and regulations pursuant to subsection b. of this section and may be amended, adopted, or readopted by the director in accordance with the requirements of P.L.1968, c.410.

12. N.J.S.2C:35-18 is amended to read as follows:

Exemption, burden of proof.

2C:35-18. Exemption; Burden of Proof. a. If conduct is authorized by the provisions of P.L.1970, c.226 (C.24:21-1 et seq.) or P.L.2009, c.307 (C.24:6I-1 et al.), that authorization shall, subject to the provisions of this section, constitute an exemption from criminal liability under this chapter or chapter 36, and the absence of such authorization shall not be construed to be an element of any offense in this chapter or chapter 36. It is an affirmative defense to any criminal action arising under this chapter or chapter 36 that the defendant is the authorized holder of an appropriate registration, permit or order form or is otherwise exempted or excepted from criminal liability by virtue of any provision of P.L.1970, c.226 (C.24:21-1

et seq.) or P.L.2009, c.307 (C.24:6I-1 et al.). The affirmative defense established herein shall be proved by the defendant by a preponderance of the evidence. It shall not be necessary for the State to negate any exemption set forth in this act or in any provision of Title 24 of the Revised Statutes in any complaint, information, indictment or other pleading or in any trial, hearing or other proceeding under this act.

b. No liability shall be imposed by virtue of this chapter or chapter 36 upon any duly authorized State officer, engaged in the enforcement of any law or municipal ordinance relating to controlled dangerous substances or controlled substance analogs.

C.24:6I-11 Grants, contributions, use of fees.

13. a. The commissioner may accept from any governmental department or agency, public or private body or any other source grants or contributions to be used in carrying out the purposes of this act.

b. All fees collected pursuant to this act, including those from qualifying patients and alternative treatment centers' initial, modification and renewal applications, shall be used to offset the cost of the department's administration of the provisions of this act.

C.24:6I-12 Report to Governor, Legislature.

14. a. The commissioner shall report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1):

(1) no later than one year after the effective date of this act, on the actions taken to implement the provisions of this act; and

(2) annually thereafter on the number of applications for registry identification cards, the number of qualifying patients registered, the number of primary caregivers registered, the nature of the debilitating medical conditions of the patients, the number of registry identification cards revoked, the number of alternative treatment center permits issued and revoked, and the number of physicians providing certifications for patients.

b. The reports shall not contain any identifying information of patients, caregivers, or physicians.

c. Within two years after the effective date of this act and every two years thereafter, the commissioner shall: evaluate whether there are sufficient numbers of alternative treatment centers to meet the needs of registered qualifying patients throughout the State; evaluate whether the maximum amount of medical marijuana allowed pursuant to this act is sufficient to meet the medical needs of qualifying patients; and determine whether

any alternative treatment center has charged excessive prices for marijuana that the center dispensed.

The commissioner shall report his findings no later than two years after the effective date of this act, and every two years thereafter, to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1).

C.24:6I-13 Exchange of data, information.

15. a. The Department of Health and Senior Services is authorized to exchange fingerprint data with, and receive information from, the Division of State Police in the Department of Law and Public Safety and the Federal Bureau of Investigation for use in reviewing applications for individuals seeking to serve as primary caregivers pursuant to section 4 of P.L.2009, c.307 (C.24:6I-4), and for permits to operate as, or to be a director, officer, or employee of, alternative treatment centers pursuant to section 7 of P.L.2009, c.307 (C.24:6I-7).

b. The Division of State Police shall promptly notify the Department of Health and Senior Services in the event an applicant seeking to serve as a primary caregiver or an applicant for a permit to operate as, or to be a director, officer, or employee of, an alternative treatment center, who was the subject of a criminal history record background check conducted pursuant to subsection a. of this section, is convicted of a crime involving possession or sale of a controlled dangerous substance.

C.24:6I-14 Construction of act.

16. Nothing in this act shall be construed to require a government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana, or an employer to accommodate the medical use of marijuana in any workplace.

C.24:6I-15 Additional immunity.

17. In addition to any immunity or defense provided by law, the State and any employee or agent of the State shall not be held liable for any actions taken in accordance with this act or for any deleterious outcomes from the medical use of marijuana by any registered qualifying patient.

C.24:6I-16 Rules, regulations.

18. a. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall promulgate rules and regulations to effectuate the purposes of this act, in consultation with the Department of Law and Public Safety.

b. Notwithstanding any provision of P.L.1968, c.410 to the contrary, the commissioner shall adopt, immediately upon filing with the Office of Administrative Law and no later than the 90th day after the effective date of this act, such regulations as the commissioner deems necessary to implement the provisions of this act. Regulations adopted pursuant to this subsection shall be effective until the adoption of rules and regulations pursuant to subsection a. of this section and may be amended, adopted, or readopted by the commissioner in accordance with the requirements of P.L.1968, c.410.

19. This act shall take effect on the first day of the sixth month after enactment, but the commissioner and the Director of the Division of Consumer Affairs may take such anticipatory administrative action in advance thereof as may be necessary to effectuate the provisions of this act.

Approved January 18, 2010.

CHAPTER 308

AN ACT concerning the structure and fiscal management of higher education in New Jersey, amending various parts of the statutory law, and supplementing chapter3B of the New Jersey Statutes.

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

C.18A:3B-46 Definitions relative to structure and fiscal management of higher education.

1. As used in this act:

"Commission" means the New Jersey Commission on Higher Education established pursuant to section 13 of P.L.1994, c.48 (C.18A:3B-13);

"Public research university" means Rutgers, The State University of New Jersey, the University of Medicine and Dentistry of New Jersey, and the New Jersey Institute of Technology;

"State college" means the State colleges or universities established pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

C.18A:3B-47 Secretary of Higher Education.

2. The Governor shall appoint, with the advice and consent of the Senate, a Secretary of Higher Education who shall serve at the pleasure of

the Governor during the Governor's term of office and until a successor is appointed and qualified. The appointment shall be made after consultation with and recommendations from the New Jersey Commission on Higher Education and the New Jersey Presidents' Council except that the person holding the office of executive director of the commission on the effective date of this act shall be the initial Secretary of Higher Education. The secretary shall hold cabinet-level rank and shall serve as executive director of the commission.

C.18A:3B-48 Audit committee.

3. a. The governing board of a public research university or a State college shall establish an audit committee. The chairman of the committee shall have accounting or related financial management expertise and the governing board shall make efforts to ensure that a majority of the members of the committee have such expertise.

b. The audit committee shall have a written charter that addresses the committee's purpose and responsibilities which shall include, but not be limited to:

(1) assisting the board in ensuring and safeguarding the integrity of the institution's financial statements;

(2) assisting the board in overseeing and evaluating the performance of outside auditors retained by the institution;

(3) assisting the board in overseeing and evaluating the performance of the institution's internal audit function;

(4) ensuring that allegations of misconduct or conflict of interest are evaluated and investigated; and

(5) ensuring the institution's compliance with all relevant legal and regulatory requirements.

c. The audit committee shall prepare an annual audit committee report for submission to the institution's governing board.

d. The committee shall keep minutes of its meetings.

C.18A:3B-49 Internal auditor.

4. The governing board of a public research university or a State college shall approve the appointment of an internal auditor, who shall have a direct reporting relationship to the board, the president, and the chief financial officer. The internal auditor shall periodically test and report on the institution's internal controls to the audit committee, the institution's president, chief financial officer, and other senior members of the institution's administrative staff.

C.18A:3B-50 Independent outside auditor.

5. a. The governing board of a public research university or a State college shall retain an independent outside auditor who is a certified public accountant to conduct an annual audit of the institution's financial accounts in accordance with nationally recognized auditing and accounting standards adopted by the commission. The independent auditor shall be selected by a majority vote of the members of the board present upon the recommendation of the audit committee.

The governing board of the institution shall not retain an independent auditor that employed the president, chief financial officer, controller, chief accounting officer, or any person holding an equivalent position at the institution during the one-year period preceding the audit or that fails to meet any other limitations or restrictions established by the commission. The governing board shall ensure the independence of the auditor.

b. The independent outside auditor shall report his findings to the audit committee. The audit committee shall review the problems identified through the audit with the institution's president, chief financial officer, and other senior members of the institution's administrative staff who shall evaluate the independent auditor's findings and file comments in response to those findings with the audit committee.

c. The audit committee shall report the findings of the independent auditor and the evaluation of those findings by the institution's senior staff to the governing board of the institution. The audit committee shall recommend actions it deems necessary to rectify any identified deficiencies in internal controls.

C.18A:3B-51 Submission of audit to commission.

6. a. The president and chief financial officer of a public research university or a State college shall submit the annual audit to the commission and shall certify that they have reviewed the financial statements and that, based on their knowledge, the financial statements do not contain any untrue statement of a material fact or omission of a material fact that makes the statements misleading and that, based on their knowledge, the financial statements present in all material respects the financial condition and results of operations of the institution.

b. A public research university or a State college shall retain institutional financial statements for a minimum period of time in accordance with accounting principles of the Governmental Accounting Standards Board.

C.18A:3B-52 Policies, procedures for reports of wrongdoing, confidentiality.

7. In accordance with standards established by the Attorney General, the governing board of a public research university or State college shall establish written policies and procedures that provide confidentiality in the reporting of alleged wrongdoing at the institution and protect employees from retaliatory action in accordance with the provisions of the "Conscientious Employee Protection Act," P.L.1986, c.105 (C.34:19-1 et seq.).

C.18A:3B-53 Recommendations for penalties for noncompliance.

8. The commission shall submit to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), recommendations for the establishment of penalties for noncompliance with the provisions of sections 4 through 7 of this act, unless such penalties are otherwise established by law, including, but not limited to, fines and disciplinary action to be imposed upon a public research university or a State college or a member of the governing board or an employee of the institution.

C.18A:3B-54 Additional authority of commission.

9. a. In addition to the authority granted to the Commission on Higher Education pursuant to section 14 of P.L.1994, c.48 (C.18A:3B-14), the commission shall develop and enforce a code of standards to define and regulate the types of activities in which a governmental affairs agent is permitted to engage on behalf of a public research university or a State college.

b. Under the code of standards established pursuant to subsection a. of this section, a governmental affairs agent, whether employed directly or retained under contract by the institution, shall be prohibited from using the position as an agent of the institution to:

(1) solicit political campaign contributions from the institution directly or through personnel on behalf of the institution;

(2) engage in or recommend on behalf of the institution any involvement in the partisan activities of specific political parties or candidates; or

(3) support or promote directly or indirectly on behalf of the institution any specific political party or individual for election or re-election.

Under the code of standards, the commission shall not prohibit a governmental affairs agent from engaging on behalf of a public research university or a State college concerning legitimate nonpartisan and bipartisan activities that are vital to the election process including, but not limited to, the scheduling and holding of on-campus political debates, voter-registration drives, and similar nonpartisan and bipartisan events and activities.

C.18A:3B-55 Notice of representation filed by governmental affairs agent, reports.

10. a. Notwithstanding any law, rule or regulation to the contrary, a governmental affairs agent who is retained by a governing board of a public research university or a State college shall file a notice of representation pursuant to section 4 of P.L.1971, c.183 (C.52:13C-21), quarterly reports specific to that representation pursuant to section 5 of P.L.1971, c.183 (C.52:13C-22), and annual reports specific to that representation pursuant to section 2 of P.L.1981, c.150 (C.52:13C-22.1). This requirement shall not be deemed to require filings by any person performing services as an employee of the public research university or State college.

b. The Election Law Enforcement Commission shall transmit to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a copy of an annual report filed by a governmental affairs agent pursuant to subsection a. of this section within 30 days following the filing of the report.

C.18A:3B-56 Approval of contract.

11. Any proposed contract to retain the services of a governmental affairs agent shall be considered by the governing board of a public research university or a State college at a public meeting and approval of the contract shall require the adoption of a resolution by a majority of the board members present at the meeting.

C.18A:3B-57 Policies concerning professional services contracts.

12. a. The governing board of a public research university or a State college shall establish policies concerning professional services contracts which, at a minimum, shall include procedures for the review of proposed professional services contracts to verify the need for the proposed services, determine whether conflicts of interest exist between the vendor and the institution, ensure appropriate procurement procedures are utilized, determine whether the proposed compensation is reasonable, and monitor the services delivered by the vendor.

b. The institution shall prepare an annual report on professional services contracts for submission to the institution's governing board.

C.18A:3B-58 Executive committee.

13. The governing board of a public research university or a State college shall establish an executive committee composed of the chairman of the governing board, the vice-chairman, and the chairmen of any committees established by the board, and such other voting members as may be appointed by the board. The executive committee shall have a written char-

ter that defines the committee's purpose, responsibilities, and its authority to act on behalf of the governing board between meetings of the full board.

The committee shall keep minutes of its meetings.

C.18A:3B-59 Compensation committee.

14. a. The governing board of a public research university or a State college shall establish a compensation committee. The compensation committee shall have a written charter that addresses the committee's purpose and responsibilities which shall include, but not be limited to:

(1) establishing and evaluating the compensation for the president, vice-presidents, and other senior administrators of the institution; and

(2) making recommendations to the board on issues relating to the compensation of the president, vice-presidents, and other senior administrators including the amounts, types, and components of compensation plans, and the performance measures and targets upon which institutional administrators shall be evaluated for purposes of calculating incentive awards.

b. The recommendations of the compensation committee shall be voted upon by the committee. The committee shall keep minutes of its meetings.

C.18A:3B-60 Nominations and governance committee.

15. a. The governing board of a public research university or a State college shall establish a nominations and governance committee. The nominations and governance committee shall have a written charter that defines the committee's purpose and responsibilities which shall include, but need not be limited to:

(1) overseeing matters directly affecting the governance of the institution;

(2) periodically reviewing and updating board by-laws;

(3) identifying and screening candidates for membership on the governing board; and

(4) referring candidates to the governing board for the consideration of the board in making its recommendations to the Governor on potential new members.

b. In identifying candidates for appointment to the governing board, the committee shall seek individuals with skills that are appropriate to the mission of the institution and which complement the range of expertise contributed to the governing board by its existing members. The committee shall seek candidates of diverse background and experience, as well as those with ties to the institution.

The recommendations of the nominations and governance committee shall be voted upon by the committee. The committee shall keep minutes of its meetings.

c. The governing board of a public research university or a State college shall establish criteria for the identification, qualification, and recommendation of prospective candidates for appointment to the board. The criteria shall include qualification criteria that are consistent with the statutory responsibilities of the board and tailored to the institution.

C.18A:3B-61 Fundraising and development strategies.

16. The governing board of a public research university or a State college shall develop and implement fundraising and development strategies that encourage the active involvement of all board members and that, as may be appropriate, assist fundraising by institutional foundations.

C.18A:3B-62 Provision of information, orientation, training.

17. A public research university and State college shall provide information, orientation, and training to each of its governing board members on the legal and ethical responsibilities of a member of the governing board.

C.18A:3B-63 Procedure for change in programmatic mission.

18. a. When a public research university or a State college determines to seek a change to its programmatic mission, the university or college shall submit to the commission:

(1) a notice of the intent to seek a change to the institution's programmatic mission; and

(2) a petition for approval for a change in the programmatic mission of the institution, when such petition is ready for submission. The petition shall include information on the long-term costs of the change in programmatic mission and a cost-benefit analysis of the expected impact of the change that considers the expected needs of the State and the potential impact of the change on other academic programs of the institution.

b. The commission shall issue its response to the petition within one year of its receipt.

C.18A:3B-64 Meeting convened by commission.

19. The commission shall convene a meeting, at least once a year, of representatives of all public and independent institutions of higher education to discuss issues related to the development and implementation of new degree programs.

C.18A:3B-65 Plan for branch campus.

20. a. When the governing board of a public research university or a State college, after study and investigation, determines that it is advisable for the institution to establish a branch campus out-of-State or out-of-country that will serve at least 500 students of the institution, the board shall submit the plan for the branch campus to the commission for its review and recommendations. The plan shall include: a description of the higher educational needs of the country or region in which the branch campus shall be located; a description of the proposed branch campus and its proposed programs and curriculum; and an estimate of the cost of establishing and maintaining the branch campus including the cost of any planned acquisition or construction of facilities; and any other information or data deemed necessary by the commission.

b. In developing its response to the plan, the commission shall consider whether there is a need for the institution to acquire a branch campus and whether the institution has the financial capacity to support the campus.

C.18A:3B-66 Reference to mean, refer to Secretary of Higher Education.

21. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the executive director of the New Jersey Commission on Higher Education, the same shall mean and refer to the Secretary of Higher Education.

C.18A:3B-67 Regulations.

22. The Commission on Higher Education shall adopt regulations pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this act.

23. Section 13 of P.L.1994, c.48 (C.18A:3B-13) is amended to read as follows:

C.18A:3B-13 New Jersey Commission on Higher Education.

13. a. There is established the New Jersey Commission on Higher Education which shall consist of 15 members: 10 public members, to be appointed by the Governor with the advice and consent of the Senate without regard for political affiliation; two public members to be appointed by the Governor, one upon the recommendation of the President of the Senate and one upon the recommendation of the Speaker of the General Assembly; the chairperson of the New Jersey Presidents' Council, ex officio; one faculty member from an institution of higher education to be appointed by the

Governor with the advice and consent of the Senate; and the chairperson of the Board of Higher Education Student Assistance Authority, ex officio, or a designee from the public members of the authority. The public members shall reflect the diversity of the State. Notwithstanding the above, for a period of four years from July 1, 1994 the commission shall consist of 16 members, as follows: 10 public members, appointed by the Governor with the advice and consent of the Senate without regard for political affiliation, six of whom shall have experience as a current member of the governing board of an institution of higher education; four public members to be appointed by the Governor, two upon the recommendation of the President of the Senate and two upon the recommendation of the Speaker of the General Assembly; the chairperson of the New Jersey Presidents' Council, ex officio; and the chairperson of the Board of the Higher Education Student Assistance Authority, ex officio, or a designee from the public members of the authority. The executive director of the commission shall be an ex officio, non-voting member of the commission. In addition, the Governor shall appoint two students in attendance at public or independent institutions of higher education in the State from recommendations submitted by student government associations of New Jersey colleges and universities, who shall serve for a one-year term on the commission as voting members.

b. Public members who are not experienced as governing board members shall serve for a term of six years from the date of their appointment and until their successors are appointed and qualified; except that of the initial appointees who are not serving on the governing board of an institution: one shall serve a term of one year; one shall serve a term of two years; one shall serve a term of three years; one shall serve a term of four years; two shall serve a term of five years; and two shall serve a term of six years. A public member who does not have experience as a current member of a governing board shall serve until the member's successor is appointed and qualified.

In the case of the initial terms of the additional members of the board appointed pursuant to P.L.2009, c.308 (C.18A:3B-46 et al.), one member shall serve a term of four years, one member shall serve a term of five years, and two members shall serve a term of six years.

The faculty member of the commission shall serve for a term of one year from the date of appointment and the selection of that member shall be rotated among the following higher education sectors although not necessarily in the order listed: the senior public research universities, the State colleges/universities, the county colleges, and the independent institutions. The faculty member shall serve until his successor is appointed and qualified.

Any vacancy shall be filled in the same manner as the original appointment but only for the balance of the unexpired term. The commission members shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties. No commission member shall be appointed for more than two consecutive six-year terms.

c. The Governor shall make the necessary appointments within 15 days of the effective date of this act. The commission shall hold its first meeting within 30 days of the appointment and qualification in office of its members, at which time the Governor shall appoint, for a two-year term, the chairman of the commission from among those public members not serving on the board of trustees of an institution. Upon the completion of the chairman's term, and every two years thereafter, the commission shall elect, from among those public members who are not serving on the board of trustees of an institution, a chairman who shall serve a two-year term. The chairman may be removed by the Governor for cause after an opportunity to be heard.

d. The commission shall be established in the Executive Branch of the State Government and for the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the commission is allocated in but not of the Department of State, but notwithstanding this allocation, the commission shall be independent of any supervision or control by the department or by any board or officer thereof. The commission shall submit its budget request directly to the Division of Budget and Accounting in the Department of the Treasury.

e. The Secretary of Higher Education shall serve as executive director of the commission. The commission shall appoint such personnel as may be deemed necessary. The professional staff shall serve at the commission's pleasure and shall receive such compensation as provided by law.

f. The Attorney General shall provide legal representation to the commission.

24. Section 14 of P.L.1994, c.48 (C.18A:3B-14) is amended to read as follows:

C.18A:3B-14 Responsibilities of commission.

14. The commission shall be responsible for:

a. Statewide planning for higher education including research on higher education issues and the development of a comprehensive master plan, including, but not limited to, the establishment of new institutions, closure of existing institutions, and consolidation of institutions, which plan

shall be long-range in nature and regularly revised and updated. The council may request the commission to conduct a study of a particular issue. The commission may require from institutions of higher education such reports or other information as may be necessary to enable the commission to perform its duties;

b. advocacy on behalf of higher education including informing the public of the needs and accomplishments of higher education in New Jersey;

c. making recommendations to the Governor and Legislature on higher education initiatives and incentive programs of Statewide significance;

d. final administrative decisions over institutional licensure and university status giving due consideration to the accreditation status of the institution. The commission shall furnish the Presidents' Council with any pertinent information compiled on behalf of the subject institution and the council shall then make recommendations to the commission concerning the licensure of the institution or university status within sixty days of receipt of the information;

e. adopting a code of ethics applicable to institutions of higher education;

f. final administrative decisions over new academic programs that go beyond the programmatic mission of the institution and final administrative decisions over a change in the programmatic mission of an institution. In addition, within 60 days of referral of a proposed new program determined to be unduly expensive or duplicative by the council, the commission may deny approval of programs which do not exceed the programmatic mission of the institution, but which are determined by the New Jersey Presidents' Council to be unduly duplicative or expensive;

g. reviewing requests for State support from the institutions in relation to the mission of the institution and Statewide goals and proposing a coordinated budget policy statement to the Governor and Legislature;

h. communicating with the State Board of Education and Commissioner of Education to advance public education at all levels including articulation between the public schools and higher education community;

i. applying for and accepting grants from the federal government, or any agency thereof, or grants, gifts or other contributions from any foundation, corporation, association or individual, and complying with the terms, conditions and limitations thereof, for the purpose of advancing higher education. Any money so received may be expended by the commission upon warrant of the director of the Office of Management and Budget in the Department of the Treasury on vouchers certified by the executive director of the commission;

j. acting as the lead agency of communication with the federal government concerning higher education issues, except that the Higher Education Student Assistance Authority shall act, in cooperation with the commission, as the lead agency on issues of student assistance;

k. exercising all of the powers and duties previously exercised by the Board of Higher Education, the Department of Higher Education, and the Chancellor of Higher Education, under the "New Jersey Higher Education Building Construction Bond Act of 1971," P.L.1971, c.164, the "New Jersey Medical Education Facilities Bond Act of 1977," P.L.1977, c.235, the "Jobs, Science and Technology Bond Act of 1984," P.L.1984, c.99 and the "Jobs, Education and Competitiveness Bond Act of 1988," P.L.1988, c.78, the "Higher Education Equipment Leasing Fund Act," P.L.1993, c.136, and the "Higher Education Facilities Trust Fund Act," P.L.1993, c.375;

l. exercising any other power or responsibility necessary in order to carry out the provisions of this act;

m. consulting with the Higher Education Student Assistance Authority on student assistance matters;

n. advising and making recommendations for consideration to the Governor and the governing board of a public research university or a State college for members of that governing board appointed by the Governor; and

o. examining and recommending to institutions of higher education opportunities for joint purchasing and other joint arrangements that would be advantageous to the institutions.

25. Section 301 of P.L.1994, c.48 (C.18A:3B-34) is amended to read as follows:

C.18A:3B-34 Powers of Secretary of Higher Education.

301. a. The Secretary of Higher Education, with the concurrence of the Governor, shall have authority to visit public institutions of higher education to examine their manner of conducting their affairs and to enforce an observance of the laws of the State.

b. The secretary, with the concurrence of the Governor, may administer oaths and examine witnesses under oath in any part of the State with regard to any matter pertaining to higher education, and may cause the examination to be reduced to writing. Any person willfully giving false testimony upon being sworn or affirmed to tell the truth shall be guilty of a misdemeanor.

c. The secretary, with the concurrence of the Governor, may issue subpoenas pursuant to this section compelling the attendance of witnesses

and the production of books and papers in any part of the State. Any person who shall neglect or refuse to obey the command of the subpoena or who, after appearing, shall refuse to be sworn and testify, unless such refusal is on grounds recognized by law, shall in either event be subject to a penalty of $1,000.00 for each offense to be recovered in a civil action. Such penalty when recovered shall be paid into the State Treasury.

26. Section 305 of P.L.1994, c.48 (C.18A:3B-35) is amended to read as follows:

C.18A:3B-35 Annual report by institution of higher education.

305. Each public institution of higher education shall prepare and make available to the public an annual report on the condition of the institution which shall include, but need not be limited to a profile of the student body including graduation rates, SAT or other test scores, the percentage of New Jersey residents in the student body, the number of scholarship students and the number of Educational Opportunity Fund students in attendance; a profile of the faculty including the ratio of full to part-time faculty members, and major research and public service activities; a profile of the trustees or governors as applicable; and, a profile of the institution, including degree and certificate programs, status of accreditation, major capital projects, any new collaborative undertakings or partnerships, any new programs or initiatives designed to respond to specific State needs, an accounting of demonstrable efficiency and quality improvements, and any other information which the commission and the institution deem appropriate. The form and general content of the report shall be established by the Commission on Higher Education.

27. N.J.S.18A:64-3 is amended to read as follows:

Board of trustees.

18A:64-3. The composition and size of the board of trustees shall be determined by the board; however, each board shall have not less than seven nor more than 15 members. The members shall be appointed by the Governor with the advice and consent of the Senate. Each board of trustees shall recommend potential new members to the Governor. The terms of office of appointed members shall be for six years beginning on July 1 and ending on June 30. Each member shall serve until his successor shall have been appointed and qualified and vacancies shall be filled in the same manner as the original appointments for the remainders of the unexpired terms.

Any member of a board of trustees may be removed by the Governor for cause upon notice and opportunity to be heard.

28. Section 6 of P.L.1995, c.400 (C.18A:64E-17) is amended to read as follows:

C.18A:64E-17 Membership of board of trustees; organization.

6. a. Membership of the board of trustees shall consist of the Governor, or his designee, and the Mayor of Newark, as ex officio nonvoting members, and, as voting members, up to 15 members appointed by the Governor with the advice and consent of the Senate. The board shall recommend potential new members to the Governor. The composition and size of the board of trustees shall be determined by the board. The terms of office of appointed members shall be for four years which shall commence on July 1 and expire on June 30. All trustees shall serve after the expiration of their terms until their successors shall have been appointed and qualified. Trustees appointed by the Governor may be removed from the office by the Governor, for cause, after notice and opportunity to be heard. Any vacancy that may occur in the board of trustees shall be filled by appointment in like manner for the unexpired term only.

b. Members of the board as of the effective date of this act shall continue in office until the expiration of their respective terms and the qualification in office of their successors.

c. All voting members of the board of trustees, before undertaking the duties of their office, shall take and subscribe an oath or affirmation to support the Constitution of the State of New Jersey and of the United States, to bear allegiance to the government of the State, and to perform the duties of their office faithfully, impartially and justly, to the best of their ability.

d. Members of the board of trustees shall not receive compensation for their services. Each trustee shall be reimbursed for actual expenses reasonably incurred in the performance of his duties or in rendering service as a member of or on behalf of the board or any committee of the board.

e. The board of trustees shall elect its chairperson from among its voting members annually in July. The board shall select such other officers from among its members as shall be deemed necessary.

f. No voting member of the board of trustees shall be a salaried official of the State of New Jersey, or shall receive remuneration for services from the university. If any member of the board shall become ineligible by reason of the foregoing, a vacancy in his office as trustee shall thereby occur.

g. The board of trustees shall have the power to appoint and regulate the duties, functions, powers and procedures of committees, standing or special, from its members and such advisory committees or bodies as it may deem necessary or conducive to the efficient management and operation of the university, consistent with this act and other applicable statutes.

29. Section 4 of P.L.1970, c.102 (C.18A:64G-4) is amended to read as follows:

C.18A:64G-4 Board of trustees, membership, organization, committees.

4. a. The government, control, conduct, management and administration of the university shall be vested in the board of trustees of the university. The membership of the board of trustees shall consist of the Commissioner of Health and Senior Services, who shall serve ex officio, without vote, and 19 voting members appointed by the Governor as follows: two members shall be appointed by the Governor upon recommendation of the Senate President; two members shall be appointed by the Governor upon recommendation of the Speaker of the General Assembly; and 15 members shall be appointed by the Governor with the advice and consent of the Senate. A voting member shall serve for a term of five years and shall serve until his successor is appointed and has qualified. No trustee shall be appointed who is an employee or paid official of any hospital affiliated with the university. Any vacancies in the voting membership of the board occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only. Each voting member of the board of trustees before entering upon his duties shall take and subscribe an oath to perform the duties of his office faithfully, impartially and justly to the best of his ability. A record of such oath shall be filed in the office of the Secretary of State. Each voting member of the board may be removed from office by the Governor, for cause, after a public hearing.

In the case of the initial terms of the additional members of the board appointed pursuant to P.L.2006, c.95, three members shall serve for a term of five years, three members shall serve for a term of four years, and two members shall serve for a term of three years.

b. The members of the board of trustees shall meet at the call of the Governor for purposes of organizing. The board shall thereafter meet at such times and places as it shall designate.

c. The Governor shall designate one of the voting members as chairman of the board. The board shall select such other officers from among its members as shall be deemed necessary.

d. The board shall have the power to appoint and regulate the duties, functions, powers and procedures of committees, standing or special, from its members and such advisory committees or bodies, as it may deem necessary or conducive to the efficient management and operation of the university, consistent with this act and other applicable statutes. The board shall include representatives from the faculty, the appropriate bargaining unit, and the student body on relevant advisory committees or bodies.

30. N.J.S.18A:72A-4 is amended to read as follows:

"New Jersey educational facilities authority."

18A:72A-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 educational facilities authority." Notwithstanding this allocation, the authority shall be independent of any supervision or control by the department or any officer thereof. The authority shall constitute a political subdivision of the State established as an instrumentality exercising public and essential governmental functions, and the exercise by the authority of the powers conferred by this chapter shall be deemed and held to be an essential governmental function of the State.

(b) The authority shall consist of seven members, two of whom shall be the chairman of the Commission on Higher Education, ex officio, and the State Treasurer, ex officio, or when so designated by them, their deputies and five citizens of the State to be appointed by the Governor with the advice and consent of the Senate for terms of five years; provided that the terms of the members first appointed shall be arranged by the Governor so that one of such terms shall expire on April 30 in each successive year ensuing after such appointments. Each member shall hold office for the term of his appointment and shall continue to serve during the term of his successor unless and until his successor shall have been appointed and qualified. Any vacancy among the members appointed by the Governor shall be filled by appointment for the unexpired term only. A member of the authority shall be eligible for reappointment.

(c) Any member of the authority appointed by the Governor may be removed from office by the Governor for cause after a public hearing.

(d) The members of the authority shall serve without compensation, but the authority may reimburse its members for necessary expenses incurred in the discharge of their duties.

(e) The authority, upon the first appointment of its members and thereafter on or after April 30 in each year, shall annually elect from among its

members a chairman and a vice chairman who shall hold office until April 30 next ensuing and shall continue to serve during the terms of their respective successors unless and until their respective successors shall have been appointed and qualified. The authority may also appoint, retain and employ, without regard to the provisions of Title 11, Civil Service, of the Revised Statutes, such officers, agents, employees and experts as it may require, and it shall determine their qualifications, terms of office, duties, services and compensation.

(f) The powers of the authority shall be vested in the members thereof in office from time to time and a majority of the total authorized membership of the authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting thereof by the affirmative vote of a majority of the members present, unless in any case the bylaws of the authority shall require a larger number. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

(g) Before the issuance of any bonds under the provisions of this chapter, the members and the officer of the authority charged with the handling of the authority's moneys shall be covered by a surety bond or bonds in a penal sum of not less than $25,000.00 per person conditioned upon the faithful performance of the duties of their respective offices, and executed by a surety company authorized to transact business in the State of New Jersey as surety. Each such bond shall be submitted to the Attorney General for his approval and upon his approval shall be filed in the Office of the Secretary of State prior to the issuance of any bonds by the authority. At all times after the issuance of any bonds by the authority the officer of the authority and each member charged with the handling of the authority's moneys shall maintain such surety bonds in full force and effect. All costs of such surety bonds shall be borne by the authority.

(h) Notwithstanding any other law to the contrary, it shall not be or constitute a conflict of interest for a trustee, director, officer or employee of a participating college to serve as a member of the authority; provided such trustee, director, officer or employee shall abstain from discussion, deliberation, action and vote by the authority under this chapter in specific respect to such participating college of which such member is a trustee, director, officer or employee.

(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 such copy of the minutes shall have been so delivered. If, in said 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting, such action shall be null and of no effect. If the Governor shall not return the minutes within said 10-day period, any action therein recited shall have force and effect according to the wording thereof. At any time prior to the expiration of the said 10-day period, the Governor may sign a statement of approval of any such action of the authority, in which case the action so approved shall not thereafter be disapproved.

The powers conferred in this subsection (i) upon the Governor shall be exercised with due regard for the rights of the holders of bonds of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection (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 for the benefit, protection or security of the holders thereof.

31. Section 1 of P.L.1980, c.31 (C.18A:72A-11.1) is amended to read as follows:

C.18A:72A-11.1 Refinancing outstanding mortgages of private lenders.

1. In addition to other powers and duties which have been granted to the authority, whenever any public or private college has constructed or acquired any work or improvement which would otherwise qualify under this act except for the fact that such construction or acquisition was undertaken and financed without assistance from the authority, the authority may purchase such work or improvement, and lease the same to such college, or may lend funds to such college for the purpose of enabling the latter to retire obligations incurred for such construction or acquisition; except that the amount of any such price or loan shall not exceed the original project cost and administrative costs, reserves, and other costs associated with the retirement of such obligations. All powers, rights, obligations and duties granted to or imposed upon the authority, colleges, State departments and agencies or others by this chapter in respect to projects shall apply to the same extent with respect to transactions pursuant to this section; except that any action otherwise required to be taken at a particular time in the progression of a project may, where the circumstances are so required in connec-

tion with a transaction under this section, be taken with the same effect as if taken at that particular time.

32. Section 2 of P.L.1993, c.136 (C.18A:72A-41) is amended to read as follows:

C.18A:72A-41 Findings, declarations.

2. The Legislature finds and declares that:

a. Higher education plays a vital role in the economic development of the nation and the State by providing the education and training of the work force of the future and by advancing science and technology through research;

b. The rapid technological changes occurring throughout the world have a considerable impact on the quality of teaching, learning, and research at colleges and universities;

c. The current inventory of instructional and research equipment at the colleges and universities within the State is aging, both chronologically and technologically, and much of it has been rendered obsolete; and

d. The Commission on Higher Education, which is statutorily responsible for the coordination and planning of higher education in New Jersey, has identified a crucial need to establish a regular financing mechanism for scientific, engineering, technical, computer, communications, and instructional equipment at New Jersey's public and private institutions of higher education.

33. Section 5 of P.L.1993, c.136 (C.18A:72A-42) is amended to read as follows:

C.18A:72A-42 Higher education equipment leasing fund; issuance of bonds.

5. a. There is created within the New Jersey Educational Facilities Authority, established pursuant to chapter 72A of Title 18A of the New Jersey Statutes, hereinafter referred to as the "authority," a higher education equipment leasing fund to finance the purchase of higher education equipment at public and private institutions of higher education. The authority shall issue bonds to finance the purchase of higher education equipment for lease to public and private institutions of higher education and to finance the administrative costs associated with the approval process and the issuance of bonds provided that the total outstanding principal amount of the bonds shall not exceed $100,000,000, except that all administrative costs associated with the approval process and the issuance of bonds shall not be

included within the total aggregate principal amount of bonds issued, and the term of any bond issued shall not exceed 10 years. In computing the foregoing limitation as to amount, there shall be excluded all bonds which shall be issued for refunding purposes, provided that the refunding shall be determined by the authority to result in a debt service savings. The State Treasurer is hereby authorized to enter into a contract with the authority pursuant to which the State Treasurer, subject to available appropriation, shall pay the amount necessary to pay the principal and interest on bonds and notes of the authority issued pursuant to this section. In entering into a lease agreement with a public or private institution of higher education, the authority shall include such lease provisions as may be necessary to insure that the institution shall pay an amount equal to 25% of the amount necessary to pay the principal and interest on the bonds and notes of the authority issued pursuant to this section to finance the purchase of higher education equipment at that institution. Upon receipt of such moneys from the public or private institution of higher education, the authority shall remit the moneys immediately to the State Treasurer.

b. The authority shall from time to time issue bonds or notes in an amount sufficient to finance the purchase of higher education equipment pursuant to lease agreements with public and private institutions of higher education and which shall also finance the administrative costs associated with the issuance of bonds or notes. The authority shall issue the bonds or notes in such manner as it shall determine in accordance with the provisions of P.L.1993, c.136 (C.18A:72A-40 et al.) and the "New Jersey educational facilities authority law," N.J.S.18A:72A-1 et seq. The authority shall not issue any bonds or notes pursuant to this section without the prior written consent of the State Treasurer.

c. Bonds or notes issued pursuant to this act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision thereof, or be or constitute a pledge of the faith and credit of the State or of any political subdivision thereof, but all bonds or notes, unless funded or refunded by the bonds or notes of the authority, shall be payable solely from revenues of funds pledged or available for their payment as authorized by this act. Each bond shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof, redemption premium, if any, or the interest thereon only from revenue or funds of the authority and that neither the State nor any political subdivision thereof is obligated to pay the principal thereof, redemption premium, if any, or interest thereon and that neither

the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of, redemption premium, if any, or the interest on the bonds.

d. The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds or notes issued pursuant to authorization of P.L.1993, c.136 (C.18A:72A-40 et al.) that the State shall not limit or alter the rights or powers hereby vested in the authority to perform and fulfill the terms of any agreement made with the holders of the bonds or notes, or to fix, establish, charge and collect such rents, fees, rates, payments, or other charges as may be convenient or necessary to produce sufficient revenues to meet all expenses of the authority and to fulfill the terms of any agreement made with the holders of the bonds and notes, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders, until the bonds and notes, together with interest thereon, are fully met and discharged or provided for.

34. Section 6 of P.L.1993, c.136 (C.18A:72A-43) is amended to read as follows:

C.18A:72A-43 Allocation of moneys.

6. The moneys deposited into the fund created pursuant to section 5 of P.L.1993, c.136 (C.18A:72A-42) shall be allocated in the following manner:

a. A minimum of $24,000,000 for the leasing of higher education equipment at the State colleges;

b. A minimum of $19,440,000 for the leasing of higher education equipment at Rutgers, The State University;

c. A minimum of $10,080,000 for the leasing of higher education equipment at the University of Medicine and Dentistry of New Jersey;

d. A minimum of $6,480,000 for the leasing of higher education equipment at the New Jersey Institute of Technology;

e. A minimum of $22,000,000 for the leasing of higher education equipment at the county colleges;

f. A minimum of $10,500,000 for the leasing of higher education equipment at private institutions of higher education; and

g. A minimum of $7,500,000 for the leasing of higher education equipment for emerging needs programs at public and private institutions of higher education.

The Commission on Higher Education may apportion the amounts authorized in subsection g. among any other amounts authorized in subsections a. through f.

The Commission on Higher Education may reallocate any balance in the amounts authorized in subsections a. through g. of this section which have not been fully committed within 18 months of the effective date of this act.

The Commission on Higher Education shall determine the allocation of moneys deposited into the fund resulting from the issuance by the authority of new bonds because of the retirement of bonds previously issued by the authority.

35. Section 8 of P.L.1993, c.136 (C.18A:72A-45) is amended to read as follows:

C.18A:72A-45 Approval for lease agreements.

8. The authority shall not enter into a lease agreement with an institution of higher education unless the Commission on Higher Education has adopted a resolution which approves the purchase of the higher education equipment by the institution. The commission shall forward a copy of the resolution along with the amount of the approved purchase to the authority.

36. Section 10 of P.L.1993, c.136 (C.18A:72A-47) is amended to read as follows:

C.18A:72A-47 Annual report.

10. The Commission on Higher Education shall annually submit a report to the Governor and the Legislature on the higher education equipment purchases at public and private institutions of higher education which have been approved by the commission and financed by the New Jersey Educational Facilities Authority pursuant to lease agreements with the institutions.

37. Section 11 of P.L.1993, c.136 (C.18A:72A-48) is amended to read as follows:

C.18A:72A-48 Rules, regulations.

11. The Commission on Higher Education, in consultation with the New Jersey Educational Facilities Authority, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and regulations necessary to carry out the provisions of this act.

38. Section 5 of P.L.1993, c.375 (C.18A:72A-53) is amended to read as follows:

C.18A:72A-53 Allocation of initial grants.

5. The initial grants from the trust fund shall be allocated as follows:

a. $48,000,000 for facilities at the State Colleges;

b. $38,880,000 for facilities at Rutgers, The State University;

c. $20,160,000 for facilities at the University of Medicine and Dentistry of New Jersey;

d. $12,960,000 for facilities at the New Jersey Institute of Technology;

e. $44,000,000 for facilities at the county colleges;

f. $21,000,000 for facilities at the private institutions of higher education;

g. $15,000,000 for South Jersey multi-institutional economic development facilities. As used in this section, "South Jersey multi-institutional economic development facilities" means facilities which would promote economic development in the eight southernmost counties of the State and which involve more than one public or private institution of higher education; and

h. $20,000,000 for a new facility for Rutgers, The State University, School of Law, Newark.

The amount authorized in subsection g. may be apportioned among any other amounts authorized in subsections a. through f. of this section.

The Commission on Higher Education may reallocate any balance in an amount authorized in subsections a. through h. of this section which has not been approved by the commission for a grant within 18 months of the effective date of this act.

The Commission on Higher Education shall determine the allocation of moneys deposited into the trust fund resulting from the issuance by the authority of new bonds because of the retirement of bonds previously issued by the authority.

The facilities funded by grants from the trust fund shall follow the principles of affirmative action and equal opportunity employment. In furtherance of these principles, the Commission on Higher Education shall continue its policy of encouraging institutions to solicit bids from, and award contracts to, minority and women-owned businesses.

39. Section 6 of P.L.1993, c.375 (C.18A:72A-54) is amended to read as follows:

C.18A:72A-54 Application for grant.

6. a. The governing board of a public or private institution of higher education may determine, by resolution, to apply for a grant from the trust fund. Upon adoption of the resolution, the board shall file an application with the Commission on Higher Education, which application shall include a complete description of the project to be financed and an identification of any additional sources of revenue to be used.

b. The Commission on Higher Education shall review the application and, by resolution, approve or disapprove the grant. For each grant which is approved, the commission shall establish the amount and shall forward a copy of the resolution along with the amount of the grant to the authority.

c. The Commission on Higher Education shall submit to the Legislature a copy of the resolution approving the grant along with the amount of the grant. If the Legislature does not disapprove the grant by the adoption of a concurrent resolution within 60 days, the grant shall be deemed to be authorized. In addition, the resolution approving the grant for the new instructional and research facility for Rutgers, The State University, School of Law, Newark, shall be submitted by the commission to the Joint Budget Oversight Committee for its approval prior to the commission's submission of the resolution to the Legislature. The commission shall provide to the committee such information concerning the grant as the committee may require for its consideration.

d. Each grant awarded under this act shall be contingent upon the recipient governing board entering into a contract or contracts for the commencement of the construction, reconstruction, development, extension, or improvement of the facility within one year of the date on which the funds of the grant are made available.

40. Section 7 of P.L.1993, c.375 (C.18A:72A-55) is amended to read as follows:

C.18A:72A-55 List of selection criteria.

7. In order to ensure the most effective utilization of the moneys in the trust fund and to guide governing boards which elect to apply for a grant, the Commission on Higher Education shall establish a list of selection criteria and shall specify the information to be included in a grant application.

41. Section 8 of P.L.1993, c.375 (C.18A:72A-56) is amended to read as follows:

C.18A:72A-56 "Higher Education Facilities Trust Fund Board."

8. In order to ensure proper oversight and review, there is created the "Higher Education Facilities Trust Fund Board" which shall consist of five members as follows: the Chair and Vice Chair of the Commission on Higher Education; the State Treasurer or a designee; the President of the Senate or a designee; and the Speaker of the General Assembly or a designee. The board shall ensure that the revenue provided to the trust fund is adequate to support the grants approved by the Commission on Higher Education. At the end of each three-year period following the approval of this act, the board shall review, in consultation with the Commission on Higher Education, the physical plant needs of public and private institutions of higher education in the State and shall recommend to the Governor and the Legislature a plan to increase, as necessary, the availability and uses of grants made from the trust fund.

42. Section 9 of P.L.1993, c.375 (C.18A:72A-57) is amended to read as follows:

C.18A:72A-57 Issuance of bonds, notes.

9. a. The authority shall from time to time issue bonds or notes in an amount sufficient to finance the grants provided under this act and to finance the administrative costs associated with the approval process and the issuance of the bonds or notes, provided that the total outstanding principal amount of the bonds or notes shall not exceed $220,000,000, except that all administrative costs associated with the approval process and the issuance of bonds shall not be included within the total aggregate principal amount of bonds issued, and the term of any bond issued shall not exceed 15 years. In computing the foregoing limitation as to amount, there shall be excluded all bonds which shall be issued for refunding purposes, provided that the refunding shall be determined by the authority to result in a debt service savings. The authority shall issue the bonds or notes in such manner as it shall determine in accordance with the provisions of P.L.1993, c.375 (C.18A:72A-49 et al.) and the "New Jersey educational facilities authority law," N.J.S.18A:72A-1 et seq., provided that no bonds or notes shall be issued pursuant to this section without the prior written consent of the State Treasurer. Notwithstanding any other provision of law to the contrary, the State Treasurer shall not consent to the issuance of any bonds or notes unless the amount scheduled for the annual debt service payments for each series of bonds or notes, consisting of the payment of interest and principal on the bonds or notes, are, as far as may be practicable, level for each fiscal

year that any bonds or notes of the series are outstanding, except for a fiscal year in which the first or last payment on a series is the only payment made for that series during that fiscal year.

b. Bonds or notes issued pursuant to this act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision thereof, or be or constitute a pledge of the faith and credit of the State or of any political subdivision thereof, but all bonds or notes, unless funded or refunded by the bonds or notes of the authority, shall be payable solely from revenues of funds pledged or available for their payment as authorized by this act. Each bond shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof, redemption premium, if any, or the interest thereon only from revenue or funds of the authority and that neither the State nor any political subdivision thereof is obligated to pay the principal thereof, redemption premium, if any, or interest thereon and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of, redemption premium, if any, or the interest on the bonds.

c. The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds or notes issued pursuant to the authorization of P.L.1993, c.375 (C.18A:72A-49 et al.) that the State shall not limit or alter the rights or powers hereby vested in the authority to perform and fulfill the terms of any agreement made with the holders of the bonds or notes, or to fix, establish, charge and collect such rents, fees, rates, payments, or other charges as may be convenient or necessary to produce sufficient revenues to meet all expenses of the authority and to fulfill the terms of any agreement made with the holders of the bonds and notes, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders, until the bonds and notes, together with interest thereon, are fully met and discharged or provided for.

43. Section 11 of P.L.1993, c.375 (C.18A:72A-58) is amended to read as follows:

C.18A:72A-58 Rules, regulations.

11. The Commission on Higher Education, in consultation with the New Jersey Educational Facilities Authority, shall adopt, pursuant to the

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

44. Section 7 of P.L.1997, c.238 (C.18A:72A-65) is amended to read as follows:

C.18A:72A-65 Issuance of bonds, notes.

7. a. The authority shall from time to time issue bonds or notes in an amount sufficient to finance the grants provided under this act and to finance the administrative costs associated with the approval process and the issuance of the bonds and notes for the purchase of higher education technology infrastructure for public and private institutions of higher education, provided that the total outstanding principal amount of the bonds and notes shall not exceed $55,000,000, except that all administrative costs associated with the approval process and the issuance of bonds shall not be included within the total aggregate principal amount of bonds issued, and the term of any bond issued shall not exceed 15 years. In computing the foregoing limitation as to amount, there shall be excluded all bonds or notes which shall be issued for refunding purposes, provided that the refunding shall be determined by the authority to result in a debt service savings. The State Treasurer is hereby authorized to enter into a contract with the authority pursuant to which the State Treasurer, subject to available appropriation, shall pay the amount necessary to pay the principal and interest on bonds and notes of the authority issued pursuant to this section.

b. Bonds or notes issued pursuant to this act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision thereof, or be or constitute a pledge of the faith and credit of the State or of any political subdivision thereof, but all bonds or notes, unless funded or refunded by the bonds or notes of the authority, shall be payable solely from revenues of funds pledged or available for their payment as authorized by this act. Each bond or note shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof, redemption premium, if any, or the interest thereon only from revenue or funds of the authority and that neither the State nor any political subdivision thereof is obligated to pay the principal thereof, redemption premium, if any, or interest thereon and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of, redemption premium, if any, or the interest on the bonds.

c. The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds or notes issued pursuant to P.L.1997, c.238 (C.18A:72A-59 et seq.) that the State shall not limit or alter the rights or powers hereby vested in the authority to perform and fulfill the terms of any agreement made with the holders of the bonds or notes, or to fix, establish, charge and collect such rents, fees, rates, payments, or other charges as may be convenient or necessary to produce sufficient revenues to meet all expenses of the authority and to fulfill the terms of any agreement made with the holders of the bonds and notes, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders, until the bonds and notes, together with interest thereon, are fully met and discharged or provided for.

45. Section 7 of P.L.1999, c.217 (C.18A:72A-78) is amended to read as follows:

C.18A:72A-78 Issuance of bonds, notes, other obligations.

7. a. The authority shall from time to time issue bonds, notes or other obligations in an amount sufficient to finance the grants provided under this act and to finance the administrative costs associated with the approval process and the issuance of the bonds, notes, or other obligations, provided that the total outstanding principal amount of the bonds, notes or other obligations shall not exceed $550,000,000, except that all administrative costs associated with the approval process and the issuance of bonds shall not be included within the total aggregate principal amount of bonds issued, and the term of any bond, note, or other obligation issued shall not exceed 30 years. In computing the foregoing limitation as to amount, there shall be excluded all bonds, notes or other obligations which have been retired or which shall be issued for refunding purposes, provided that the refunding is determined by the authority to result in a debt service savings. The authority shall issue the bonds, notes or other obligations in such manner as it shall determine in accordance with the provisions of P.L.1999, c.217 (C.18A:72A-72 et al.) and the "New Jersey educational facilities law," N.J.S.18A:72A-1 et seq., provided that no bonds, notes or other obligations shall be issued pursuant to this section without the prior written consent of the State Treasurer.

b. The State Treasurer is hereby authorized to enter into a contract with the authority pursuant to which the State Treasurer, subject to available appropriations, shall pay the amount necessary to pay the principal and in-

terest on bonds, notes and other obligations of the authority issued pursuant to this act plus any amounts payable in connection with an agreement authorized under subsection e. of this section. The authority shall enter into a contractual agreement with each institution receiving a capital improvement fund grant, and the agreements shall be approved by a resolution of the authority. All agreements with the four-year public institutions of higher education shall include provisions as may be necessary to insure that each institution pays an amount equal to one-third of the amount necessary to pay the principal and interest on the bonds, notes and other obligations of the authority issued pursuant to this section to finance the projects approved at the institution plus its share of any amounts payable in connection with an agreement authorized under subsection e. of this section. All agreements with the four-year private institutions of higher education shall include provisions as may be necessary to insure that each institution pays an amount equal to one-half of the amount necessary to pay the principal and interest on the bonds, notes and other obligations of the authority issued pursuant to this section to finance the projects approved at the institution plus its share of any amounts payable in connection with an agreement authorized under subsection e. of this section. Upon receipt of the moneys from the public or private institutions of higher education, the authority shall apply the moneys in a manner specified in the contract with the State Treasurer.

c. Bonds, notes or other obligations issued pursuant to this act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision thereof, or be or constitute a pledge of the faith and credit of the State or of any political subdivision thereof, but all bonds, notes or other obligations, unless funded or refunded by the bonds, notes or other obligations of the authority, shall be payable solely from revenues of funds pledged or available for their payment as authorized by this act. Each bond, note or other obligation shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof, redemption premium, if any, or the interest thereon only from revenue or funds of the authority, and that neither the State nor any political subdivision thereof is obligated to pay the principal thereof, redemption premium, if any, or interest thereon, and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of, redemption premium, if any, or the interest on the bonds, notes or other obligations.

d. The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds, notes or other obligations issued pursuant to the authorization of P.L.1999, c.217 (C.18A:72A-72 et al.) that the State shall not limit or alter the rights or powers hereby vested in the authority to perform and fulfill the terms of any agreement made with the holders of the bonds, notes or other obligations, or to fix, establish, charge and collect such rents, fees, rates, payments, or other charges as may be convenient or necessary to produce sufficient revenues to meet all expenses of the authority and to fulfill the terms of any agreement made with the holders of the bonds, notes and other obligations together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders, until the bonds, notes and other obligations, together with interest thereon, are fully met and discharged or provided for.

e. In connection with any bonds or refunding of bonds issued pursuant to this section, 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 cap, option, put or call to hedge payment, currency, rate, spread or similar exposure, or similar agreement; float agreement; forward agreement; insurance contract; surety bond; commitment to purchase or sell bonds; purchase or sale agreement; or commitment or other contract or agreement or other security agreement approved by the authority.

46. Section 5 of P.L.1999, c.184 (C.18A:74-28) is amended to read as follows:

C.18A:74-28 Issuance of bonds, notes, other obligations; cap.

5. a. The authority shall from time to time issue bonds, notes or other obligations in an amount sufficient to finance the grants provided under P.L.1999, c.184 (C.18A:74-24 et al.) and to finance the administrative costs associated with the approval process and the issuance of the bonds, notes, or other obligations, provided that the aggregate principal amount of the bonds, notes or other obligations shall not exceed $45,000,000, except that all administrative costs associated with the approval process and the issuance of bonds shall not be included within the total aggregate principal amount of bonds issued, and the term of any bond, note, or other obligation issued shall not exceed 30 years. In computing the foregoing limitation as to amount, there shall be excluded all bonds, notes or other obligations which have been retired or which shall be issued for refunding purposes,

provided that the refunding is determined by the authority to result in a debt service savings. The authority shall issue the bonds, notes or other obligations in such manner as it shall determine in accordance with the provisions of P.L.1999, c.184 (C.18A:74-24 et al.) and the "New Jersey educational facilities authority law," N.J.S.18A:72A-1 et seq., provided that no bonds, notes or other obligations shall be issued pursuant to this section without the prior written consent of the State Treasurer.

b. The State Treasurer is hereby authorized to enter into a contract with the authority pursuant to which the State Treasurer, subject to available appropriations, shall pay the amount necessary to pay the principal and interest on bonds, notes and other obligations of the authority issued pursuant to P.L.1999, c.184 (C.18A:74-24 et al.) plus any amounts payable in connection with an agreement authorized under subsection f. of this section.

c. The authority shall enter into a contractual agreement with the appropriate local governing entity in the area served by the public library, and the agreement shall be approved by a resolution of the authority. Each agreement with an appropriate entity shall include provisions as may be necessary to ensure that the entity shall provide an amount equal to 300% of the grant amount.

The authority may enter into a loan agreement with the appropriate local governing entity in the area served by the public library to finance the entity's matching amounts for the project including, but not limited to, the payment of principal and interest on the bonds, notes and other obligations of the authority issued pursuant to this section or its share of any amount payable in connection with an agreement authorized pursuant to this section or the entity's share of any amount payable in connection with an agreement authorized under subsection f. of this section. The loan may be secured by the entity's guarantee or the issuance of county or municipal bonds to the authority in a private sale.

d. Bonds, notes or other obligations issued pursuant to P.L.1999, c.184 (C.18A:74-24 et al.) shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision thereof, or be or constitute a pledge of the faith and credit of the State or of any political subdivision thereof, but all bonds, notes or other obligations, unless funded or refunded by the bonds, notes or other obligations of the authority, shall be payable solely from revenues of funds pledged or available for their payment as authorized by P.L.1999, c.184 (C.18A:74-24 et al.). Each bond, note or other obligation shall contain on its face a statement to the effect that the authority is obligated to pay the princi-

pal thereof, redemption premium, if any, or the interest thereon only from revenue or funds of the authority, and that neither the State nor any political subdivision thereof is obligated to pay the principal thereof, redemption premium, if any, or interest thereon, and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of, redemption premium, if any, or the interest on the bonds, notes or other obligations.

e. The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds, notes or other obligations issued pursuant to the authorization of P.L.1999, c.184 (C.18A:74-24 et al.) that the State shall not limit or alter the rights or powers hereby vested in the authority to perform and fulfill the terms of any agreement made with the holders of the bonds, notes or other obligations, or to fix, establish, charge and collect such rents, fees, rates, payments, or other charges as may be convenient or necessary to produce sufficient revenues to meet all expenses of the authority and to fulfill the terms of any agreement made with the holders of the bonds, notes and other obligations together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders, until the bonds, notes and other obligations, together with interest thereon, are fully met and discharged or provided for.

f. In connection with any bonds or refunding of bonds issued pursuant to this section, 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 cap, option, put or call to hedge payment, currency, rate, spread or similar exposure, or similar agreement; float agreement; forward agreement; insurance contract; surety bond; commitment to purchase or sell bonds; purchase or sale agreement; or commitment or other contract or agreement or other security agreement approved by the authority.

47. Section 10 of P.L.1971, c.183 (C.52:13C-27) is amended to read as follows:

C.52:13C-27 Act not applicable to certain activities.

10. This act shall not apply to the following activities:

a. the publication or dissemination, in the ordinary course of business, of news items, advertising which does not constitute communication with the general public, editorials or other comments by a newspaper, book pub-

lisher, regularly published periodical, or radio or television station, including an owner, editor or employee thereof;

b. acts of an officer or employee of the Government of this State or any of its political subdivisions, or of the Government of the United States or of any state or territory thereof or any of their political subdivisions, in carrying out the duties of their public office or employment, except as provided in section 10 of P.L.2009, c.308 (C.18A:3B-55);

c. acts of bona fide religious groups acting solely for the purpose of protecting the public right to practice the doctrines of such religious groups;

d. acts of a duly organized national, State or local committee of a political party;

e. acts of a person in testifying before a legislative committee or commission, at a public hearing duly called by the Governor on legislative proposals or on legislation passed and pending his approval, or before any officer or body empowered by law to issue, promulgate or adopt administrative rules and regulations in behalf of a nonprofit organization incorporated as such in this State who receives no compensation therefor beyond the reimbursement of necessary and actual expenses, and who makes no other communication with a member of the Legislature, legislative staff, the Governor, the Lieutenant Governor, the Governor's staff, or an officer or staff member of the Executive Branch in connection with the subject of his testimony;

f. acts of a person in communicating with or providing benefits to a member of the Legislature, legislative staff, the Governor, the Lieutenant Governor, the Governor's staff, or an officer or staff member of the Executive Branch if such communication or provision of benefits is undertaken by him as a personal expression and not incident to his employment, even if it is upon a matter relevant to the interests of a person by whom or which he is employed, and if he receives no additional compensation or reward, in money or otherwise, for or as a result of such communication or provision of benefits;

g. with regard to influencing governmental processes as defined in subsections t. and u. of section 3 of P.L.1971, c.183 (C.52:13C-20) any communications, matters or acts of an attorney falling within the attorney-client privilege while engaging in the practice of law to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer; and

h. with regard to influencing governmental processes as defined in subsections t. and u. of section 3 of P.L.1971, c.183 (C.52:13C-20) any communications, matters or acts involving collective negotiations, or the

interpretation or violation of collective negotiation agreements, of a labor organization of any kind which exists or is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning the grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

48. Section 1 of P.L.1971, c.12 (C.18A:64A-22.1) is amended to read as follows:

C.18A:64A-22.1 County college capital project aid.

1. Whenever the funds appropriated are insufficient to satisfy the State's share of capital projects for county colleges pursuant to N.J.S.18A:64A-22, additional State support for such projects shall be made available to counties in which county colleges are located for the payment of interest and principal on bonds and notes entitled to the benefits of this act and interest on notes issued in anticipation thereof and entitled to the benefits of the "County College Capital Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.), provided that the total principal amount of such bonds and notes shall not exceed $265,000,000, except that all administrative costs associated with the approval process and the issuance of bonds shall not be included within the total aggregate principal amount of bonds issued.

49. This act shall take effect on the 180th day after the date of enactment, but the Commission on Higher Education may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 18, 2010.

CHAPTER 309

AN ACT concerning forged and fraudulent prescriptions and supplementing P.L.1968, c.413 (C.30:4D-1 et seq.), P.L.1975, c.194 (C.30:4D-20 et seq.), P.L.2001, c.96 (C.30:4D-43 et seq.), and P.L.2005, c.156 (C.30:4J-8 et al.).

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

C.30:4D-7.9 Payment to pharmacy for certain forged, fraudulent prescriptions under State Medicaid program.

1. a. A pharmacy shall receive full payment and shall not be penalized for dispensing a forged or fraudulent prescription that has been approved by the State Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), unless the pharmacist or an employee or agent of the pharmacy has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud, or has failed to comply with the requirements set forth in subsection c. of this section.

b. As used in this section, "has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud" means that a person:

(1) knowingly and willfully made or caused to be made any false statement or representation of a material fact in any document or electronic transmission necessary to receive payment by the program for the prescription;

(2) knowingly and willfully made or caused to be made any false statement, written or oral, of a material fact for use in determining the right to payment by the program for the prescription; or

(3) concealed or failed to disclose a fact or the occurrence of an event that affects the right to payment by the program for the prescription. c.

The provisions of this section shall not be construed as relieving a pharmacist of his obligation to comply with any requirements provided under any State or federal statute or regulation for the pharmacist:

(1) to seek verification of a prescription from an authorized prescriber or the latter's authorized agent before filling the prescription whenever the pharmacist has reason to question the authenticity, accuracy, or appropriateness of the prescription; and

(2) to not fill the prescription when the authenticity, accuracy, or appropriateness of the prescription is in question and no such verification has been provided.

A pharmacist who fails to comply with these requirements shall be subject to exclusion or debarment as a provider under the State Medicaid program, and the recovery of monies improperly expended by the State due to the dispensing of the forged or fraudulent prescription. If these monies cannot be recovered from the pharmacist, the pharmacy shall be subject to the recovery.

d. The Office of the Medicaid Inspector General shall make every reasonable effort to identify an individual who has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud and

collect from the individual the amount paid by the program for the dispensed prescription, in addition to any other penalties that may apply. If the forgery or fraud involves the misuse or theft of a Medicaid eligibility identification card, the card shall be subject to a pharmacy restriction process under which the Medicaid recipient is permitted to use the card only at a single pharmacy of the recipient's choosing.

e. The pharmacist and each employee and agent of the pharmacy shall cooperate fully with the Office of the Medicaid Inspector General in any investigation of forged or fraudulent prescriptions and shall respond fully to any request for information or other assistance by the Division of Medical Assistance and Health Services in the Department of Human Services in regard to such prescriptions.

C.30:4D-22.3 Payment to pharmacy for certain forged, fraudulent prescriptions, program's responsibilities.

2. a. A pharmacy shall receive full payment and shall not be penalized for dispensing a forged or fraudulent prescription that has been approved by the State Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), unless the pharmacist or an employee or agent of the pharmacy has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud, or has failed to comply with the requirements set forth in subsection c. of this section.

b. As used in this section, "has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud" means that a person:

(1) knowingly and willfully made or caused to be made any false statement or representation of a material fact in any document or electronic transmission necessary to receive payment by the program for the prescription;

(2) knowingly and willfully made or caused to be made any false statement, written or oral, of a material fact for use in determining the right to payment by the program for the prescription; or

(3) concealed or failed to disclose a fact or the occurrence of an event that affects the right to payment by the program for the prescription.

c. The provisions of this section shall not be construed as relieving a pharmacist of his obligation to comply with any requirements provided under any State or federal statute or regulation for the pharmacist:

(1) to seek verification of a prescription from an authorized prescriber or the latter's authorized agent before filling the prescription whenever the pharmacist has reason to question the authenticity, accuracy, or appropriateness of the prescription; and

(2) to not fill the prescription when the authenticity, accuracy, or appropriateness of the prescription is in question and no such verification has been provided.

A pharmacist who fails to comply with these requirements shall be subject to exclusion or debarment as a provider under the program, and the recovery of monies improperly expended by the State due to the dispensing of the forged or fraudulent prescription. If these monies cannot be recovered from the pharmacist, the pharmacy shall be subject to the recovery.

d. The program shall make every reasonable effort to identify an individual who has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud and collect from the individual the amount paid by the program for the dispensed prescription, in addition to any other penalties that may apply. If the forgery or fraud involves the misuse or theft of a "Pharmaceutical Assistance to the Aged and Disabled" program eligibility identification card, the card shall be subject to a pharmacy restriction process under which the program recipient is permitted to use the card only at a single pharmacy of the recipient's choosing.

e. The pharmacist and each employee and agent of the pharmacy shall cooperate fully with the program, or any entity acting on its behalf, in any investigation of forged or fraudulent prescriptions and shall respond fully to any request for information or other assistance by the program in regard to such prescriptions.

C.30:4D-45.2 Payment to pharmacy for certain forged, fraudulent prescriptions under State Medicaid program.

3. a. A pharmacy shall receive full payment and shall not be penalized for dispensing a forged or fraudulent prescription that has been approved by the State Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), unless the pharmacist or an employee or agent of the pharmacy has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud, or has failed to comply with the requirements set forth in subsection c. of this section.

b. As used in this section, "has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud" means that a person:

(1) knowingly and willfully made or caused to be made any false statement or representation of a material fact in any document or electronic transmission necessary to receive payment by the program for the prescription;

(2) knowingly and willfully made or caused to be made any false statement, written or oral, of a material fact for use in determining the right to payment by the program for the prescription; or

(3) concealed or failed to disclose a fact or the occurrence of an event that affects the right to payment by the program for the prescription.

c. The provisions of this section shall not be construed as relieving a pharmacist of his obligation to comply with any requirements provided under any State or federal statute or regulation for the pharmacist:

(1) to seek verification of a prescription from an authorized prescriber or the latter's authorized agent before filling the prescription whenever the pharmacist has reason to question the authenticity, accuracy, or appropriateness of the prescription; and

(2) to not fill the prescription when the authenticity, accuracy, or appropriateness of the prescription is in question and no such verification has been provided. A pharmacist who fails to comply with these requirements shall be subject to exclusion or debarment as a provider under the program, and the recovery of monies improperly expended by the State due to the dispensing of the forged or fraudulent prescription. If these monies cannot be recovered from the pharmacist, the pharmacy shall be subject to the recovery.

d. The program shall make every reasonable effort to identify an individual who has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud and collect from the individual the amount paid by the program for the dispensed prescription, in addition to any other penalties that may apply. If the forgery or fraud involves the misuse or theft of a Senior Gold eligibility identification card, the card shall be subject to a pharmacy restriction process under which the program recipient is permitted to use the card only at a single pharmacy of the recipient's choosing.

e. The pharmacist and each employee and agent of the pharmacy shall cooperate fully with the program, or any entity acting on its behalf, in any investigation of forged or fraudulent prescriptions and shall respond fully to any request for information or other assistance by the program in regard to such prescriptions.

C.30:4J-20 Payment to pharmacy for certain forged, fraudulent prescriptions under NJ FamilyCare Program.

4. a. A pharmacy shall receive full payment and shall not be penalized for dispensing a forged or fraudulent prescription that has been approved by the NJ FamilyCare Program established pursuant to P.L.2005, c.156

(C.30:4J-8 et al.), unless the pharmacist or an employee or agent of the pharmacy has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud, or has failed to comply with the requirements set forth in subsection c. of this section.

b. As used in this section, "has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud" means that a person:

(1) knowingly and willfully made or caused to be made any false statement or representation of a material fact in any document or electronic transmission necessary to receive payment by the program for the prescription;

(2) knowingly and willfully made or caused to be made any false statement, written or oral, of a material fact for use in determining the right to payment by the program for the prescription; or

(3) concealed or failed to disclose a fact or the occurrence of an event that affects the right to payment by the program for the prescription.

c. The provisions of this section shall not be construed as relieving a pharmacist of his obligation to comply with any requirements provided under any State or federal statute or regulation for the pharmacist:

(1) to seek verification of a prescription from an authorized prescriber or the latter's authorized agent before filling the prescription whenever the pharmacist has reason to question the authenticity, accuracy, or appropriateness of the prescription; and

(2) to not fill the prescription when the authenticity, accuracy, or appropriateness of the prescription is in question and no such verification has been provided.

A pharmacist who fails to comply with these requirements shall be subject to exclusion or debarment as a provider under the NJ FamilyCare Program, and the recovery of monies improperly expended by the State due to the dispensing of the forged or fraudulent prescription. If these monies cannot be recovered from the pharmacist, the pharmacy shall be subject to the recovery.

d. The Office of the Medicaid Inspector General shall make every reasonable effort to identify an individual who has committed the forgery or fraud or has knowingly facilitated the commission of a forgery or fraud and collect from the individual the amount paid by the program for the dispensed prescription, in addition to any other penalties that may apply. If the forgery or fraud involves the misuse or theft of a NJ FamilyCare Program eligibility identification card, the card shall be subject to a pharmacy restriction process under which the program recipient is permitted to use

the card only at a single pharmacy of the recipient's choosing.

e. The pharmacist and each employee and agent of the pharmacy shall cooperate fully with the Office of the Medicaid Inspector General in any investigation of forged or fraudulent prescriptions and shall respond fully to any request for information or other assistance by the Division of Medical Assistance and Health Services in the Department of Human Services in regard to such prescriptions.

5. This act shall take effect immediately.

Approved January 18, 2010.

CHAPTER 310

AN ACT concerning the authority of the Greenwood Lake Commission, and supplementing P.L.1999, c.402 (C.32:20A-1 et seq.).

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

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

1. a. The Greenwood Lake Commission may establish and assess fees to be paid to the commission as follows:

(1) on the owner of a dock, wharf or mooring on Greenwood Lake used for non-commercial residential purposes an annual fee of $37.50;

(2) on the owner of a dock or wharf on Greenwood Lake used for commercial purposes an annual fee of $3.75 per linear foot for each such dock or wharf;

(3) on the owner of a mooring on Greenwood Lake used for commercial purposes an annual fee of $75 for each mooring; and

(4) on the owner of a new dock on Greenwood Lake constructed for commercial use after the effective date of this section a first time fee of $7.50 per linear foot and a fee of $3.75 per linear foot annually thereafter.

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

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

(b) for boats or vessels 21 to 25 feet in length overall -- $37.50;

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

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

(2) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the commission may establish a one week use permit for $11.25 and a one-day use permit for $7.50 for any mechanically propelled boat or vessel or non-mechanically propelled boat or vessel subject to the annual fee established in paragraph (1) of this subsection.

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

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

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

Approved January 18, 2010.

CHAPTER 311

AN ACT concerning palimony and amending R.S.25:1-5.

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

1. R.S.25:1-5 is amended to read as follows:

Promises or agreements not binding unless in writing.

25:1-5. Promises or agreements not binding unless in writing. No action shall be brought upon any of the following agreements or promises, unless the agreement or promise, upon which such action shall be brought or some memorandum or note thereof, shall be in writing, and signed by the party to be charged therewith, or by some other person thereunto by him lawfully authorized:

a. (Deleted by amendment, P.L.1995, c.360.)

b. (Deleted by amendment, P.L.1995, c.360.)

c. An agreement made upon consideration of marriage entered into prior to the effective date of the "Uniform Premarital Agreement Act," N.J.S.37:2-31 et seq.;

d. (Deleted by amendment, P.L.1995, c.360.)

e. (Deleted by amendment, P.L.1995, c.360.)

f. A contract, promise, undertaking or commitment to loan money or to grant, extend or renew credit, in an amount greater than $100,000, not primarily for personal, family or household purposes, made by a person engaged in the business of lending or arranging for the lending of money or extending credit. For the purposes of this subsection, a contract, promise, undertaking or commitment to loan money shall include agreements to lease personal property if the lease is primarily a method of financing the obtaining of the property;

g. An agreement by a creditor to forbear from exercising remedies pursuant to a contract, promise, undertaking or commitment which is subject to the provisions of subsection f. of this section; or

h. A promise by one party to a non-marital personal relationship to provide support or other consideration for the other party, either during the course of such relationship or after its termination. For the purposes of this subsection, no such written promise is binding unless it was made with the independent advice of counsel for both parties.

2. This act shall take effect immediately.

Approved January 18, 2010.

CHAPTER 312

AN ACT concerning pedestrian safety and amending R.S.39:4-36.

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

1. R.S.39:4-36 is amended to read as follows:

Driver to yield to pedestrian, exceptions; violations, penalties.

39:4-36. a. The driver of a vehicle shall yield the right-of-way to a pedestrian crossing the roadway within a marked crosswalk or within any unmarked crosswalk at an intersection, except at crosswalks when the movement of traffic is being regulated by police officers or traffic control signals, or where otherwise prohibited by municipal, county, or State regulation, and except where a pedestrian tunnel or overhead pedestrian crossing has been provided, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield. Nothing contained herein shall relieve a pedestrian from using due care for his safety.

Whenever any vehicle is stopped to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

Every pedestrian upon a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

Nothing contained herein shall relieve a driver from the duty to exercise due care for the safety of any pedestrian upon a roadway.

b. A person violating this section shall, upon conviction thereof, pay a fine to be imposed by the court in the amount of $100. The court may also impose a term of imprisonment not to exceed 15 days. If the violation results in serious bodily injury to a pedestrian, the person convicted of the violation shall be subject to a fine of not less than $100 or more than $500, and may additionally be subject to a sentence of imprisonment not to exceed 25 days, or a license suspension not to exceed six months, or both, in the discretion of the court. As used in this section, "serious bodily injury" means serious bodily injury as defined in subsection b. of N.J.S.2C:11-1.

c. Of each fine imposed and collected pursuant to subsection b. of this section, $50 shall be forwarded to the State Treasurer who shall annually deposit the moneys into the "Pedestrian Safety Enforcement and Education Fund" created by section 1 of P.L.2005, c.86 (C.39:4-36.2).

2. This act shall take effect immediately.

Approved January 18, 2010.

CHAPTER 313

AN ACT requiring public bodies to provide funds for outreach and training programs for minority group members and women in connection with certain construction contracts.

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

C.52:38-7 Transferred, retained funds; use; reports.

1. a. Notwithstanding the provisions of any law or regulation to the contrary, upon entering into any public works contract in excess of $1,000,000 which is funded, in whole or in part, by funds of a public body, or any public works contract of any size which is funded, in whole or in part, by funds provided to the public body pursuant to the "American Recovery and Reinvestment Act of 2009," Pub.L.111-5, the public body entering into the contract shall transfer an amount equal to one half of one percent (0.5%) of the portion of the contract amount funded by funds of the public body, or provided to the public body pursuant to the "American Recovery and Reinvestment Act of 2009," Pub.L.111-5, to the Department of Labor and Workforce Development, except that any Statewide authority which enters into the contract and administers a program which meets the requirements of this section may retain all or a portion of the 0.5% share of the funds under the contract as is necessary for the operation of the program, but shall transfer to the department any portion of the funds not necessary for the program, and except that funds shall not be transferred or retained pursuant to this section if the transfer or retaining of the funds is contrary to any federal requirement and may result in the loss of federal funds. For a project in which federal and State funds are combined, the entire amount may be transferred or retained from the State portion of the funds if doing so is necessary to prevent any loss of federal funds.

b. The department or authority shall use the transferred or retained funds to provide on-the-job or off-the-job outreach and training programs for minority group members and women in construction trade occupations or other occupations, including engineering and management occupations, utilized in the performance of public works contracts. The programs funded pursuant to this subsection, shall include, but not be limited to, programs preparing minority group members and women for admission into registered apprenticeships with opportunities for long-term employment in

construction trades providing economic self-sufficiency for the minority group members and women, with priority given, with respect to the funds from a contract used for apprenticeship programs or apprenticeship-related programs, to trades utilized in that contract, and shall include programs providing supportive services to help facilitate successful completion of any apprenticeship or other training assisted pursuant to this section. The department or authority shall use funds transferred or retained pursuant to this section to provide grants to implement such programs to consortia which include those community-based organizations, faith-based organizations, labor organizations, employers, contractors and trade organizations, institutions of higher education, and schools and other local public agencies which the department or authority determines are best able to facilitate entry and success of minority group members and women into training and long-term trade and professional employment in the construction industry, and may use a portion of the funds for initiatives to prepare minority group members and women for registered apprenticeship programs and related post-secondary education, such as grants to consortia provided pursuant to the "Youth Transitions to Work Partnership Act," P.L.1993, c. 268 (C.34:15E-1 et seq.), and for initiatives, such as those of the NJ PLACE program established pursuant to P.L.2009, c.200 (C.34:15D-24 et al.), to facilitate the coordination and articulation of registered apprenticeship programs with degree programs in institutions of higher education, including initiatives to articulate programs in a manner which may assist in providing transitions from trade occupations to professional occupations utilized in the construction industry. The department or authority shall seek agreements and commitments from grant participants to provide long-term employment to successful applicants and trainees where possible. The department or authority shall be reimbursed from the transferred or retained funds for any reasonable and necessary costs incurred by the department or authority in administering those programs.

c. The Department of the Treasury, and the Division of Contract Compliance and Equal Employment Opportunities in Public Contracts in that department, shall provide, and make available to the public on the Internet, an annual report, not later than December 31 of 2010 and each year after that year, which shall list all public works contracts subject to this act and report, for each public works contract, the percentage and amount of funds withheld and provided to programs funded pursuant to this section and the numbers and percentages of apprentices and other workers under each contract who are minority group members and women. The Department of Labor and Workforce Development shall, not later than December

31 of 2010 and each year after that year, provide an annual report, which shall also be made available to the public on the Internet, on all of the programs funded pursuant to this section, which shall include, for each program, data regarding the performance results of minority group members and women participating in the programs, including outcome measures detailing employment placement, increased earnings and employment retention, as those terms are used in the federal Workforce Investment Act of 1998, Pub.L.105-220 (29 U.S.C. s.2801 et seq.), and shall include data regarding enrollment into registered apprentice programs and results regarding their retention in long-term employment. Public bodies entering into public works contracts subject to the provisions of this section, including Statewide authorities, and the Department of the Treasury shall provide such information to the Department of Labor and Workforce Development and the Department of the Treasury as the departments deem necessary for the purposes of this section.

d. For the purposes of this section: "public body" means the State of New Jersey, any of its political subdivisions, any authority created by the Legislature of the State of New Jersey and any instrumentality or agency of the State of New Jersey or of any of its political subdivisions; "public works contract" means public works contract as defined in section 1 of P.L.1975, c.127 (C.10:5-31); "registered apprenticeship" means apprenticeship in a 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 Office of Apprenticeship of the United States Department of Labor and meeting the standards established by that office; and "Statewide authority" means any authority created by the Legislature which is authorized by law to enter into contracts for construction at locations throughout the State.

2. This act shall take effect immediately.

Approved January 18, 2010.

CHAPTER 314

AN ACT concerning collective labor negotiations and amending various parts of the statutory law.

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

1. Section 3 of P.L.1941, c.100 (C.34:13A-3) is amended to read as follows:

C.34:13A-3 Definitions.

3. When used in this act:

(a) The term "board" shall mean New Jersey State Board of Mediation.

(b) The term "commission" shall mean New Jersey Public Employment Relations Commission.

(c) The term "employer" includes an employer and any person acting, directly or indirectly, on behalf of or in the interest of an employer with the employer's knowledge or ratification, but a labor organization, or any officer or agent thereof, shall be considered an employer only with respect to individuals employed by such organization. This term shall include "public employers" and shall mean the State of New Jersey, or the several counties and municipalities thereof, or any other political subdivision of the State, or a school district, or any special district, or any authority, commission, or board, or any branch or agency of the public service. The term shall also include the Delaware River Port Authority, established pursuant to R.S.32:3-1 et seq.

(d) The term "employee" shall include any employee, and shall not be limited to the employees of a particular employer unless this act explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of or in connection with any current labor dispute or because of any unfair labor practice and who has not obtained any other regular and substantially equivalent employment. This term, however, shall not include any individual taking the place of any employee whose work has ceased as aforesaid, nor shall it include any individual employed by his parent or spouse, or in the domestic service of any person in the home of the employer, or employed by any company owning or operating a railroad or railway express subject to the provisions of the Railway Labor Act (45 U.S.C. s.151 et seq.). This term shall include any public employee, i.e., any person holding a position, by appointment or contract, or employment in the service of a public employer, including the Delaware River Port Authority, except elected officials, members of boards and commissions, managerial executives and confidential employees.

(e) The term "representative" is not limited to individuals but shall include labor organizations, and individual representatives need not them-

selves be employed by, and the labor organization serving as a representative need not be limited in membership to the employees of, the employer whose employees are represented. This term shall include any organization, agency or person authorized or designated by a public employer, public employee, group of public employees, or public employee association to act on its behalf and represent it or them.

(f) "Managerial executives" of a public employer, in the case of the State of New Jersey, means persons who formulate management policies and practices, but shall not mean persons who are charged with the responsibility of directing the effectuation of such management policies and practices, except that, in the case of the Executive Branch of the State of New Jersey, "managerial executive" shall include only personnel at or above the level of assistant commissioner.

In the case of any public employer other than the State of New Jersey, "managerial executives" of a public employer means persons who formulate management policies and practices, and persons who are charged with the responsibility of directing the effectuation of such management policies and practices, except that in any school district this term shall include only the superintendent or other chief administrator, and the assistant superintendent of the district.

(g) "Confidential employees" of a public employer means employees whose functional responsibilities or knowledge in connection with the issues involved in the collective negotiations process would make their membership in any appropriate negotiating unit incompatible with their official duties.

"Confidential employees" of the State of New Jersey means employees who have direct involvement in representing the State in the collective negotiations process making their membership in any appropriate negotiating unit incompatible with their official duties.

2. Section 1 of P.L.2005, c.142 (C.34:13A-5.10) is amended to read as follows:

C.34:13A-5.10 Findings, declarations relative to collective negotiations units for Executive Branch employees.

1. a. The Legislature finds and declares that, for more than three decades, there have been broad-based collective negotiations units for the employees in the Executive Branch of State government. This existing unit structure has contributed to the stability of labor relations between the public employees and the Executive Branch and has served to avoid disruption

of services to the public. To foster continued harmonious labor relations between State employees and the Executive Branch, the existing structure for collective negotiations units must be codified.

In addition, the Legislature finds and declares that the structure should be expanded to permit collective negotiations for managers and deputy attorneys general who are not covered by the ten units for civilian employees of the Executive Branch.

b. (1) There shall be only twelve collective negotiations units for civilian employees of the Executive Branch of State government. The units shall be as follows: administrative and clerical; professional; primary level supervisory; high level supervisory; operations, maintenance and services; crafts; inspection and security; health care and rehabilitation services; State colleges and universities; State colleges and universities adjuncts; deputy attorneys general; and State government managers.

(2) An existing or newly established title that is not assigned managerial, executive or confidential duties, as defined in subsections (f) and (g) of section 3 of P.L.1941, c.100 (C.34:13A-3), may be placed in one of the twelve collective negotiations units for civilian employees by the Governor's Office of Employee Relations. Such placements may be challenged through a unit clarification procedure pursuant to the rules of the New Jersey Public Employment Relations Commission.

3. Section 7 of P.L.1944, c.20 (C.52:17A-7) is amended to read as follows:

C.52:17A-7 Assistant Attorneys-General; at-will, confidential employees.

7. Assistant Attorneys-General in the Department of Law and Public Safety shall hold their offices at the pleasure of the Attorney-General and shall receive such salaries as the Attorney-General shall from time to time designate. They shall be deemed confidential employees for purposes of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.).

4. Section 4 of P.L.1970, c.74 (C.52:17B-100) is amended to read as follows:

C.52:17B-100 Organization of division; classification of employees.

4. a. The Attorney General shall organize the work of the division in such bureaus and other organizational units as he may determine to be necessary for efficient and effective operation and shall assign to the division

such employees in the Department of Law and Public Safety as may be necessary to assist the director in the performance of his duties.

b. All employees of the division, except for secretarial and clerical personnel, shall be in the unclassified service of the civil service of the State. All unclassified employees of the division, except for State investigators appointed pursuant to section 1 of P.L.1977, c.275 (C.52:17B-100.1), shall be deemed confidential employees for the purposes of the "New Jersey Employer-Employee Relations Act", P.L.1941, c.100 (C.34:13A-1 et seq.).

5. This act shall take effect immediately.

Approved January 18, 2010.

CHAPTER 315

AN ACT concerning local public contracts and amending P.L.1999, c.39 and P.L.2001, c.134.

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

1. Section 2 of P.L.1999, c.39 (C.40A:11-23.2) is amended to read as follows:

C.40A:11-23.2 Mandatory items for bid plans, specifications.

2. When required by the bid plans and specifications, the following requirements shall be considered mandatory items to be submitted at the time specified by the contracting unit for the receipt of the bids; the failure to submit any one of the mandatory items shall be deemed a fatal defect that shall render the bid proposal unresponsive and that cannot be cured by the governing body:

a. A guarantee to accompany the bid pursuant to section 21 of P.L.1971, c.198 (C.40A:11-21);

b. A certificate from a surety company pursuant to section 22 of P.L.1971, c.198 (C.40A:11-22);

c. A statement of corporate ownership pursuant to section 1 of P.L.1977, c.33 (C.52:25-24.2);

d. A listing of subcontractors pursuant to section 16 of P.L.1971, c.198 (C.40A:11-16);

e. A document provided by the contracting agent in the bid plans, specifications, or bid proposal documents for the bidder to acknowledge the bidder's receipt of any notice or revisions or addenda to the advertisement or bid documents.

f. (Deleted by amendment, P.L.2009, c.315.)

2. Section 1 of P.L.2001, c.134 (C.52:32-44) is amended to read as follows:

C.52:32-44 Definitions relative to registration of certain businesses; registration requirements.

1. a. For the purposes of this section:

"Bid" or "request for proposal" means a publicly advertised, formal process used by a contracting agency to receive offers to provide goods or services or construct a construction project. It is not the same as an informal, non-advertised process of requesting quotations from contractors.

"Bid threshold" means the statutory amount over which a contracting agency must seek bids.

"Business organization" means an individual, partnership, association, joint stock company, trust, corporation, or other legal business entity or successor thereof, but does not include a government agency or organization organized as a nonprofit entity under 26 U.S.C. sec. 501 (c);

"Business registration" means a business registration certificate issued by the Division of Revenue in the Department of the Treasury or such other form of verification or proof of registration as may be approved by the Division that a contractor or subcontractor is registered with the Department of the Treasury;

"Contract" means any agreement, including but not limited to a purchase order or a formal agreement for the provision of goods, performance of services, or construction of a construction project, which is a legally binding relationship enforceable by law, between a contractor and a contracting agency that agrees to compensate the contractor, as defined by and subject to the terms and conditions of the agreement; and where the goods that are received, services that are delivered, and construction that is constructed is within the geographic borders of the State of New Jersey; and where:

(1) the value of a single contract with the contractor is in excess of 15 percent of the amount of the contracting agency's bid threshold; or

(2) when the aggregate amount of contracts with the contractor, during the fiscal year of the contracting agency, exceeds 15 percent of the amount of the contracting agency's bid threshold.

"Contractor" means a business organization that seeks to enter, or has entered into, a contract with a contracting agency;

"Contracting agency" means the principal departments in the Executive Branch of the State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department, or any independent State authority, commission, instrumentality or agency, or any State college or university, any county college, or any local unit;

"Local unit" means any contracting unit as defined pursuant to section 2 of P.L.1971, c.198 (C.40A:11-2), any board of education as defined pursuant to N.J.S.18A:18A-2, 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.), a private firm or public authority that has entered into a contract with a public entity for the provision of wastewater treatment service pursuant to P.L.1995, c.216 (C.58:27-19 et al.), and a duly incorporated nonprofit association that entered into a contract with the governing body of a city of the first class for the provision of wastewater treatment services pursuant to P.L.1995, c.216 (C.58:27-19 et al.);

"Subcontractor" means any business organization that is not a contractor that knowingly enters into a contract, or constructs a construction project, with a contractor or another subcontractor in the fulfillment of a contract issued by a contracting agency. In the case of a construction contract, "subcontractor" shall mean only those subcontractors who are required by law to be named in the submission of a bid.

b. A contractor shall provide the contracting agency with the business registration of the contractor and that of any named subcontractor prior to the time a contract, purchase order, or other contracting document is awarded or authorized. At the sole option of the contracting agency, the requirement that a contractor provide proof of business registration may be fulfilled by the contractor providing the contracting agency sufficient information for the contracting agency to verify proof of registration of the contractor, or named subcontractors, through a computerized system maintained by the State.

c. A subcontractor named in a bid or other proposal made by a contractor to a contracting agency shall provide a copy of its business registration to any contractor who shall provide it to the contracting agency pursuant to the provisions of subsection b. of this section. No contract with a subcontractor shall be entered into by any contractor under any contract with a contracting agency unless the subcontractor first provides the contractor with proof of a valid business registration. For bids and requests for proposals, the contracting agency must retain the proof of business registra-

tion in the file where documents relating to the contract are maintained. For all other contracts, proofs of business registration shall be maintained in an alphabetical file.

d. The contractor shall maintain and submit to the contracting agency a list of subcontractors and their addresses that may be updated from time to time during the course of the contract performance. A complete and accurate list shall be submitted before final payment is made for goods provided or services rendered or for construction of a construction project under the contract. A contracting agency shall not be responsible for a contractor's failure to comply with this subsection.

e. The Department of the Treasury shall provide each contracting agency with appropriate language reflecting the obligations of contractors and subcontractors under this section that the contracting agency shall include in any contract document, bid specification, requests for proposals, or other documents notifying potential contractors of contract opportunities with a contracting agency.

f. Nothing in this section shall in any way alter the provisions or change the responsibilities or obligations of casino industry licensees as set forth in section 92 of P.L.1977, c.110 (C.5:12-92).

g. (1) A contractor or a contractor with a subcontractor that has entered into a contract with a contracting agency, and each of their affiliates, shall collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) on all their taxable sales of tangible personal property delivered into this State.

(2) A contracting agency entering into a contract with a contractor, or a contractor with a subcontractor, shall include in its contract with that contractor, or a contractor with a subcontractor, for the term of the contract, a requirement that the contractor or subcontractor and each of their affiliates shall collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) on all their sales of tangible personal property delivered into this State.

(3) For the purposes of this subsection, "affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. For purposes of this subsection an entity controls another entity if it owns, directly or individually, more than 50% of the ownership interest in that entity.

h. The State Treasurer may adopt regulations pursuant to the "Administrative Procedure Act", P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to administer the provisions of this act.

i. If a contractor fails to provide proof of business registration upon request by the contracting agency for a contract that does not require bidding or a request for proposals, and the contracting agency determines that the purpose of that contract is of a proprietary nature with a contractor that does not have a business presence in New Jersey, the contracting agency shall provide the Division of Revenue, within 10 days of executing the contract, a copy of the contract, evidence of the contractor's taxpayer identification number, and a signed certification attesting to the proprietary nature of the contract and representing that the contracting agency made a diligent effort to obtain proof of a business registration from the contractor.

j. When a contracting agency enters into a contract with a contractor under a contract issued by the State of New Jersey Cooperative Purchasing Program, or any other authorized cooperative purchasing system, the contracting agency awarding the initial contract shall receive and file the proof of business registration. Contract documents issued under a cooperative purchasing agreement shall identify the contract and the contracting agency awarding the contract.

k. In situations of an emergent nature, a contracting agency may enter into a contract with a business organization, provided that the contractor agrees to provide a business registration within two weeks of the execution of the contract. The contracting agency shall not pay the business organization for goods or services provided until such time as the organization provides proof of business registration as set forth in this section. Failure to pay the business organization until proof of business registration is received shall not be grounds for the agency being liable for payment.

3. This act shall take effect immediately.

Approved January 18, 2010.

CHAPTER 316

AN ACT establishing a program to recognize certain businesses, companies, or corporations in the State providing environmental benefits to the State and supplementing Title 13 of the Revised Statutes.

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

C.13:1D-148 "Environmental Stewardship Program."

1. a. The Commissioner of Environmental Protection shall establish a list of businesses, companies, and corporations in the State that are, as determined by the commissioner, environmentally responsible. In making this determination, the commissioner, at a minimum, shall evaluate a business, company, or corporation on the basis of the following:

(1) the contribution of the business, company, or corporation to the improved environment of the State, especially any contribution to environmental education and awareness in the State; the reduction of air and water pollution and the preservation of natural resources; the implementation of policies, procedures, or technologies to reduce, replace, or minimize the environmental impact of toxic materials and substances used in manufacturing processes or other applications; the increased use of recycled materials, energy conservation, or alternative forms of energy or fuel with environmental benefits; and the implementation of open space preservation, habitat protection, or responsible land use policies and projects;

(2) the extent to which these contributions are in addition to steps the business, company, or corporation is required to take in these areas due to local, State, or federal requirements; and

(3) the use of innovative policies, procedures, and technologies that result in sound environmental practices and important environmental benefits for the State.

The list established pursuant to this subsection shall be displayed prominently on the Department of Environmental Protection's website, and shall be updated as appropriate.

b. In addition to designating businesses, companies, or corporations as environmentally responsible pursuant to subsection a. of this section, the Commissioner of Environmental Protection shall periodically provide public recognition to those businesses, companies, or corporations in the State that, as determined by the commissioner, have exhibited exemplary attention to, and concern for, the environment in their business practices, policies, procedures or goods, as evidenced by their contribution to the improved environment of the State and use of innovative policies, procedures, and technologies that result in sound environmental practices and important environmental benefits for the State. This recognition may be in the form of the award of certificates, press announcements, or other forms of recognition the commissioner deems appropriate to highlight the achievements of these businesses, companies, or corpo-

rations. The commissioner may also create a logo which businesses, companies, or corporations who have been recognized as environmentally responsible may use in the promotion of that business, company, or corporation.

c. Any business, company, or corporation in the State that makes a contribution to the improved environment of the State or implements innovative policies, procedures, or technologies, above and beyond the scope of those measures required pursuant to local, State, or federal requirements, may submit to the Commissioner of Environmental Protection documentation of these contributions or the implementation of these measures, how the measures constitute environmental measures above and beyond the scope of those measures required pursuant to local, State, or federal requirements, and the environmental benefit gained by the State from these contributions or the implementation of the measures. The commissioner shall review the submitted documentation and determine if the business, company, or corporation should be included in the list established pursuant to subsection a. of this section, and if the business, company, or corporation should be further recognized for its achievements pursuant to subsection b. of this section.

d. The list and the recognition program established pursuant to subsections a. and b. of this section may be known as the "Environmental Stewardship Program."

e. The Commissioner of Environmental Protection may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations necessary for the implementation of this section, including, but not limited to, provisions establishing the criteria for designation as an environmentally responsible business, company, or corporation, and for award of certificates of recognition to exemplary businesses, companies, or corporations. Any rules and regulations adopted pursuant to this subsection shall include, at a minimum, the evaluation criteria provided in subsection a. of this section.

2. This act shall take effect immediately.

Approved January 18, 2010.

CHAPTER 317

AN ACT concerning municipal court fines and supplementing Title 2B of the New Jersey Statutes.

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

C.2B:12-23.1 Penalties payable in installments; alternative penalties.

1. a. Notwithstanding any other provision of law to the contrary, if a municipal court finds that a person does not have the ability to pay a penalty in full on the date of the hearing or has failed to pay a previously imposed penalty, the court may order the payment of the penalty in installments for a period of time determined by the court. If a person defaults on any payment and a municipal court finds that the defendant does not have the ability to pay, the court may:

(1) reduce the penalty, suspend the penalty, or modify the installment plan;

(2) order that credit be given against the amount owed for each day of confinement, if the court finds that the person has served jail time for the default;

(3) revoke any unpaid portion of the penalty, if the court finds that the circumstances that warranted the imposition have changed or that it would be unjust to require payment;

(4) order the person to perform community service in lieu of payment of the penalty; or

(5) impose any other alternative permitted by law in lieu of payment of the penalty.

b. For the purposes of this section, "penalty" means any fine, statutorily-mandated assessment, surcharge or other financial penalty imposed by a municipal court, except restitution or a surcharge assessed pursuant to subsection f. of section 1 of P.L.2000, c.75 (C.39:4-97.2).

2. This act shall take effect immediately.

Approved January 18, 2010.

CHAPTER 318

AN ACT concerning safety seat belt usage and amending and supplementing P.L.1984, c.179.

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

1. Section 2 of P.L.1984, c.179 (C.39:3-76.2f) is amended to read as follows:

C.39:3-76.2f Seat belt usage requirements; driver's responsibility.

2. a. Except as provided in P.L.1983, c.128 (C.39:3-76.2a et al.) for children under eight years of age and weighing less than 80 pounds, all passengers under eight years of age and weighing more than 80 pounds, and all passengers who are at least eight years of age but less than 18 years of age, and each driver and front seat passenger of a passenger automobile operated on a street or highway in this State shall wear a properly adjusted and fastened safety seat belt system as defined by Federal Motor Vehicle Safety Standard Number 209.

b. The driver of a passenger automobile shall secure or cause to be secured in a properly adjusted and fastened safety seat belt system, as defined by Federal Motor Vehicle Safety Standard Number 209, any passenger who is at least eight years of age but less than 18 years of age.

c. All rear seat passengers 18 years of age or older of a passenger automobile operated on a street or highway in this State shall wear a properly adjusted and fastened safety seat belt system as defined by Federal Motor Vehicle Safety Standard Number 209.

For the purposes of the "Passenger Automobile Seat Belt Usage Act," the term "passenger automobile" shall include vans, pick-up trucks, and utility vehicles.

2. Section 3 of P.L.1984, c.179 (C.39:3-76.2g) is amended to read as follows:

C.39:3-76.2g Exceptions to seat belt usage requirements.

3. This act shall not apply to a driver or passenger of:

a. A passenger automobile manufactured before July 1, 1966;

b. A passenger automobile in which the driver or passenger possesses a written verification from a licensed physician that the driver or passenger is unable to wear a safety seat belt system for physical or medical reasons;

c. A passenger automobile which is not required to be equipped with a safety seat belt system under federal law;

d. A passenger automobile operated by a rural letter carrier of the United States Postal Service while performing the duties of a rural letter carrier; or

e. A passenger automobile which was originally constructed with fewer safety seat belt systems than are necessary to allow the passenger to be buckled.

C.39:3-76.2n Violations considered secondary offense.

3. Enforcement of the provisions of subsection c. of section 2 of P.L.1984, c.179 (C.39:3-76.2f) by State or local law enforcement officials shall be accomplished by treating a violation thereof only as a secondary offense when a driver of a passenger automobile has been detained for some other suspected violation of Title 39 of the Revised Statutes or other law. Each rear seat passenger 18 years of age or older of a passenger automobile shall be responsible for any fine imposed pursuant to section 6 of P.L.1984, c.179 (C.39:3-76.2j) for failure to wear a seat belt pursuant to subsection c. of section 2 of P.L.1984, c.179 (C.39:3-76.2f).

4. This act shall take effect immediately.

Approved January 18, 2010.

CHAPTER 319

AN ACT concerning pedestrian safety and traffic control and amending R.S.39:4-32, R.S.39:4-36, R.S.39:4-115, and R.S.39:4-144, and repealing R.S.39:4-35.

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

1. R.S.39:4-32 is amended to read as follows:

Crossing roadway; signal.

39:4-32. On highways where traffic is controlled by a traffic control signal or by traffic or police officers:

a. Pedestrians shall not cross a roadway against the "stop" or red signal at a crosswalk, whether marked or unmarked, unless otherwise specifically directed to go by a traffic or police officer, or official traffic control device.

b. No driver of a vehicle shall fail to stop and remain stopped for a pedestrian crossing a roadway at a crosswalk when the pedestrian is upon, or within one lane of, the half of the roadway upon which the vehicle is traveling or onto which it is turning during the "go" or green signal. As used in this subsection, "half of the roadway" means all traffic lanes conveying traffic in one direction of travel, and includes the entire width of a one-way roadway.

c. A pedestrian crossing or starting across the intersection on a "go" or green signal, but who is still within the crosswalk when the signal changes, shall have the right of way until the pedestrian has reached the opposite curb or place of safety.

d. No pedestrian shall leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield or stop.

e. Whenever any vehicle is stopped to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

f. Every pedestrian upon a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

g. Nothing contained herein shall relieve a driver from the duty to exercise due care for the safety of any pedestrian upon a roadway. Nothing herein shall relieve a pedestrian from using due care for his safety.

h. In the event of a collision between a vehicle and a pedestrian within a marked crosswalk, or at an unmarked crosswalk at an intersection, there shall be a permissive inference that the driver did not exercise due care for the safety of the pedestrian.

2. R.S.39:4-36 is amended to read as follows:

Driver to yield to pedestrians, exceptions; violations, penalties.

39:4-36. a. The driver of a vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any unmarked crosswalk at an intersection, except at crosswalks when the movement of traffic is being regulated by police officers or traffic control signals, or where otherwise regulated by municipal, county, or State regulation, and except where a pedestrian tunnel or overhead pedestrian crossing has been provided:

(1) The driver of a vehicle shall stop and remain stopped to allow a pedestrian to cross the roadway within a marked crosswalk, when the pedestrian is upon, or within one lane of, the half of the roadway, upon which the vehicle is traveling or onto which it is turning. As used in this paragraph, "half of the roadway" means all traffic lanes conveying traffic in one direction of travel, and includes the entire width of a one-way roadway.

(2) No pedestrian shall leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield or stop.

(3) Whenever any vehicle is stopped to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(4) Every pedestrian upon a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(5) Nothing contained herein shall relieve a driver from the duty to exercise due care for the safety of any pedestrian upon a roadway. Nothing contained herein shall relieve a pedestrian from using due care for his safety.

b. A person violating any paragraph of subsection a. of this section shall, upon conviction thereof, pay a fine to be imposed by the court in the amount of $200. The court may also impose upon a person violating any paragraph of subsection a. of this section, a penalty of community service not to exceed 15 days in such form and on such terms as the court shall deem appropriate. If the violation results in serious bodily injury to a pedestrian, the person convicted of the violation shall be subject to a fine of not less than $100 or more than $500, and may additionally be subject to a sentence of imprisonment not to exceed 25 days, or a license suspension not to exceed six months, or both, in the discretion of the court. As used in this section, "serious bodily injury" means serious bodily injury as defined in subsection b. of N.J.S.2C:11-1.

c. Of each fine imposed and collected pursuant to subsection b. of this section, $100 shall be forwarded to the State Treasurer who shall annually deposit the moneys into the "Pedestrian Safety Enforcement and Education Fund" created by section 1 of P.L.2005, c.86 (C.39:4-36.2).

d. In the event of a collision between a vehicle and a pedestrian within a marked crosswalk, or at an unmarked crosswalk at an intersection, there shall be a permissive inference that the driver did not exercise due care for the safety of the pedestrian.

3. R.S.39:4-115 is amended to read as follows:

Making right or left turn.

39:4-115. The driver of a vehicle or the motorman of a streetcar: a. intending to turn to the right or left at an intersection where traffic is controlled by traffic control signals or by a traffic or police officer, shall proceed to make either turn with proper care to avoid accidents and, except as provided in b. below, only upon the "go" signal unless otherwise directed by a traffic or police officer, an official sign or special signal; or b. intending to turn right at an intersection where traffic is controlled by a traffic control signal shall, unless an

official sign of the State, municipality, or county authority having jurisdiction over the intersection prohibits the same, proceed to make the turn upon a "stop" or "caution" signal with proper care to avoid accidents after coming to a full stop, observing traffic in all directions, yielding to other vehicular traffic traveling in a direction in which the turn will be made, and stopping and remaining stopped for pedestrians crossing the roadway within a marked crosswalk, or at an unmarked crosswalk, into which the driver is turning. Both the approach for and the turn shall be made as close as practicable to the right-hand curb or edge of the roadway, unless such intersection is otherwise posted.

4. R.S.39:4-144 is amended to read as follows:

Stopping or yielding right of way before entering stop or yield intersections.

39:4-144. No driver of a vehicle or street car shall enter upon or cross an intersecting street marked with a "stop" sign unless:

a. The driver has first brought the vehicle or street car to a complete stop at a point within five feet of the nearest crosswalk or stop line marked upon the pavement at the near side of the intersecting street and shall proceed only after yielding the right of way to all vehicular traffic on the intersecting street which is so close as to constitute an immediate hazard.

b. No driver of a vehicle or street car shall enter upon or cross an intersecting street marked with a "yield right of way" sign without first slowing to a reasonable speed for existing conditions and visibility, stopping if necessary, and the driver shall yield the right of way to all vehicular traffic on the intersecting street which is so close as to constitute an immediate hazard; unless, in either case, the driver is otherwise directed to proceed by a traffic or police officer or traffic control signal.

c. No driver of a vehicle or street car shall turn right at an intersecting street marked with a "stop" sign or "yield right of way" sign unless the driver stops and remains stopped for pedestrians crossing the roadway within a marked crosswalk, or at an unmarked crosswalk, into which the driver is turning.

Repealer.

5. R.S.39:4-35 is repealed.

6. This act shall take effect on the first day of the third month after enactment, but such anticipatory administrative action may be taken in advance thereof as shall be necessary for the implementation of this act.

Approved January 18, 2010.

CHAPTER 320

AN ACT concerning the sale of real property to enforce liens, amending various parts of statutory law and supplementing chapter 5 of Title 54 of the Revised Statutes.

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

1. R.S.54:5-19 is amended to read as follows:

Power of sale; "collector" and "officer" defined.

54:5-19. The term "collector" as hereinafter used includes any such officer, and the term "officer" includes the collector.

A municipality shall have the authority to conduct both standard and accelerated tax sales.

When unpaid taxes or any municipal lien, or part thereof, on real property remain in arrears at the close of the fiscal year, the collector or other officer charged by law in the municipality with that duty, shall enforce the lien by selling the property in the manner set forth in this article by holding a standard tax sale in the following fiscal year.

When unpaid taxes or any municipal lien, or part thereof, on real property remains in arrears on the 11th day of the eleventh month in the fiscal year when the taxes or lien became in arrears, the collector or other officer charged by law in the municipality with that duty, shall enforce the lien by selling the property in the manner set forth in this article by conducting an accelerated tax sale by selling the property in the manner set forth in this article, provided that the sale is conducted and completed no earlier than in the last month of the fiscal year.

In either a standard or an accelerated tax sale, the municipality may by resolution direct that when unpaid taxes or other municipal liens or charges, or part thereof, are in arrears as of the 11th day of the eleventh month of the fiscal year, such sale shall include only such unpaid taxes or other municipal liens or charges as were in arrears in the fiscal year designated in such resolution, and may by resolution, either general or special, direct that there shall be omitted from such sale any or all such unpaid taxes, and other municipal liens, or parts thereof, on real property, upon which regular, equal monthly installment payments are being made, in pursuance to such agreement as may be authorized by said resolution between the collector and the owner or person interested in the property upon which such delinquent taxes may be due;

provided, that said agreement shall require payment of such installment payments in amounts large enough to pay in full all delinquent taxes, assessments and other municipal liens held by the municipality, in not more than five years from the date of such agreement; provided, that the extension of time for payment of such arrearages herein authorized shall not apply to any parcel of property which prior thereto has been included in any plan theretofore adopted by any municipality of this State under and pursuant to the provisions of any public statute of this State whereunder prior extensions for the payment of delinquent taxes were authorized; provided further, that the right of any person interested in such property to pay such arrears in such installments shall be conditioned on the prompt payment of the installments of taxes for the current year in which such agreement is made, and all subsequent taxes, assessments and other municipal liens imposed or becoming a lien thereafter, including all installments thereafter payable on assessments theretofore levied, and also the prompt payment of all installments of arrears as hereinbefore authorized; and provided further, that in case any such installment of arrears or any new taxes, assessments or other liens are not promptly paid, that is to say, within thirty days after the date when the same is due and payable, then such agreement shall be void, and in any such case the collector, or other officer charged by law with that duty, shall proceed to enforce such lien by selling in the manner in this article provided.

2. R.S.54:5-21 is amended to read as follows:

Lands listed for sale; liens listed; installments added.

54:5-21. The collector shall make a list of the lands so subject to sale, describing them in accordance with the last tax duplicate, including the name of the owner as shown on the duplicate, amplifying the description in the duplicate if necessary to better identify the parcel. He shall enter on the list all taxes, assessments and other municipal charges which were a lien at the close of the fiscal year. He shall add to the list all unpaid installments of assessments for benefits theretofore levied and existing as immediate or direct benefits, whether then payable or not, so that the list shall be a complete statement of all municipal charges against the property existing at the close of the fiscal year, together with all interest and costs on all of the items of the list computed to date of sale. If directed so to do by resolution, the collector shall omit from such list such lands as may be subject to sale for unpaid taxes or for any municipal lien, or part thereof, upon which regular installment payments are being made under any agreement or agreements approved by the municipality.

In the case of a standard tax sale, the list shall be prepared at least 50 calendar days prior to the date of sale. The collector may prepare the list after the 11th day of the eleventh month of the fiscal year, and prior to the close of the fiscal year, in order to start advertising the standard tax sale prior to the close of the current fiscal year.

In the case of an accelerated tax sale, the list shall be prepared as of the 11th day of the 11th month of the current fiscal year, and shall include only those taxes, assessments and other municipal charges that were delinquent as of that date.

3. R.S.54:5-24 is amended to read as follows:

Maintenance of list.

54:5-24. The list shall be maintained as a permanent record of that office. The list shall be either a bound book or a bound hard copy of a computer-generated list. The list may be made up in one or more sections and the term "list" as used in this chapter shall apply to any such section.

4. R.S.54:5-26 is amended to read as follows:

Notice of tax sale; posting, publication.

54:5-26. Copies of the notice of a tax sale shall be set up in five of the most public places in the municipality, and a copy of the notice shall be published in a newspaper circulating in the municipality, once in each of the four calendar weeks preceding the calendar week containing the day appointed for the sale. In lieu of any two publications, notice to the property owner and to any person or entity entitled to notice of foreclosure pursuant to section 20 of P.L.1948, c.96 (C.54:5-104.48) may be given by regular or certified mail, the costs of which shall be added to the cost of the sale in addition to those provided in R.S.54:5-38, not to exceed $25 for each notice for a particular property.

For the purposes of notice in connection with a special tax sale for eligible properties which are on an abandoned property list established by the municipality pursuant to section 36 of P.L.1996, c.62 (C.55:19-55), a single advertisement published in a newspaper circulating in the municipality no less than four and no more than six weeks prior to the sale, along with notice to the property owner and any person or entity entitled to notice of foreclosure pursuant to section 20 of P.L.1948, c.96 (C.54:5-104.48), shall constitute sufficient notice of sale on the part of the municipality.

Failure of the property owner to receive a notice of a tax sale properly mailed by the tax collector shall not constitute grounds to void the subse-

quent tax sale. If ordinances of the municipality are required to be published in any special newspaper or newspapers, the notice shall be published therein.

5. R.S.54:5-29 is amended to read as follows:

Payment of amount due prior to tax sale; priority.

54:5-29. At any time before sale the collector shall receive payment of the amount due on any property, together with the interest and costs set forth in R.S.54:5-38, incurred up to the time of payment. When a taxpayer whose property is included in a tax sale shall, prior to the sale, pay the full amount advertised in the sale, plus any interest on any other delinquencies, the tax collector shall then post the receipts, first to the interest, followed by the oldest delinquencies, costs and penalties which action shall then be cause for said property to be removed from the sale.

6. R.S.54:5-32 is amended to read as follows:

Sale in fee subject to redemption.

54:5-32. The sale shall be made in fee to such person as will purchase the property, subject to redemption at the lowest rate of interest, but in no case in excess of 18% per annum. If at the sale a person shall offer to purchase subject to redemption at a rate of interest less than 1%, or at no interest, he may, in lieu of any rate of interest to redeem, offer a premium over and above the amount of taxes, assessments or other charges, as in this chapter specified, due the municipality, and the property shall be struck off and sold to the bidder who offers to pay the amount of such taxes, assessments or charges, plus the highest amount of premium.

7. R.S.54:5-33 is amended to read as follows:

Payment; resale; redemption.

54:5-33. Payment for the sale shall be made before the conclusion of the sale, or the property shall be resold. Any premium payment shall be held by the collector and returned to the purchaser of the fee if and when redemption is made. If redemption is not made within five years from date of sale the premium payment shall be turned over to the treasurer of the municipality and become a part of the funds of the municipality. In the event that a petition of bankruptcy has been filed by the property owner, the five year limitation shall be extended for each day that the foreclosure action is precluded by that bankruptcy filing.

8. R.S.54:5-38 is amended to read as follows:

Fees for cost of holding sale.

54:5-38. The officer conducting a tax sale shall collect and pay into the treasury of the municipality a fee for all costs incurred by the municipality in holding the sale. The amount of the fee so paid shall be 2% of the existing lien as stated in R.S.54:5-19 and R.S.54:5-2, but not less than $15.00 and not more than $100.00 for each parcel listed. In the case of a standard tax sale, the fee shall be payable and collected beginning the 50th calendar day prior to the date of the sale, and in the case of an accelerated tax sale, the fee shall be payable and collected beginning on the 11th day of the eleventh month of the current fiscal year. If unpaid prior to the tax sale, the fee shall form part of the tax lien and be paid by the purchaser at the tax sale.

9. R.S.54:5-51 is amended to read as follows:

Disposition of certificate of sale; permanent record.

54:5-51. When the certificate of sale is not made to the municipality, it shall, unless so recorded within three months of the date of sale, be void as against a bona fide purchaser, lessee or mortgagee whose deed, lease or mortgage is recorded before the recording of the certificate. After recording the tax sale certificate, the lien holder shall deliver a copy of the recorded certificate showing the book, page, date, and cost of recording to the tax collector. The tax collector shall maintain the information as a permanent record.

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

Right of redemption by owner, person having interest.

54:5-54. Except as hereinafter provided, the owner, his heirs, holder of any prior outstanding tax lien certificate, mortgagee, or occupant of land sold for municipal taxes, assessment for benefits pursuant to R.S.54:5-7 or other municipal charges, may redeem it at any time until the right to redeem has been cut off in the manner in this chapter set forth, by paying to the collector, or to the collector of delinquent taxes on lands of the municipality where the land is situate, for the use of the purchaser, his heirs or assigns, the amount required for redemption as hereinafter set forth.

The tax collector shall provide to any party entitled to redeem a certificate pursuant to this section two calculations of the amount required for redemption within a calendar year at no cost. The governing body of a mu-

nicipality may, by ordinance, require a fee not to exceed $50 for each subsequent calculation requested of the tax collector. A request for a redemption calculation shall be made in writing to the tax collector.

11. Section 7 of P.L.1965, c.187 (C.54:5-97.1) is amended to read as follows:

C.54:5-97.1 Fees allowed.

7. No search fee, counsel fee or other fee related to certified mailings shall be allowed a plaintiff other than a municipality in the foreclosure of a tax lien unless, prior to the filing of the complaint, the plaintiff shall have given 30 days' written notice to the parties entitled to redeem whose interests appear of record at the time of the tax sale, by certified mail with postage prepaid thereon, addressed to the last known address of such persons, of intention to file such complaint. The notice shall also contain the amount due on such tax lien as of the date of the notice. A copy of such notice shall also be filed with the municipal tax collector's office. Upon the filing and service of such notice, a plaintiff shall be entitled to such fees and expenses.

A municipality, by ordinance, may authorize the tax collector to charge to a lienholder a fee not to exceed $50 for the calculation of the amount due to redeem the tax lien required to be provided pursuant to this section. Any request for a redemption calculation shall specify the date to be used for the calculation, which shall be the date of the notice. Neither the tax collector or the municipality shall be liable for an incorrect calculation. The fee paid to the municipality shall not become part of the lien and shall not be passed on to any party entitled to redeem pursuant to R.S.54:5-54.

C.54:5-20.1 Discretion of tax collector as to sale.

12. When a tax on real property, or other municipal fee or charge levied against real property, together with the interest, penalties, charges and costs of advertising, would amount to less than $100, it shall be discretionary with the tax collector as to whether or not the property shall be advertised and sold for the enforcement of the lien. The tax, fee or charge shall remain a lien on the property and may be included in any tax sale or other municipal lien sale affecting the property, notwithstanding any other law to the contrary. When any such tax, lien or charge shall be due for a period of five years following the year in which it became in arrears, the collector shall sell the property.

C.54:5-57.1 Unclaimed redemption monies.

13. In the event that the owner of a tax lien shall fail to surrender a tax sale certificate within five years of being notified of redemption pursuant to R.S.54:5-57, the unclaimed redemption monies shall escheat to the municipality. The provisions of this section shall apply to any redemption monies being held by a tax collector on or after the effective date of P.L.2009, c.320 (C.54:5-20.1 et al.).

C.54:5-54.1 Redemptions through tax collector's office; exceptions.

14. All redemptions shall be made through the tax collector's office, unless authorized by court order or pursuant to federal bankruptcy law. Any lienholder who knowingly causes a redemption to be made outside a tax collector's office in violation of this section shall forfeit the tax sale certificate to the redeeming party.

15. This act shall take effect immediately.

Approved January 18, 2010.

CHAPTER 321

AN ACT concerning asset protection for certain Medicaid recipients and amending P.L.1981, c.217.

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

1. Section 1 of P.L.1981, c.217 (C.30:4D-7.2a) is amended to read as follows:

C.30:4D-7.2a Encumbrances, recovery limited against certain estates.

1. No encumbrance or recovery shall be imposed against or sought from the estate of a deceased recipient for assistance correctly paid under:

a. The "New Jersey Medical Assistance and Health Services Act," P.L.1968, c.413 (C.30:4D-1 et seq.), under any of the following circumstances: (1) the amount sought to be recovered is less than $500, the gross estate is less than $3,000 or there is a surviving spouse or a surviving child who is under the age of 21 or is blind or permanently and totally disabled, except for assistance incorrectly or illegally paid, or for third party liability

recovery sought under P.L.1968, c.413 (C.30:4D-1 et seq.); (2) in the case of a recipient who became deceased on or after the effective date of P.L.1995, c.289, if there is a surviving spouse or a surviving child who is under the age of 21 or is blind or permanently and totally disabled, except for assistance incorrectly or illegally paid, or for third party liability recovery sought under P.L.1968, c.413 (C.30:4D-1 et seq.); or (3) in the case of a recipient who has been afforded asset protection under a long-term care insurance partnership in accordance with the provisions of the federal "Deficit Reduction Act of 2005," Pub.L.109-171, up to the amount of assets disregarded at the time of eligibility determination; or

b. The "Pharmaceutical Assistance to the Aged and Disabled" program, P.L.1975, c.194 (C.30:4D-20 et seq.), except for assistance incorrectly or illegally paid, or for third party liability recovery sought under P.L.1968, c.413 (C.30:4D-1 et seq.).

2. This act shall take effect immediately.

Approved January 18, 2010.

CHAPTER 322

AN ACT concerning the practice of chiropractic, amending R.S.45:9-14.5, P.L.1991, c.187, and amending and supplementing P.L.1989, c.153.

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

1. R.S.45:9-14.5 is amended to read as follows:

Definitions relative to practice of chiropractic.

45:9-14.5. a. "Chiropractic subluxation" means a complex of functional, structural or pathological articular lesions or a local or systemic aberration of the nervous system caused by injury, pressure, traction, stress, torsion, or by chemical or electrical irritation, stimulation, or inhibition of a nerve that compromise neural integrity as determined by chiropractic analytical procedures.

"Practice of chiropractic" means a philosophy, science and healing art concerned with the restoration and preservation of health and wellness through the promotion of well-being, prevention of disease and promotion

and support of the inherent or innate recuperative abilities of the body. The practice of chiropractic includes the reduction of chiropractic subluxation, and the examination, diagnosis, analysis, assessment, systems of adjustments, manipulation and treatment of the articulations and soft tissue of the body. It is within the lawful scope of the practice of chiropractic to diagnose, adjust, and treat the articulations of the spinal column and other joints, articulations, and soft tissue and to order and administer physical modalities and therapeutic, rehabilitative and strengthening exercises.

"Prescription" means a written direction of remedy for a disease, illness or injury and the instructions for using that remedy.

b. A licensed chiropractor shall have the right in the examination of patients to use the neurocalometer, X-ray, and other necessary instruments solely for the purpose of diagnosis or analysis. No licensed chiropractor shall perform endoscopy, or prescribe, administer, or dispense drugs or medicines for any purpose whatsoever, or perform surgery as requires cutting by instruments or laser excepting adjustment of the articulations of the spinal column or extremities.

No person licensed to practice chiropractic shall sign any certificate required by law or the State Sanitary Code concerning reportable diseases, or birth, marriage or death certificates.

c. A chiropractor licensed by the State Board of Chiropractic Examiners may, subject to the requirements of subsection e. of this section:

(1) Use methods of treatment including chiropractic practice methods, physical medicine modalities, rehabilitation, splinting or bracing consistent with the practice of chiropractic, nutrition and first aid and may order such diagnostic or analytical tests, including diagnostic imaging, bioanalytical laboratory tests, and may perform such other diagnostic and analytical diagnostic tests including reagent strip tests, X-ray, computer-aided neuromuscular testing, and nerve conduction studies, and may interpret evoked potentials;

(2) Sign or certify temporary or permanent impairments and other certifications consistent with a chiropractic practice such as pre-employment screenings. A chiropractic physician may use recognized references in making his determination; and

(3) Provide dietary or nutritional counseling, such as the direction, administration, dispensing and sale of nutritional supplements, including, but not limited to, all food concentrates, food extracts, vitamins, minerals, herbs, enzymes, amino acids, homeopathic remedies and other dietary supplements, including, but not limited to, tissue or cell salts, glandular extracts, nutraceuticals, botanicals and other nutritional supplements; provided the

chiropractor has successfully completed a course of study concerning human nutrition, consisting of not less than 45 hours from a college or university accredited by a regional or national accrediting agency recognized by the United States Department of Education and approved by the board.

d. It shall be unlawful for any person, not duly licensed in this State to practice chiropractic, to use terms, titles, words or letters which would designate or imply that he or she is qualified to practice chiropractic, or to hold himself or herself out as being able to practice chiropractic, or offer or attempt to practice chiropractic, or to render a utilization management decision that limits, restricts or curtails a course of chiropractic care.

e. A chiropractic diagnosis or analysis shall be based upon a chiropractic examination appropriate to the presenting patient, except that a licensed chiropractor who, at any time during the examination has reasonable cause to believe symptoms or conditions are present that require diagnosis, analysis, treatment, or methods beyond the scope of chiropractic as defined in subsection a. of this section, shall refer an individual to a practitioner licensed to practice dentistry, medicine or surgery in this State or other appropriate licensed healthcare professionals. Nothing contained in this subsection shall preclude a licensed chiropractor from rendering concurrent or supportive chiropractic care to any patient so referred.

2. Section 46 of P.L.1991, c.187 (C.45:9-22.11) is amended to read as follows:

C.45:9-22.11 Dispensing of drugs to patient limited; exceptions.

46. A physician shall not dispense more than a seven-day supply of drugs or medicines to any patient. The drugs or medicines shall be dispensed at or below the cost the physician has paid for the particular drug or medicine, plus an administrative cost not to exceed 10% of the cost of the drug or medicine.

The provisions of this section shall not apply to a physician:

a. who dispenses drugs or medicines in a hospital emergency room, a student health center at an institution of higher education, or a publicly subsidized community health center, family planning clinic or prenatal clinic, if the drugs or medicines that are dispensed are directly related to the services provided at the facility;

b. whose practice is situated 10 miles or more from a licensed pharmacy;

c. when he dispenses allergenic extracts and injectables;

d. when he dispenses drugs pursuant to an oncological or AIDS protocol; or

e. when he dispenses salves, ointments or drops.

The provisions of this section shall not apply to a licensed chiropractic physician who dispenses food concentrates, food extracts, vitamins, minerals, herbs, enzymes, amino acids, tissue or cell salts, glandular extracts, neutraceuticals, botanicals, homeopathic remedies, and other nutritional supplements.

3. Section 3 of P.L.1989, c.153 (C.45:9-41.19) is amended to read as follows:

C.45:9-41.19 Definitions.

3. As used in P.L.1989, c.153 (C.45:9-41.17 et al.) and sections 7 through 14 and sections 19 and 20 of P.L.1953, c.233 (C.45:9-41.4 through C.45:9-41.13 inclusive):

a. "Board" means the State Board of Chiropractic Examiners created pursuant to section 4 of P.L.1989, c.153 (C.45:9-41.20).

b. "Doctor of Chiropractic," "Chiropractor" or "Chiropractic Physician" means a person trained and qualified in the discipline of chiropractic whose license is in force and not suspended or revoked at the time in question.

A person licensed to practice chiropractic may use the title doctor, or its abbreviation, in the practice of chiropractic, however, it must be qualified by the words doctor of chiropractic, chiropractor or chiropractic physician, or its abbreviation, D.C. The use of the title doctor of chiropractic, chiropractor, chiropractic physician, or its abbreviation, D.C., may be used interchangeably.

4. Section 11 of P.L.1989, c.153 (C.45:9-41.27) is amended to read as follows:

C.45:9-41.27 Scope of practice of chiropractic unaffected.

11. The scope of practice of chiropractic shall remain as defined in existing statutes. Nothing in this act shall be deemed to prohibit a chiropractor from caring for chiropractic subluxation. Chiropractic analysis which identifies the existence of a chiropractic subluxation may be the basis for chiropractic care even in the absence of a subjective complaint or other objective findings.

C.45:9-41.28 Continuing education required for licensure.

5. The board shall require each person licensed as a chiropractor, as a condition for biennial registration, to complete 30 credits of continuing chiropractic education as provided in section 6 of this amendatory and sup-

plementary act during each biennial registration period. A minimum of two of the 30 credits shall consist of the study of State laws and regulations governing chiropractic professional ethics or record keeping and documentation as it pertains to the practice of chiropractic in this State, and a minimum of two credits shall consist of nutrition education.

C.45:9-41.29 Duties of board relative to continuing education.

6. a. The board:

(1) Shall establish standards for continuing chiropractic education, including, but not limited to, the subject matter and content of courses of study that are taught by chiropractic schools, colleges, institutions and universities or tested on for licensure;

(2) May accredit educational programs offering credit towards the continuing chiropractic education requirements;

(3) May accredit other educational programs, including, but not limited to educational programs offered by professional organizations or societies, health care professions, schools, colleges, institutions, universities or healthcare facilities;

(4) May allow satisfactory completion of continuing chiropractic education requirements through equivalent education programs such as examinations, papers, publications, scientific presentations, teaching and research appointments, scientific exhibits and independent study or Internet courses such as distance learning, including, but not limited to, video and audio tapes or Internet education programs; and

(5) Shall establish procedures for the issuance of credit upon satisfactory proof of the completion of these programs.

b. Each 50 minutes of instruction in a board approved education course or program shall be equivalent to one credit.

C.45:9-41.30 Procedures.

7. The board shall:

a. Establish procedures for monitoring compliance of the continuing education requirements; and

b. Establish procedures to evaluate and grant approval to providers of continuing education courses.

C.45:9-41.31 Waiver of requirements.

8. The board may, in its discretion, waive requirements for continuing chiropractic education on an individual basis for reasons of hardship, such as illness or disability, retirement of the license, or other good cause.

C.45:9-41.32 Noncompliance, civil penalty; regulations.

9. a. The board shall not require a new licensee to complete required continuing chiropractic education credits for any registration period commencing within 12 months of the licensee's participation in and completion of an accredited graduate chiropractic education program.

b. Any person who fails to complete the continuing chiropractic education requirements established pursuant to section 5 of this amendatory and supplementary act shall be liable to a civil penalty of not more than $500 or a designated number of additional hours of continuing chiropractic education, or both, as imposed by the board for a first offense. A second or subsequent offense by a licensee may be considered professional misconduct.

c. The board shall promulgate regulations concerning continuing education requirements within 180 days of the effective date of this amendatory and supplementary act.

10. Section 7 of P.L.1989, c.153 (C.45:9-41.23) is amended to read as follows:

C.45:9-41.23 Duties of the board.

7. The board shall:

a. Appoint and prescribe the duties of an executive secretary. The executive secretary shall serve at its pleasure;

b. Review the qualifications of applicants for licensure;

c. Insure the proper conduct and standards of examinations;

d. Issue and renew annual licenses for chiropractors pursuant to this act, sections 19, 20 and 24 of P.L.1939, c.115 (C.45:9-14.5, C.45:9-14.6 and C.45:9-14.10) and P.L.1953, c.233 (C.45:9-41.5 et al.);

e. Refuse to admit a person to an examination, or refuse to issue a license, or suspend, revoke or fail to renew the license of a chiropractor pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.);

f. Maintain a record of chiropractors licensed in this State, their places of business, places of residence and the date and number of their licenses;

g. Prescribe or change the charges for examinations, licensures, renewals and other services it performs pursuant to P.L.1974, c.46 (C.45:1-3.1 et seq.);

h. Establish standards pursuant to which a chiropractor shall maintain medical malpractice liability insurance coverage, at appropriate amounts, as set forth in regulations;

i. Adopt and promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this act, sections 19, 20 and 24 of P.L.1939, c.115 (C.45:9-14.5, C.45:9-14.6 and C.45:9-14.10) and P.L.1953, c.233 (C.45:9-41.5 et al.).

11. This act shall take effect immediately.

Approved January 18, 2010.

CHAPTER 323

AN ACT concerning railroad rights of way and amending P.L.1967, c.282.

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

1. Section 1 of P.L.1967, c.282 (C.48:12-125.1) is amended to read as follows:

C.48:12-125.1 Railroad rights of way; acquisition; abandonment; sale, conveyance.

1. a. In order to permit the State and its political subdivisions to receive notice of, and be afforded an opportunity to acquire, by purchase or condemnation, railroad rights of way proposed to be abandoned, any railroad company which makes application to the Surface Transportation Board for authority to abandon any part of its right of way on which passenger or freight services are operated, or to abandon, sell, or lease any of its right of way over which services have previously been authorized for abandonment and title to such right of way currently remains with the railroad shall, within 10 days of making such application, serve notice thereof upon the State and upon each county and municipality in which any part of the right of way proposed for abandonment is located.

b. No sale or conveyance of any part of such right of way shall thereafter be made to any entity other than the State, or a county or municipality, for a period of 90 days from the date of approval by the Surface Transportation Board of the application for abandonment or from the date of service of the notice required by subsection a. of this section, whichever occurs later, unless prior thereto each governmental entity entitled to such notice

shall have filed with the railroad company a written disclaimer of interest in acquiring all or any part of said right of way during the time period in which a railroad company is restricted from selling or conveying any part of a right of way pursuant to this subsection.

c. During the period of 90 days in which a railroad company is prohibited from selling or conveying any part of a right of way pursuant to subsection b. of this section, such railroad company shall negotiate in good faith for the sale or conveyance of the right of way with the State, or with any municipality or county in which the right of way proposed for abandonment is located and which expresses written interest in acquiring such right of way.

d. Any sale or conveyance of a right of way made after the expiration of the foregoing 90-day period to any entity, other than the State or a county or municipality in which any part of the right of way proposed for abandonment is located, shall be subject to the right of first refusal by any of the foregoing governmental entities, provided that the governmental entity has made an offer to purchase such right of way during the 90-day period and which offer was refused by the railroad company. The governmental entity shall have no less than 90 days from either the date of receipt from the railroad company of an offer to purchase the right of way by an entity, other than one of the foregoing governmental entities, or any other contract setting forth the terms and conditions governing the sale to which this right of first refusal is applicable or the effective date of abandonment as authorized by the Surface Transportation Board, including the expiration of any stays, whichever occurs later, to exercise this right of first refusal. Upon exercising this right of first refusal, the governmental entity shall purchase the right of way for the same amount agreed upon between the railroad company and the person to whom the company attempted to sell or convey such right of way pursuant to this subsection.

e. Any sale or conveyance made in violation of P.L.1967, c.282 (C.48:12-125.1 et seq.) shall be void.

As used in this act "right of way" means the roadbed of a line of railroad, not exceeding 100 feet in width, as measured horizontally at the elevation of the base of the rail, including the full embankment or excavated area, with slopes, slope ditches, retaining walls, or foundations necessary to provide a width not to exceed 100 feet at the base of the rail, but not including tracks, appurtenances, ballast nor any structures or buildings erected thereon.

2. This act shall take effect immediately.

Approved January 18, 2010.

CHAPTER 324

AN ACT concerning certain new motor vehicle warranties and amending P.L.1988, c.123.

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

1. Section 1 of P.L.1988, c.123 (C.56:12-29) is amended to read as follows:

C.56:12-29 Findings, intentions.

1. The Legislature finds that the purchase of a new motor vehicle is a major, high cost consumer transaction and the inability to correct defects in these vehicles creates a major hardship and an unacceptable economic burden on the consumer. It is the intent of this act to require the manufacturer of a new motor vehicle, or, in the case of a new motor vehicle that is an authorized emergency vehicle, the manufacturer, co-manufacturer, or post-manufacturing modifier, to correct defects originally covered under warranty which are identified and reported within a specified period. It is the further intent of this act to provide procedures to expeditiously resolve disputes between a consumer and a manufacturer, co-manufacturer, or post-manufacturing modifier when defects in a new motor vehicle are not corrected within a reasonable time, and to provide to award specific remedies where the uncorrected defect substantially impairs the use, value, or safety of the new motor vehicle.

2. Section 2 of P.L.1988, c.123 (C.56:12-30) is amended to read as follows:

C.56:12-30 Definitions.

2. As used in this act:

"Co-manufacturer" means, solely with respect to an authorized emergency vehicle as defined in R.S.39:1-1, any person that fabricates the authorized emergency vehicle utilizing a component or components of a new motor vehicle made by a manufacturer, other than modifying an existing standard model of a vehicle manufactured by a manufacturer, which component or components are obtained by the co-manufacturer from the manufacturer to fabricate the vehicle for use as an authorized emergency vehicle prior to an initial retail sale or lease of the emergency vehicle.

"Consumer" means a buyer or lessee, other than for purposes of resale or sublease, of a motor vehicle; a person to whom a motor vehicle is transferred during the duration of a warranty applicable to the motor vehicle; or any other person entitled by the terms of the warranty to enforce the obligations of the warranty.

"Dealer" means a person who is actively engaged in the business of buying, selling or exchanging motor vehicles at retail and who has an established place of business.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, or his designee.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Informal dispute settlement procedure" means an arbitration process or procedure by which the manufacturer, or, in the case of an authorized emergency vehicle, the manufacturer, co-manufacturer, or post-manufacturing modifier, attempts to resolve disputes with consumers regarding motor vehicle nonconformities and repairs that arise during the vehicle's warranty period.

"Lease agreement" means a contract or other written agreement in the form of a lease for the use of a motor vehicle by a person for a period of time exceeding 60 days, whether or not the lessee has the option to purchase or otherwise become the owner of the motor vehicle at the expiration of the lease.

"Lessee" means a person who leases a motor vehicle pursuant to a lease agreement.

"Lessor" means a person who holds title to a motor vehicle leased to a lessee under a lease agreement or who holds the lessor's rights under such an agreement.

"Lien" means a security interest in a motor vehicle.

"Lienholder" means a person with a security interest in a motor vehicle pursuant to a lien.

"Manufacturer" means a person engaged in the business of manufacturing, assembling or distributing motor vehicles, who will, under normal business conditions during the year, manufacture, assemble or distribute to dealers at least 10 new motor vehicles.

"Motor vehicle" means a passenger automobile, authorized emergency vehicle, or motorcycle as defined in R.S.39:1-1 which is purchased or leased in the State of New Jersey or which is registered by the New Jersey Motor Vehicle Commission, except the living facilities of motor homes.

"Nonconformity" means a defect or condition which substantially impairs the use, value or safety of a motor vehicle.

"Post-manufacturing modifier" means, solely with respect to an authorized emergency vehicle as defined in R.S.39:1-1, any person who modifies the configuration of an existing standard model of a motor vehicle purchased from a manufacturer to adapt the vehicle for use as an authorized emergency vehicle prior to an initial retail sale or lease of the vehicle.

"Reasonable allowance for vehicle use" means the mileage at the time the consumer first presents the motor vehicle to the dealer, distributor, manufacturer, co-manufacturer, or post-manufacturing modifier for correction of a nonconformity times the purchase price, or the lease price if applicable, of the vehicle, divided by one hundred thousand miles.

"Warranty" means any warranty, whether express or implied of the manufacturer of a new motor vehicle, or, in the case of a new motor vehicle that is an authorized emergency vehicle, of the manufacturer, co-manufacturer or post-manufacturing modifier, of the vehicle's condition and fitness for use, including any terms or conditions precedent to the enforcement of obligations under the warranty.

3. Section 3 of P.L.1988, c.123 (C.56:12-31) is amended to read as follows:

C.56:12-31 Report of nonconformity; repairs.

3. If a consumer reports a nonconformity in a motor vehicle to the manufacturer, or, in the case of a motor vehicle that is an authorized emergency vehicle, the manufacturer, co-manufacturer or post-manufacturing modifier, or its dealer or distributor, during the first 24,000 miles of operation or during the period of two years following the date of original delivery to the consumer, whichever is earlier, the manufacturer, co-manufacturer, or post-manufacturing modifier shall make, or arrange with its dealer or distributor to make, within a reasonable time, all repairs necessary to correct the nonconformity. Such repairs if made after the first 12,000 miles of operation or after the period of one year following the date of original delivery to the consumer, whichever is earlier, shall be paid for by the consumer, unless otherwise covered by a warranty of the manufacturer, co-manufacturer or post-manufacturing modifier, and shall be recoverable as a cost under section 14 of this act.

4. Section 4 of P.L.1988, c.123 (C.56:12-32) is amended to read as follows:

C.56:12-32 Refunds.

4. a. If, during the period specified in section 3 of this act, the manufacturer, or, in the case of an authorized emergency vehicle, the manufacturer, co-manufacturer, or post-manufacturing modifier, of that part of the motor vehicle containing the nonconformity, or its dealer or distributor, is unable to repair or correct the nonconformity within a reasonable time, the manufacturer, co-manufacturer, or post-manufacturing modifier shall accept return of the motor vehicle from the consumer.

(1) In the case of a motor vehicle, other than an authorized emergency vehicle as set forth in paragraph (2) of this subsection, the manufacturer shall provide the consumer with a full refund of the purchase price of the original motor vehicle including any stated credit or allowance for the consumer's used motor vehicle, the cost of any options or other modifications arranged, installed, or made by the manufacturer or its dealer within 30 days after the date of original delivery, and any other charges or fees including, but not limited to, sales tax, license and registration fees, finance charges, reimbursement for towing and reimbursement for actual expenses incurred by the consumer for the rental of a motor vehicle equivalent to the consumer's motor vehicle and limited to the period during which the consumer's motor vehicle was out of service due to the nonconformity, less a reasonable allowance for vehicle use.

(2) In the case of an authorized emergency vehicle, the manufacturer, co-manufacturer, or post-manufacturing modifier shall provide the consumer with a full refund of the purchase price of the original emergency vehicle, depending on the source of the nonconformity, including any stated credit or allowance for the consumer's used emergency vehicle, as well as any other charges or fees, including, but not limited to, sales tax, license and registration fees, reimbursement for towing and reimbursement for actual expenses incurred by the consumer for the rental of a substitute emergency vehicle, if applicable, for the period during which the consumer's emergency vehicle was out of service due to the nonconformity.

(3) Nothing in this subsection shall be construed to preclude a manufacturer, co-manufacturer, or post-manufacturing modifier from making an offer to replace the vehicle in lieu of a refund; except that the consumer may, in any case, reject an offer of replacement and demand a refund. Refunds shall be made to the consumer and lienholder, if any, as their interests appear on the records of ownership maintained by the Chief Administrator of the New Jersey Motor Vehicle Commission. In the event that the consumer accepts an offer to replace the motor vehicle in lieu of a refund, it shall be the manufacturer's, co-manufacturer's, or post-manufacturing

modifier's responsibility to insure that any lien on the returned motor vehicle is transferred to the replacement vehicle.

b. A consumer who leases a new motor vehicle shall have the same remedies against a manufacturer, co-manufacturer, or post-manufacturing modifier under this section as a consumer who purchases a new motor vehicle. If it is determined that the lessee is entitled to a refund pursuant to subsection a. of this section, the consumer shall return the leased vehicle to the lessor or manufacturer, co-manufacturer, or post-manufacturing modifier, and the consumer's lease agreement with the motor vehicle lessor shall be terminated and no penalty for early termination shall be assessed. The manufacturer, co-manufacturer, or post-manufacturing modifier shall provide the consumer with a full refund of the amount actually paid by the consumer under the lease agreement, including any additional charges as set forth in subsection a. of this section if actually paid by the consumer, less a reasonable allowance for vehicle use. The manufacturer, co-manufacturer, or post-manufacturing modifier shall provide the motor vehicle lessor with a full refund of the vehicle's original purchase price plus any unrecovered interest expense, less the amount actually paid by the consumer under the agreement. Refunds shall be made to the lessor and lienholder, if any, as their interests appear on the records of ownership maintained by the Chief Administrator of the Motor Vehicle Commission.

5. Section 5 of P.L.1988, c.123 (C.56:12-33) is amended to read as follows:

C.56:12-33 Presumption of inability to correct nonconformity; written notification.

5. a. It is presumed that a manufacturer, or, in the case of an authorized emergency vehicle, the manufacturer, co-manufacturer, or post-manufacturing modifier, or its dealer or distributor, is unable to repair or correct a nonconformity within a reasonable time if, within the first 24,000 miles of operation or during the period of two years following the date of original delivery of the motor vehicle to the consumer, whichever is the earlier date:

(1) Substantially the same nonconformity has been subject to repair three or more times by the manufacturer, co-manufacturer, or post-manufacturing modifier, or its dealer or distributor, other than a nonconformity subject to examination or repair pursuant to paragraph (3) of this subsection because it is likely to cause death or serious bodily injury if the vehicle is driven, and the nonconformity continues to exist;

(2) The motor vehicle is out of service by reason of repair for one or more nonconformities for a cumulative total of 20 or more calendar days, or in the case of a motorhome, 45 or more calendar days, since the original delivery of the motor vehicle and a nonconformity continues to exist; or

(3) A nonconformity which is likely to cause death or serious bodily injury if the vehicle is driven has been subject to examination or repair at least once by the manufacturer, co-manufacturer, or post-manufacturing modifier, or its dealer or distributor, and the nonconformity continues to exist.

b. The presumption contained in subsection a. of this section shall apply against a manufacturer only if the manufacturer has received written notification, or, in the case of an authorized emergency vehicle, the manufacturer, and co-manufacturer or post-manufacturing modifier, if known, or the dealer or distributor, has received written notification, by or on behalf of the consumer, by certified mail return receipt requested, of a potential claim pursuant to the provisions of this act and has had one opportunity to repair or correct the defect or condition within 10 calendar days following receipt of the notification. Notification by the consumer shall take place any time after the motor vehicle has had substantially the same nonconformity subject to repair two or more times, or has been out of service by reason of repair for a cumulative total of 20 or more calendar days, or in the case of a motorhome, 45 or more calendar days, or with respect to a nonconformity which is likely to cause death or serious bodily injury if the vehicle is driven, the nonconformity has been subject to examination or repair at least once by the manufacturer, co-manufacturer, or post-manufacturing modifier, or its dealer or distributor, and the nonconformity continues to exist.

c. The two-year term and the 20-day period, or 45-day period for motorhomes, specified in this section shall be extended by any period of time during which repair services are not available to the consumer because of a war, invasion or strike, or a fire, flood, or other natural disaster.

d. (1) In the case of a motorhome where two or more manufacturers contributed to the construction of the motorhome, or in the case of an authorized emergency vehicle, it shall not be considered as any examination or repair attempt if the repair facility at which the consumer presented the vehicle is not authorized by the manufacturer, co-manufacturer, or post-manufacturing modifier to provide service on that vehicle.

(2) It shall be considered as one examination or repair attempt for a motorhome if the same nonconformity is addressed more than once due to the consumer's decision to continue traveling and to seek the repair of that same nonconformity at another authorized repair facility, rather than wait for the repair to be completed at the initial authorized repair facility.

(3) Days out of service for reason of repair for a motorhome shall be a cumulative total of 45 or more calendar days.

6. Section 6 of P.L.1988, c.123 (C.56:12-34) is amended to read as follows:

C.56:12-34 Statements to consumers.

6. a. At the time of purchase in the State of New Jersey, the manufacturer, or, in the case of an authorized emergency vehicle, the manufacturer, co-manufacturer, or post-manufacturing modifier, through its dealer or distributor, or at the time of lease in the State of New Jersey, the lessor, shall provide directly to the consumer a written statement prescribed by the director, presented in a conspicuous and understandable manner on a separate piece of paper and printed in both the English and Spanish languages, which provides information concerning a consumer's rights and remedies under P.L.1988, c.123 (C.56:12-29 et seq.), and shall include, but not be limited to, a summary of the provisions of:

(1) section 3 of P.L.1988, c.123 (C.56:12-31), concerning the miles of operation of a motor vehicle and time period within which the consumer may report a nonconformity and seek remedies;

(2) sections 4 and 5 of P.L.1988, c.123 (C.56:12-32 and 56:12-33), concerning a manufacturer's, co-manufacturer's, or post-manufacturing modifier's obligations to a consumer based upon the manufacturer's, co-manufacturer's, or post-manufacturing modifier's, or its dealer's or distributor's, inability to repair or correct a nonconformity; and

(3) any other provisions of P.L.1988, c.123 (C.56:12-29 et seq.) the director deems appropriate.

b. Each time a consumer's motor vehicle is returned from being examined or repaired during the period specified in section 3 of P.L.1988, c.123 (C.56:12-31), the manufacturer, or, in the case of an authorized emergency vehicle, the manufacturer, co-manufacturer, or post-manufacturing modifier, through its dealer or distributor, shall provide to the consumer an itemized, legible statement of repair which indicates any diagnosis made and all work performed on the vehicle and provides information including, but not limited to, the following: a general description of the problem reported by the consumer or an identification of the problem reported by the consumer or an identification of the defect or condition and the source of the defect; the amount charged for parts and the amount charged for labor, if paid for by the consumer; the date and the odometer reading when the vehicle was

submitted for repair; and the date and odometer reading when the vehicle was made available to the consumer.

c. Failure to comply with the provisions of this section constitutes an unlawful practice pursuant to section 2 of P.L.1960, c.39 (C.56:8-2).

7. Section 7 of P.L.1988, c.123 (C.56:12-35) is amended to read as follows:

C.56:12-35 Sale, leasing of returned motor vehicle.

7. a. If a motor vehicle is returned to the manufacturer, or, in the case of an authorized emergency vehicle, to the manufacturer, co-manufacturer, or post-manufacturing modifier, under the provisions of this act or a similar statute of another state or as the result of a legal action or an informal dispute settlement procedure, it shall not be resold or re-leased in New Jersey unless:

(1) The manufacturer, co-manufacturer, or post-manufacturing modifier provides to the dealer, distributor, or lessor, and the dealer, distributor or lessor provides to the consumer, the following written statement on a separate piece of paper, in 10-point bold-face type: "IMPORTANT: THIS VEHICLE WAS RETURNED TO THE MANUFACTURER OR OTHER RESPONSIBLE PARTY BECAUSE IT DID NOT CONFORM TO THE MANUFACTURER'S OR OTHER PARTY'S WARRANTY FOR THE VEHICLE AND THE NONCONFORMITY WAS NOT CORRECTED WITHIN A REASONABLE TIME AS PROVIDED BY LAW;"

(2) The dealer, distributor, or lessor obtains from the consumer a signed receipt certifying, in a conspicuous and understandable manner, that the written statement required under this subsection has been provided. The director shall prescribe the form of the receipt. The dealer, distributor, or lessor may fulfill his obligation to obtain a signed receipt under this paragraph by making such a notation, in a conspicuous and understandable manner, on the vehicle buyer order form accompanying the sale or lease of that vehicle; and

(3) The dealer, distributor, or lessor, in accordance with the provisions of section 1 of P.L.1993, c.21 (C.39:10-9.3), notifies the Chief Administrator of the Motor Vehicle Commission of the sale or transfer of ownership of the motor vehicle.

b. Nothing in this section shall be construed as imposing an obligation on a dealer, distributor, or lessor to determine whether a manufacturer, co-manufacturer, or post-manufacturing modifier is in compliance with the terms of this section, nor shall it be construed as imposing liability on a dealer, distributor, or lessor for the failure of a manufacturer, co-

manufacturer, or post-manufacturing modifier to comply with the terms of this section.

c. Failure to comply with the provisions of this section constitutes an unlawful practice pursuant to section 2 of P.L.1960, c.39 (C.56:8-2).

8. Section 8 of P.L.1988, c.123 (C.56:12-36) is amended to read as follows:

C.56:12-36 Informal dispute settlement procedure.

8. a. If a manufacturer, or, in the case of an authorized emergency vehicle, a manufacturer, co-manufacturer, or post-manufacturing modifier, has established, or participates in, an informal dispute settlement procedure pursuant to section 110 of Pub.L.93-637 (15 U.S.C. s.2310) and the rules promulgated thereunder, or the requirements of this section, a consumer may submit a dispute regarding motor vehicle nonconformities, including a dispute between a manufacturer, co-manufacturer, or post-manufacturing modifier regarding the source of nonconformities and resulting liability to the consumer, to the dispute settlement body provided by that procedure, but a consumer shall not be required to first participate in the informal dispute settlement procedure before participating in the division's summary hearing procedure under this act.

b. If a consumer chooses to use a manufacturer's, co-manufacturer's, or post-manufacturing modifier's informal dispute settlement procedure established pursuant to this section, the findings and decisions of the dispute settlement body shall state in writing whether the consumer is entitled to a refund under the presumptions and criteria set out in this act and the findings and decisions shall be admissible against the consumer and the manufacturer, co-manufacturer, or post-manufacturing modifier in any legal action.

c. If the dispute settlement body determines that a consumer is entitled to relief under this act, the consumer shall be entitled to a refund as authorized by section 4 of this act.

d. In any informal dispute settlement procedure established pursuant to this section:

(1) Participating arbitrators shall be trained in arbitration and familiar with the provisions of this act.

(2) Documents shall not be submitted to any dispute settlement body unless the documents have been provided to each of the parties in the dispute at least seven days prior to commencement of the dispute settlement hearing. The parties shall be given the opportunity to comment on the documents in writing or with oral presentation.

(3) No party shall participate in the informal dispute settlement procedure unless all other parties are also present and given an opportunity to be heard, or unless the other parties consent to proceeding without their presence and participation.

(4) A consumer shall be given an adequate opportunity to contest a manufacturer's, co-manufacturer's, or post-manufacturing modifier's assertion that a nonconformity falls within intended specifications for the vehicle by having the basis of this claim appraised by a technical expert selected and paid for by the consumer prior to the informal dispute settlement procedure. If the dispute settlement body rules in favor of the consumer, his costs and reasonable attorney's fees shall also be awarded.

(5) A dispute shall not be heard if there has been a recent attempt by the manufacturer, co-manufacturer, or post-manufacturing modifier to repair a consumer's vehicle, but no response has yet been received by the dispute settlement body from the consumer as to whether the repairs were successfully completed. This provision shall not prejudice a consumer's right under this section.

(6) The manufacturer, co-manufacturer, or post-manufacturing modifier shall provide, and the dispute settlement body shall consider, any relevant technical service bulletins which have been issued by the manufacturer, co-manufacturer, or post-manufacturing modifier regarding motor vehicles of the same make and model as the vehicle that is the subject of the dispute.

e. Any manufacturer, co-manufacturer, or post-manufacturing modifier who establishes, or participates in, an informal dispute settlement procedure, whether it meets the requirements of this section or not, shall maintain, and forward to the director at six-month intervals, the following records:

(1) The number of purchase price and lease price refunds requested, the number awarded by the dispute settlement body, the amount of each award and the number of awards satisfied in a timely manner;

(2) The number of awards in which additional repairs or a warranty extension was the most prominent remedy, the amount or value of each award, and the number of awards satisfied in a timely manner;

(3) The number and total dollar amount of awards in which some form of reimbursement for expenses or compensation for losses was the most prominent remedy, the amount or value of each award and the number of awards satisfied in a timely manner; and

(4) The average number of days from the date of a consumer's initial request to use the manufacturer's, co-manufacturer's, or post-manufacturing modifier's informal dispute settlement procedure until the date of the deci-

sion and the average number of days from the date of the decision to the date on which performance of the award was satisfied.

9. Section 9 of P.L.1988, c.123 (C.56:12-37) is amended to read as follows:

C.56:12-37 Dispute resolution.

9. a. A consumer shall have the option of submitting any dispute arising under section 4 of this act to the division for resolution, including, in the case of an authorized emergency vehicle, a dispute between a manufacturer, co-manufacturer, or post-manufacturing modifier regarding the source of nonconformities and resulting liability to the consumer. The director may establish a filing fee, to be paid by the consumer, fixed at a level not to exceed the cost for the proper administration and enforcement of this act. This fee shall be recoverable as a cost under section 14 of this act. Upon application by the consumer and payment of any filing fee, the manufacturer, co-manufacturer, or post-manufacturing modifier shall submit to the State hearing procedure. The filing of the notice in subsection b. of section 5 of P.L.1988, c.123 (C.56:12-33) shall be a prerequisite to the filing of an application under this section.

b. The director shall review a consumer's application for dispute resolution and accept eligible disputes for referral to the Office of Administrative Law for a summary hearing to be conducted in accordance with special rules adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), by the Office of Administrative Law in consultation with the director. Immediately upon acceptance of a consumer's application for dispute resolution, the director shall contact the parties and arrange for a hearing date with the Clerk of the Office of Administrative Law. The hearing date shall, to the greatest extent possible, be convenient to all parties, but shall be no later than 20 days from the date the consumer's application is accepted, unless a later date is agreed upon by the consumer. The Office of Administrative Law shall render a decision, in writing, to the director within 20 days of the conclusion of the summary hearing. The decision shall provide a brief summary of the findings of fact, appropriate remedies pursuant to this act, and a specific date for completion of all awarded remedies. The director, upon a review of the proposed decision submitted by the administrative law judge, shall adopt, reject, or modify the decision no later than 15 days after receipt of the decision. Unless the director modifies or rejects the decision within the 15-day period, the decision of the administrative law judge shall be deemed adopted as the final decision

of the director. If the manufacturer, co-manufacturer, or post-manufacturing modifier unreasonably fails to comply with the decision within the specified time period, that party shall be liable for penalties in the amount of $5,000.00 for each day it unreasonably fails to comply, commencing on the day after the specified date for completion of all awarded remedies.

c. The Office of Administrative Law is authorized to issue subpoenas to compel the attendance of witnesses and the production of documents, papers and records relevant to the dispute.

d. A manufacturer, co-manufacturer, or post-manufacturing modifier, or a consumer may appeal a final decision to the Appellate Division of the Superior Court. An appeal by a manufacturer, co-manufacturer, or post-manufacturing modifier shall not be heard unless the petition for the appeal is accompanied by a bond in a principal sum equal to the money award made by the administrative law judge plus $2,500.00 for anticipated attorney's fees and other costs, secured by cash or its equivalent, payable to the consumer. The liability of the surety of any bond filed pursuant to this section shall be limited to the indemnification of the consumer in the action. The bond shall not limit or impair any right of recovery otherwise available pursuant to law, nor shall the amount of the bond be relevant in determining the amount of recovery to which the consumer shall be entitled. If a final decision resulting in a refund to the consumer is upheld by the court, recovery by the consumer shall include reimbursement for actual expenses incurred by the consumer for the rental of a motor vehicle equivalent to the consumer's motor vehicle and limited to the period of time after which the consumer's motor vehicle was offered to the manufacturer, co-manufacturer, or post-manufacturing modifier for return under this act, except in those cases in which that party made a comparable vehicle available to the consumer free of charge during that period. If the court finds that the manufacturer, co-manufacturer, or post-manufacturing modifier had no reasonable basis for its appeal or that the appeal was frivolous, the court shall award treble damages to the consumer. Failure of the Office of Administrative Law to render a written decision within 20 days of the conclusion of the summary hearing as required by subsection b. of this section shall not be a basis for appeal.

e. The Attorney General shall monitor the implementation and effectiveness of this act and report to the Legislature after three years of operation, at which time a recommendation shall be made either to continue under the procedures set forth in this act or to make such modifications as may be necessary to effectuate the purposes of this act.

10. Section 10 of P.L.1988, c.123 (C.56:12-38) is amended to read as follows:

C.56:12-38 Statistics.

10. a. The Division of Consumer Affairs shall maintain an index of all motor vehicle disputes by make and model. The division shall, at six-month intervals, compile and maintain statistics indicating the record of manufacturer compliance, or, in the case of an authorized emergency vehicle, manufacturer, co-manufacturer, or post-manufacturing modifier compliance, with any settlement procedure decisions. The statistics shall be public record.

b. A manufacturer, co-manufacturer, or post-manufacturing modifier shall provide to the division all information on private arbitration or private buy-back programs maintained or instituted by the manufacturer, co-manufacturer, or post-manufacturing modifier. The information shall include the type and number of vehicles to which these programs apply and the reasons for establishing and maintaining the programs. The manufacturer, co-manufacturer, or post-manufacturing modifier shall provide the division with updated information at six-month intervals.

11. Section 11 of P.L.1988, c.123 (C.56:12-39) is amended to read as follows:

C.56:121-39 Decision binding.

11. A consumer shall not be required to participate in a manufacturer's, or, in the case of an authorized emergency vehicle, a manufacturer's, co-manufacturer's, or post-manufacturing modifier's, informal dispute settlement procedure or the division's summary hearing procedure before filing an action in the Superior Court. However, a decision rendered in a proceeding brought pursuant to the division's summary hearing procedure shall be binding on the consumer and the manufacturer, co-manufacturer, or post-manufacturing modifier, subject to the right of appeal as set forth in subsection d. of section 9 of this act, and shall preclude the institution of any other action in the Superior Court under this act.

12. Section 12 of P.L.1988, c.123 (C.56:12-40) is amended to read as follows:

C.56:12-40 Affirmative defense.

12. It shall be an affirmative defense to a claim under this act that the alleged nonconformity does not substantially impair the use, value, or

safety of the new motor vehicle or that the nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the motor vehicle by anyone other than the manufacturer, or, in the case of an authorized emergency vehicle, the manufacturer, co-manufacturer, or post-manufacturing modifier, or its dealer or distributor.

13. Section 14 of P.L.1988, c.123 (C.56:12-42) is amended to read as follows:

C.56:12-42 Attorney, expert fees; cost.

14. In any action by a consumer against a manufacturer, or, in the case of an authorized emergency vehicle, a manufacturer, co-manufacturer, or post-manufacturing modifier, brought in Superior Court or in the division pursuant to the provisions of this act, a prevailing consumer shall be awarded reasonable attorney's fees, fees for expert witnesses and costs.

14. Section 16 of P.L.1988, c.123 (C.56:12-44) is amended to read as follows:

C.56:12-44 Inherent design defect.

16. A manufacturer, or, in the case of an authorized emergency vehicle, a manufacturer, co-manufacturer, or post-manufacturing modifier, shall certify to the division, within one year of discovery, the existence of any inherent design defect common to all motor vehicles of a particular model or make. Failure to comply with this constitutes an unlawful practice pursuant to section 2 of P.L.1960, c.39 (C.56:8-2).

15. Section 17 of P.L.1988, c.123 (C.56:12-45) is amended to read as follows:

C.56:12-45 Proceedings.

17. The director may institute proceedings against any manufacturer, or, in the case of an authorized emergency vehicle, any manufacturer, co-manufacturer, or post-manufacturing modifier, who fails to comply with any of the provisions of this act.

16. Section 18 of P.L.1988, c.123 (C.56:12-46) is amended to read as follows:

C.56:12-46 No liability, cause of action.

18. a. Nothing in this act shall be construed as imposing any liability on a dealer or distributor, or creating a cause of action by a manufacturer, or, in

the case of an authorized emergency vehicle, a manufacturer, co-manufacturer, or post-manufacturing modifier, against a dealer or distributor, and nothing shall be construed as imposing any liability on a dealer or distributor, or creating a cause of action by a consumer against a dealer or distributor under section 4 of this act.

b. Nothing in this act, in the case of an authorized emergency vehicle and notwithstanding any other law to the contrary, shall be construed as creating, establishing or otherwise imposing joint and several liability for any action under P.L.1988, c.123 (C.56:12-29 et seq.), and a manufacturer, co-manufacturer, or post-manufacturing modifier shall only be liable for that percentage of negligence or fault in that action directly attributable to its respective degree of liability.

17. This act shall take effect immediately.

Approved January 18, 2010.

CHAPTER 325

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

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

1. Section 18 of P.L.1999, c.356 (C.39:5G-1) is amended to read as follows:

C.39:5G-1 Penalties for violations of limousine laws; enforcement.

18. A person who shall own and operate a limousine in any street in this State in violation of the provisions of article 2 of chapter 16 of Title 48 of the Revised Statutes or of Title 39 of the Revised Statutes shall be subject to the following penalties:

a. (1) For operating a limousine without a license issued by a municipality pursuant to R.S.48:16-17, knowingly permitting a driver to operate a limousine without a validly issued driver's license or a validly issued commercial driver license if required pursuant to N.J.A.C.13:21-23.1, failure to have filed an insurance policy in the amount of $1,500,000 which is cur-

rently in force as provided in R.S.48:16-14 or in the amounts required pursuant to section 14 of P.L.1999, c.356 (C.48:16-22.4), operating a limousine in which the number of passengers exceeds the maximum seating capacity as provided in R.S.48:16-13 or section 2 of P.L.1997, c.356 (C.48:16-13.1): a fine of $2,500 for the first offense and a fine of $5000 for the second or subsequent offense;

(2) For operating a limousine without the special registration plates required pursuant to section 12 of P.L.1979, c.224 (C.39:3-19.5), or operating a limousine without the limousine being properly inspected as provided in R.S.39:8-1: a fine of $1,250 for the first offense and a fine of $2,500 for the second or subsequent offense;

(3) For operating a limousine without the attached sideboards required by section 11 of P.L.1999, c.356 (C.48:16-22.1), failure to retain within the limousine appropriate proof of insurance pursuant to R.S.48:16-17 or failure to execute and deliver to the chief administrator the power of attorney required pursuant to R.S.48:16-16: a fine of $250 for the first offense and $500 for the second and subsequent offense;

(4) For failure to be equipped with a two-way communications system, a removable first-aid kit, and an operable fire extinguisher as required by section 11 of P.L.1999, c.356 (C.48:16-22.1), or any other violation of the provisions of article 2 of chapter 16 of Title 48 of the Revised Statutes other than those enumerated in this subsection: a fine of $50 for the first offense and $100 for the second and subsequent offense.

b. Violations of this section shall be enforced and penalties collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court or any municipal court where the violation was detected, or where the defendant was apprehended, shall have jurisdiction to enforce this section. Penalties imposed pursuant to this section shall be in addition to those otherwise imposed according to law. All penalties collected pursuant to the provisions of this section shall be forwarded as provided in R.S.39:5-40 and subsection b. of R.S.39:5-41.

c. State Police officers may enter the property of the operator of a limousine service to conduct an inspection of documents and vehicles upon probable cause that the operator is violating R.S.48:16-14, R.S.48:16-17, R.S.48:16-22, section 11 of P.L.1999, c.356 (C.48:16-22.1), section 14 of P.L.1999, c.356 (C.48:16-22.4), or section 12 of P.L.1979, c.224 (C.39:3-19.5).

2. R.S.48:16-13 is amended to read as follows:

Definitions.

48:16-13. Except as provided in section 2 of P.L.1997, c.356 (C.48:16-13.1), as used in this article:

"Autocab" means a limousine.

"Chief Administrator" means the Chief Administrator of the New Jersey Motor Vehicle Commission.

"Commission" means the New Jersey Motor Vehicle Commission established by section 4 of P.L.2003, c.13 (C.39:2A-4).

"Limousine" means and includes any automobile or motor car used in the business of carrying passengers for hire to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route and with a seating capacity of no more than 14 passengers, not including the driver, provided, that such a vehicle is certified by the manufacturer of the original vehicle and the second-stage manufacturer, if applicable, to conform to all applicable Federal Motor Vehicle Safety Standards promulgated by the United States Department of Transportation pursuant to 49 CFR Part 571 (49 CFR 571.1 et seq.) and 49 CFR Part 567 (49 CFR 567.1 et seq.). In addition, a "Vehicle Emission Control Information" label, which contains the name and trademark of the manufacturer and an unconditional statement of compliance with the emission requirements of the Environmental Protection Agency, shall be present on the vehicle. Nothing in this article contained shall be construed to include taxicabs, hotel buses, buses employed solely in transporting school children or teachers, vehicles owned and operated directly or indirectly by businesses engaged in the practice of mortuary science when those vehicles are used exclusively for providing transportation related to the provision of funeral services, autobuses which are subject to the jurisdiction of the Department of Transportation, or interstate autobuses required by federal or State law or regulations of the Department of Transportation to carry insurance against loss from liability imposed by law on account of bodily injury or death.

"Limousine or livery service" means and includes the business of carrying passengers for hire by limousines.

"Person" means and includes any individual, copartnership, association, corporation or joint stock company, their lessees, trustees or receivers appointed by any court whatsoever.

"Principal place of business" means, in reference to a municipality, the location of the main place of business of the limousine service in the municipality where limousine service is conducted, where limousines are dispatched, or where limousine drivers report for duty.

"Street" means and includes any street, avenue, park, parkway, highway, or other public place.

3. R.S.48:16-17 is amended to read as follows:

Issuance of license to operate limousine; fee.

48:16-17. The clerk of the municipality, in which the owner has his principal place of business, upon the filing of the required insurance policy and the payment of a fee which shall not exceed a total sum of $50 for each limousine service plus $10 for each limousine which is covered under the required insurance policy, shall issue in duplicate a license to operate showing that the owner of the limousine has complied with the terms and provisions of this article.

The license shall recite the name of the insurance company, the number and date of expiration of the policy, a description of every limousine insured thereunder, and the registration number of the same.

The duplicate license shall be filed with the commission before any such car is registered as a limousine.

The original license or a copy thereof shall be retained within the limousine and shall be available for inspection by any law enforcement officer in the State. In addition to the recital of insurance information required on the license pursuant to this section, the owner of a limousine shall attach to the original license or copy thereof retained within the limousine a notarized letter from an insurance company containing the same insurance information required in the recital and the Vehicle Identification Number (VIN) or a notarized certificate of insurance for the particular limousine showing the VIN as well as the limits of insurance coverage, and available insurance card, which shall constitute proof of insurance coverage, and which shall also be available for inspection by any law enforcement officer in the State. A copy of the notarized letter or notarized certificate of insurance shall constitute proof to the chief administrator, that the applicant has complied with the insurance provisions of this section.

4. Section 9 of P.L.2001, c.416 (C.48:16-22.3a) is amended to read as follows:

C.48:16-22.3a Requirements for applicants as driver of limousine, certain passenger vehicles.

9. a. Any person who owns a limousine service, or any other company or service which pairs a passenger automobile, as defined in R.S.39:1-1, and a driver with a private customer to provide prearranged passenger

transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route, including, but not limited to, the use of authorized drivers of rental vehicles to provide such passenger transportation, shall require an applicant for employment as a limousine operator or driver, or as an operator or driver of any other passenger automobile, as defined in R.S.39:1-1, provided through a company or service which pairs a passenger automobile and a driver with a private customer to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route, to provide the applicant's name, address, citizenship status, a form of photographic identification, birth certificate, and such other information as the Chief Administrator of the New Jersey Motor Vehicle Commission (hereinafter the "chief administrator") may require.

b. An applicant subject to the provisions of subsection a. of this section shall submit to being fingerprinted by the Division of State Police in the Department of Law and Public Safety or by agents appointed by or under contract to the division and shall also provide written consent to the performance of a criminal history record background check unless the applicant was previously fingerprinted and had a criminal history background check conducted as part of an application for a Commercial Driver License or a passenger endorsement under a Commercial Driver License or both. The chief administrator is authorized to exchange fingerprint data and photographic identification with and receive criminal history record background information results from the Division of State Police. The division shall inform the chief administrator if an applicant's criminal history record background check reveals a conviction of a disqualifying crime as specified in subsection d. of this section. The applicant shall bear the cost of fingerprinting and the cost for the background checks, including all costs of administering and processing the checks. As used in this section, "criminal history record background check" means a determination of whether a person has a criminal record by cross-referencing that person's name and fingerprint data with those on file with the State Bureau of Identification in the Division of State Police.

c. No applicant shall be permitted to operate or drive a limousine, or any other passenger automobile, as defined in R.S.39:1-1, provided through a company or service which pairs a passenger automobile and a driver with a private customer to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route, unless the applicant is 21 years of age or older and unless the chief administrator provides written notification to the owner

of the limousine service, or any other company or service which pairs a passenger automobile, as defined in R.S.39:1-1, and a driver with a private customer to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route, of the chief administrator's determination that the applicant is qualified for employment as a limousine operator or driver, or as an operator or driver of any other passenger automobile, as defined in R.S.39:1-1, provided through a company or service which pairs a passenger automobile and a driver with a private customer to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route.

d. An applicant shall be disqualified from operating or driving a limousine, or any other passenger automobile, as defined in R.S.39:1-1, provided through a company or service which pairs a passenger automobile and a driver with a private customer to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route, if the applicant's criminal history record background check reveals a record of conviction of any of the following crimes:

(1) In New Jersey or elsewhere any crime as follows: aggravated assault, arson, burglary, escape, extortion, homicide, kidnapping, robbery, aggravated sexual assault, sexual assault or endangering the welfare of a child pursuant to N.J.S.2C:24-4, whether or not armed with or having in his possession any weapon enumerated in subsection r. of N.J.S.2C:39-1, a crime pursuant to the provisions of N.J.S.2C:39-3, N.J.S.2C:39-4 or N.J.S.2C:39-9, or other than a disorderly persons or petty disorderly persons offense for the unlawful use, possession or sale of a controlled dangerous substance as defined in N.J.S.2C:35-2.

(2) In any other state, territory, commonwealth or other jurisdiction of the United States, or any country in the world, as a result of a conviction in a court of competent jurisdiction, a crime which in that other jurisdiction or country is comparable to one of the crimes enumerated in paragraph (1) of subsection d. of this section.

e. The chief administrator is authorized to adopt regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), to effectuate the purposes of this section.

f. The provisions of this section shall apply to persons making applications for employment on or after the effective date of P.L.2001, c.416 (C.48:16-18.1 et al.).

g. If an applicant who has been convicted of one of the crimes enumerated in subsection d. of this section can produce a certificate of rehabili-

tation issued pursuant to section 2 of P.L.2007, c.327, (C.2A:168A-8) or, if the criminal offense occurred outside New Jersey, an equivalent certificate from the jurisdiction where the criminal offense occurred, the criminal offense shall not disqualify the applicant from operating or driving a limousine or any other passenger automobile, as defined in R.S.39:1-1, provided through a company or service which pairs a passenger automobile and a driver with a private customer to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route.

h. Nothing in this section shall be construed to include the owners or operators of taxicabs, hotel buses, buses employed solely in transporting school children or teachers, vehicles owned and operated directly or indirectly by businesses engaged in the practice of mortuary science when those vehicles are used exclusively for providing transportation related to the provision of funeral services, autobuses which are subject to the jurisdiction of the Department of Transportation or interstate autobuses required by federal or State law or regulations of the Department of Transportation to carry insurance against loss from liability imposed by law on account of bodily injury or death.

i. The owner of a limousine service, or any other company or service which pairs a passenger automobile, as defined in R.S.39:1-1, and a driver with a private customer to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route, including, but not limited to, the use of authorized drivers of rental vehicles to provide such passenger transportation, who permits the operation of a limousine, or any other passenger automobile provided through a company or service which pairs a passenger automobile and a driver with a private customer to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route, by a person who the chief administrator has not determined to be qualified for employment pursuant to subsection c. of this section shall be subject to a penalty of $500.

Actions to impose a penalty under this subsection shall be brought, and any such penalty shall be collected, in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court or any municipal court where the violation was detected, or where the defendant was apprehended, shall have jurisdiction to hear any action brought for violation of this subsection. Penalties imposed pursuant to this subsection shall be in addition to those otherwise imposed according to law. All penalties collected pursuant to the provisions of this subsection

shall be forwarded as provided in R.S.39:5-40 and subsection b. of R.S.39:5-41. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense.

C.39:5G-2 Chauffeur endorsement.

5. a. No person shall operate a limousine, or any other passenger automobile, as defined in R.S.39:1-1, provided through a company or service which pairs a passenger automobile and a driver with a private customer to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route, including, but not limited to, the use of authorized drivers of rental vehicles to provide such passenger transportation, in this State unless the person has a chauffeur endorsement. An owner of a limousine service, or any other company or service which pairs a passenger automobile, as defined in R.S.39:1-1, and a driver with a private customer to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route, who permits the operation of a limousine, or any other passenger automobile provided through a company or service which pairs a passenger automobile and a driver with a private customer to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route, by any person who does not hold a chauffeur endorsement shall be subject to a penalty of $500.

Actions to impose a penalty under this subsection shall be brought, and any such penalty shall be collected, in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court or any municipal court where the violation was detected, or where the defendant was apprehended, shall have jurisdiction to hear any action brought for violation of this subsection. Penalties imposed pursuant to this subsection shall be in addition to those otherwise imposed according to law. All penalties collected pursuant to the provisions of this subsection shall be forwarded as provided in R.S.39:5-40 and subsection b. of R.S.39:5-41. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense.

b. To qualify for a chauffeur endorsement, an applicant shall provide the New Jersey Motor Vehicle Commission (hereinafter "the commission") with the applicant's name, home address, citizenship status, photographic identification, birth certificate, and such other information as the Chief Administrator of the New Jersey Motor Vehicle Commission (hereinafter the "chief administrator") may require.

c. The fee for the chauffeur endorsement shall be set by the chief administrator.

d. An applicant shall be required to submit proof that the applicant meets the medical standards for commercial drivers which are contained in 49 CFR 391.41.

e. An applicant shall submit to being fingerprinted by the Division of State Police in the Department of Law and Public Safety or by agents appointed by, or under contract to, the division and shall also provide written consent to the performance of a criminal history record background check unless the applicant was previously fingerprinted and had a criminal history background check conducted as part of an application for a Commercial Driver License or a passenger endorsement under a Commercial Driver License or both. The chief administrator is authorized to exchange fingerprint data and photographic identification with and receive criminal history record background information results from the Division of State Police. The division shall inform the chief administrator if an applicant's criminal history record background check reveals a conviction of a disqualifying crime as specified in subsection g. of this section. The applicant shall bear the cost of fingerprinting and the cost for the background checks, including all costs of administering and processing the checks. As used in this section, "criminal history record background check" means a determination of whether a person has a criminal record by cross-referencing that person's name and fingerprint data with those on file with the State Bureau of Identification in the Division of State Police.

f. No applicant shall be issued a chauffeur endorsement unless the applicant is 21 years of age or older.

g. An applicant shall be disqualified from obtaining a chauffeur endorsement if the applicant's criminal history record background check reveals a record of conviction of any of the following crimes:

(1) In New Jersey or elsewhere any crime as follows: aggravated assault, arson, burglary, escape, extortion, homicide, kidnapping, robbery, aggravated sexual assault, sexual assault or endangering the welfare of a child pursuant to N.J.S.2C:24-4, whether or not armed with or having in his possession any weapon enumerated in subsection r. of N.J.S.2C:39-1, a crime pursuant to the provisions of N.J.S.2C:39-3, N.J.S.2C:39-4, or N.J.S.2C:39-9, or other than a disorderly persons or petty disorderly persons offense for the unlawful use, possession or sale of a controlled dangerous substance as defined in N.J.S.2C:35-2.

(2) In any other state, territory, commonwealth, or other jurisdiction of the United States, or any country in the world, as a result of a conviction in

a court of competent jurisdiction, a crime which in that other jurisdiction or country is comparable to one of the crimes enumerated in paragraph (1) of this subsection.

h. If an applicant who has been convicted of one of the crimes enumerated in paragraph (1) of subsection g. of this section can produce a certificate of rehabilitation issued pursuant to section 2 of P.L.2007, c.327 (C.2A:168A-8) or, if the criminal offense occurred outside New Jersey, an equivalent certificate from the jurisdiction where the criminal offense occurred, the criminal offense will not disqualify the applicant from obtaining a chauffeur endorsement.

i. Nothing in this section shall be construed to require operators of taxicabs, hotel buses, buses employed solely in transporting school children or teachers, vehicles owned and operated directly or indirectly by businesses engaged in the practice of mortuary science when those vehicles are used exclusively for providing transportation related to the provision of funeral services, autobuses which are subject to the jurisdiction of the Department of Transportation or interstate autobuses required by federal or State law or regulations of the Department of Transportation to carry insurance against loss from liability imposed by law on account of bodily injury or death to obtain a chauffeur endorsement pursuant to subsection a. of this section.

j. The chief administrator is authorized to adopt regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this section.

k. "Certification date" means the date on which the chief administrator certifies to the Governor that the Motor Vehicle Automated Transaction System (MATRX) is capable of accommodating the new chauffeur endorsement. The chief administrator shall make such certification when the MATRX system can denote the existence of the endorsement and can monitor and track the status of the endorsement on a person's driving record.

Repealer.

6. On the certification date, section 9 of P.L.2001, c.416 (C.48:16-22.3a) is repealed.

7. This act shall take effect immediately but the provisions of section 4 shall be inoperative until the 91st day following the date of enactment and section 5 shall be inoperative until the certification date.

Approved January 18, 2010.

CHAPTER 326

AN ACT concerning governmental unit public funds deposited in public depositories, amending and supplementing P.L.1970, c.236, and amending P.L.2005, c.199.

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

1. Section 1 of P.L.1970, c.236 (C.17:9-41) is amended to read as follows:

C.17:9-41 Definitions.

1. In this act, unless the context otherwise requires:

"Adequately capitalized" means, with respect to a public depository, "adequately capitalized" as the term is defined in subsection (b) of section 38 of the "Federal Deposit Insurance Act," Pub.L.81-797 (12 U.S.C. s.1831o(b)), and its implementing regulations;

"Association" means any State or federally chartered savings and loan association;

"Capital funds" means (a) in the case of a State bank or national bank or capital stock savings bank, the aggregate of the capital stock, surplus and undivided profits of the bank or savings bank; (b) in the case of a mutual savings bank, the aggregate of the capital deposits, if any, and the surplus of the savings bank; and (c) in the case of an association, the aggregate of all reserves required by any law or regulation, and the undivided profits, if any, of the association;

"Commissioner" means the Commissioner of Banking and Insurance;

"Critically undercapitalized" means, with respect to a public depository, "critically undercapitalized" as the term is defined in subsection (b) of section 38 of the "Federal Deposit Insurance Act," Pub.L.81-797 (12 U.S.C. s.1831o(b)), and its implementing regulations;

"Defaulting depository" means a public depository as to which an event of default has occurred;

"Eligible collateral" means:

(a) Obligations of any of the following:

(1) The United States;

(2) Any agency or instrumentality of the United States, including, but not limited to, the Student Loan Marketing Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corpo-

ration, the Federal National Mortgage Association, the Federal Housing Administration and the Small Business Administration;

(3) The State of New Jersey or any of its political subdivisions;

(4) Any other governmental unit; or

(b) Obligations guaranteed or insured by any of the following, to the extent of that insurance or guaranty:

(1) The United States;

(2) Any agency or instrumentality of the United States, including, but not limited to, the Student Loan Marketing Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Federal Housing Administration and the Small Business Administration;

(3) The State of New Jersey or any of its political subdivisions; or

(c) Obligations now or hereafter authorized by law as security for public deposits;

(d) Obligations in which the State, political subdivisions of the State, their officers, boards, commissions, departments and agencies may invest pursuant to an express authorization under any law authorizing the issuance of those obligations;

(e) Obligations, letters of credit, or other securities or evidence of indebtedness constituting the direct and general obligation of a federal home loan bank or federal reserve bank; or

(f) Any other obligations as may be approved by the commissioner by regulation or by specific approval;

"Event of default" means issuance of an order of a supervisory authority or of a receiver restraining a public depository from making payments of deposit liabilities;

"Governmental unit" means any county, municipality, school district or any public body corporate and politic created or established under any law of this State by or on behalf of any one or more counties or municipalities, or any board, commission, department or agency of any of the foregoing having custody of funds;

"Maximum liability" of a public depository means, with respect to any event of default, a sum equal to 4% of the average daily balance of collected public funds held on deposit by the depository during the three-month period ending on the last day of the month immediately preceding the occurrence of the event of default that exceed the amount of such public fund deposits that are insured by the Federal Deposit Insurance Corporation or by any other agency of the United States which insures deposits made in public depositories;

"Net deposit liability" means the deposit liability of a defaulting depository to a governmental unit after deduction of any deposit insurance with respect thereto;

"Obligations" means any bonds, notes, capital notes, bond anticipation notes, tax anticipation notes, temporary notes, loan bonds, mortgage related securities, or mortgages;

"Public depository" means a State or federally chartered bank, savings bank or an association located in this State or a state or federally chartered bank, savings bank or an association located in another state with a branch office in this State, the deposits of which are insured by the Federal Deposit Insurance Corporation and which receives or holds public funds on deposit;

"Public funds" means the funds of any governmental unit, but does not include deposits held by the State of New Jersey Cash Management Fund;

"Significantly undercapitalized" means, with respect to a public depository, "significantly undercapitalized" as the term is defined in subsection (b) of section 38 of the "Federal Deposit Insurance Act," Pub.L.81-797 (12 U.S.C. s.1831o(b)), and its implementing regulations;

"Undercapitalized" means, with respect to a public depository, "undercapitalized" as the term is defined in subsection (b) of section 38 of the "Federal Deposit Insurance Act," Pub.L.81-797 (12 U.S.C. s.1831o(b)), and its implementing regulations;

"Valuation date" means March 31, June 30, September 30, and December 31;

"Well capitalized" means, with respect to a public depository, "well capitalized" as the term is defined in subsection (b) of section 38 of the "Federal Deposit Insurance Act," Pub.L.81-797 (12 U.S.C. s.1831o(b)), and its implementing regulations.

2. Section 2 of P.L.1970, c.236 (C.17:9-42) is amended to read as follows:

C.17:9-42 Security requirement for public depositories.

2. The receipt and holding of public funds on deposit by a public depository is a voluntary activity undertaken by that depository. However, no governmental unit shall deposit public funds in a public depository unless such funds are secured by the depository, and the depository is otherwise in compliance, or acting in accordance with, this act.

C.17:9-43.1 Eligible collateral requirement for certain public funds.

3. a. (1) Except as set forth in subsection b. of this section concerning extraordinary amounts of public funds on deposit, every public depository

having public funds on deposit therein that are not insured by the Federal Deposit Insurance Corporation or by any other agency of the United States which insures deposits made in public depositories, shall maintain, as security for such deposits, eligible collateral having a market value:

(a) At least equal to 5% of the uninsured public funds on deposit, if the public depository is well capitalized;

(b) At least equal to 30% of the uninsured public funds on deposit, if the public depository is adequately capitalized;

(c) At least equal to 60% of the uninsured public funds on deposit, if the public depository is undercapitalized;

(d) At least equal to 90% of the uninsured public funds on deposit, if the public depository is significantly undercapitalized, or, in the alternative and at the election of the depository, a reduction in the amount of public funds held on deposit, so that the only remaining public funds on deposit after this reduction are insured by the Federal Deposit Insurance Corporation or by any other agency of the United States which insures deposits made in public depositories; or

(e) At least equal to 120% of the uninsured public funds on deposit, if the public depository is critically undercapitalized, or, in the alternative and at the election of the depository, a reduction in the amount of public funds held on deposit, so that the only remaining public funds on deposit after this reduction are insured by the Federal Deposit Insurance Corporation or by any other agency of the United States which insures deposits made in public depositories.

(2) The amount of eligible collateral in relation to the amount of public funds on deposit necessary for a public depository to meet the collateral requirements of paragraph (1) of this subsection shall be measured as: (a) the percentage, set forth under paragraph (1) of this subsection, of the average daily balance of collected, uninsured public funds on deposit during the three-month period ending on the immediately preceding valuation date; or (b), at the election of the depository, the percentage, set forth under paragraph (1) of this subsection, of the average balance of collected, uninsured public funds on deposit on the first, eighth, fifteenth and twenty-second days of each month in the three-month period ending on the immediately preceding valuation date.

b. (1) Every public depository having public funds on deposit therein in excess of $200,000,000 that are not insured by the Federal Deposit Insurance Corporation or by any other agency of the United States which insures deposits made in public depositories shall maintain, as security for such excess, uninsured deposits, eligible collateral having a market value at least

equal to 100% of the average daily balance of those collected, uninsured public funds on deposit during the three-month period ending on the immediately preceding valuation date, or, at the election of the depository, at least equal to 100% of the average balance of those collected, uninsured public funds on deposit on the first, eighth, fifteenth and twenty-second days of each month in the three-month period ending on the immediately preceding valuation date.

(2) A public depository shall not at any time receive and hold on deposit for any period in excess of 15 days public funds of a governmental unit or governmental units which, in the aggregate, exceed 75% of the capital funds of the depository, unless such depository shall, in addition to the security required to be maintained under this section, secure such excess by eligible collateral with a market value at least equal to 100% of such excess.

4 Section 4 of P.L.1970, c.236 (C.17:9-44) is amended to read as follows:

C.17:9-44 Amount of collateral required as security; exceptions.

4. a. (1) No public depository, notwithstanding the collateral requirements set forth under section 3 of P.L.2009, c.326 (C.17:9-43.1), shall be required to maintain any eligible collateral pursuant to this act as security for any deposit or deposits of any governmental unit to the extent that such deposit or deposits are insured by the Federal Deposit Insurance Corporation or by any other agency of the United States which insures deposits made in public depositories.

(2) In the case of any public depository which has not held public funds on deposit for all of a three-month period as measured pursuant to the provisions of section 3 of P.L.2009, c.326 (C.17:9-43.1), the commissioner shall, notwithstanding the provisions of that section, prescribe the amount of eligible collateral required to be maintained.

(3) Depositories shall have the right to make substitutions of eligible collateral at any time. The income from eligible collateral shall belong to the public depository without restriction.

b. (Deleted by amendment, P.L.2009, c.326)

c. All collateral required to be maintained shall be deposited with any Federal Reserve Bank or Federal Home Loan Bank, or any other banking institution located in this State or a contiguous state as authorized by regulation of the commissioner, and which has capital funds of not less than $25,000,000.00. Notwithstanding the foregoing, the commissioner may

authorize public depositories to hold and maintain the required collateral in such a manner as he deems consistent with the purposes of this act.

d. The market value of eligible collateral maintained pursuant to this section on any valuation date shall be presumed to be the market value of such collateral continuing until the next succeeding valuation date.

5. Section 3 of P.L.1970, c.236 (C.17:9-43) is amended to read as follows:

C.17:9-43 Powers of commissioner.

3. The commissioner shall have power:

a. To require any public depository to furnish financial information on a quarterly basis, due on the same day as the due date for filing a call report on a depository's overall condition under federal or state law with the appropriate federal banking agency or state bank supervisor, as defined by subsections (q) and (r) of section 3 of the "Federal Deposit Insurance Act," Pub.L.81-797 (12 U.S.C. s.1813(q) and (r)); however, the commissioner shall prescribe filing dates on a quarterly basis, if the applicable federal or state law reporting requirements no longer require the filing of a call report on a quarterly basis. This information shall be furnished on a form and in a format as the commissioner shall prescribe by regulation. The information shall include, but not be limited to, public funds on deposit, eligible collateral pledged as security for public funds on deposit, measurements of capital adequacy or ratios, and liquidity, as well as such other information as the commissioner shall request. Any public depository which refuses or neglects to give any information so requested may be excluded by the commissioner from the right to receive public funds for deposit until such time as the commissioner shall acknowledge that such depository has furnished the information requested;

b. To take such action as the commissioner deems best for the protection, collection, compromise, or settlement of any claim arising in case of an event of default;

c. To fix the date on which an event of default shall be deemed to have occurred, taking into consideration the orders, rules and regulations of any supervisory authority as they affect the failure or inability of a public depository to repay public funds held on deposit;

d. Upon the happening of an event of default, to take possession of and liquidate the collateral of the defaulting depository maintained pursuant to section 4 of this act;

e. To do all acts required to carry out the purposes of this act and, to that end, to make, amend and repeal regulations consistent with this act;

f. To engage the services of one or more consultants, advisors, or other experts deemed necessary by the commissioner to assist in carrying out the administration and enforcement of the "Governmental Unit Deposit Protection Act," P.L.1970, c.236 (C.17:9-41 et seq.);

g. To require any public depository with public funds on deposit: (1) to authorize the release of its most recent examination report, prepared by the depository's appropriate federal banking agency or state bank supervisor, as defined by subsections (q) and (r) of section 3 of the "Federal Deposit Insurance Act," Pub.L.81-797 (12 U.S.C. s.1813(q) and (r)), to the commissioner, or otherwise furnish a certified copy thereof; or

(2) if the report or copy thereof described in paragraph (1) of this subsection is not available, to submit (a) an annual certification from the depository's outside auditor, stating that the depository is in compliance with the requirements of the "Governmental Unit Deposit Protection Act," P.L.1970, c.236 (C.17:9-41 et seq.), including all collateral requirements, or (b) any other annual statement already required by federal or state law, deemed acceptable by the commissioner, stating the depository's compliance as required by this paragraph;

h. To designate any information obtained by, or disclosed to, the commissioner under the "Governmental Unit Deposit Protection Act," P.L.1970, c.236 (C.17:9-41 et seq.), as confidential and not a public record subject to public inspection, examination, or copying under the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.);

i. To require any public depository, other than a public depository paying assessments pursuant to section 3 of P.L.2005, c.199 (C.17:1C-35), to pay to the commissioner, through electronic means, an annual fee to be dedicated to the operations of the department in connection with the administration and enforcement of the "Governmental Unit Deposit Protection Act," P.L.1970, c.236 (C.17:9-41 et seq.). This fee shall be prescribed by the commissioner by regulation and based on the amount of public funds on deposit in the public depository, but shall not exceed $500 for any public depository with only public funds on deposit that are insured by the Federal Deposit Insurance Corporation or by any other agency of the United States which insures deposits made in public depositories, or $6,000 for any public depository with $1,000,000,000 or more in public funds on deposit.

6. Section 7 of P.L.1970, c.236 (C.17:9-47) is amended to read as follows:

C.17:9-47 Operative date.

7. The provisions of this act shall become operative on December 1, 1970, but the commissioner may issue appropriate regulations in advance thereof. The provisions of P.L.2009, c.326 (C.17:9-43.1 et al.), amending and supplementing the "Governmental Unit Deposit Protection Act," P.L.1970, c.236 (C.17:9-41 et seq.), shall become operative on July 1, 2010, but the commissioner may issue appropriate regulations in advance thereof.

7. Section 13 of P.L.2005, c.199 (C.17:1C-45) is amended to read as follows:

C.17:1C-45 Exemption from certain fees and charges; remittance.

13. a. Notwithstanding any law or regulation to the contrary, a regulated entity paying the amounts assessed to it in statements of the assessment made pursuant to section 3 of this act shall be exempt from all fees or charges imposed by the division pursuant to any other provision of law or regulation, except for:

(1) charter fees;

(2) application fees for licenses;

(3) (Deleted by amendment, P.L.2009, c.53)

(4) fees for entry by a foreign depository institution whether from another state of the United States or from another country into New Jersey for branch, trust or other activities;

(5) (Deleted by amendment, P.L.2009, c.326)

(6) fees charged any entity not chartered, licensed or registered by this State, including but not limited to activities conducted by foreign banks pursuant to section 316 of P.L.1948, c.67 (C.17:9A-316) or foreign associations pursuant to section 214 of P.L.1963, c.144 (C.17:12B-214); and

(7) fees charged qualified corporations authorized pursuant to section 213 of P.L.1948, c.67 (C.17:9A-213) to perform either registrar and transfer agent activities or activities permitted for qualified educational institutions.

b. Nothing in this section shall exempt a regulated entity from paying any fine or penalty imposed by the commissioner for a violation of a statute or regulation.

c. Except as provided in paragraph (1) of subsection d. of section 7 of the "New Jersey Home Ownership Security Act of 2002," P.L.2003, c.64 (C.46:10B-28), and subsection i. of section 3 of the "Governmental Unit Deposit Protection Act," P.L.1970, c.236 (C.17:9-43), all fees, charges, fines and penalties as described in subsections a. and b. of this subsection shall be remitted to the State Treasurer for deposit into the General Fund,

and those fees, charges, fines and penalties shall not be part of the assessment funding mechanism or considered in the calculation pursuant to section 15 of this act.

8. This act shall take effect immediately.

Approved January 18, 2010.

CHAPTER 327

AN ACT concerning "the workers' compensation security fund," amending and supplementing various parts of the statutory law, and repealing R.S.34:15-109, R.S.34:15-110 and R.S.34:15-118.

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

C.34:15-105.1 Workers' compensation security fund transferred.

1. The workers' compensation security fund created pursuant to R.S.34:15-105, along with all its functions, powers and duties and all its assets, liabilities and balances, is hereby transferred to the New Jersey Property-Liability Insurance Guaranty Association, established pursuant to P.L.1974, c.17 (C.17:30A-1 et seq.).

2. R.S.34:15-105 is amended to read as follows:

Workers' compensation security fund.

34:15-105. There is hereby created a fund to be known as "the workers' compensation security fund," for the purpose of assuring to persons entitled thereto the compensation provided by this chapter, R.S.34:15-1 et seq., or the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. s. 901 et seq.), or both, for employments insured in insolvent carriers and for the purpose of providing money for first year annual adjustments for benefit payments and supplemental payments during fiscal years 1984 and 1985 provided for by P.L.1980, c.83 (C.34:15-95.4 et al.). Such fund shall be applicable to the payment of valid claims for compensation or death benefits arising from a standard, primary workers' compensation policy heretofore or hereafter made pursuant to this chapter or the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33

U.S.C. s. 901 et seq.), and remaining unpaid, in whole or in part, by reason of the default, after March 26, 1935, of an insolvent carrier. Expenses of administration also shall be paid from the fund as herein provided. Such fund shall consist of all contributions received and paid into the fund by carriers, as herein defined, all property and securities acquired by and through the use of moneys belonging to the fund, and of interest earned upon moneys deposited or invested as herein provided. The fund shall be administered by the New Jersey Property-Liability Guaranty Association in accordance with the provisions of this chapter.

Compensation pursuant to the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. s.901 et seq.), shall be payable under this article only with respect to coverage or risks located or resident in this State. The insolvency, bankruptcy, or dissolution of the insured shall effect a termination of compensation provided under this article for claims arising under the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. s.901 et seq.).

3. R.S.34:15-106 is amended to read as follows:

Annual returns by carriers; "net written premiums" defined.

34:15-106. Every carrier shall annually file with the Commissioner of Banking and Insurance returns, under oath, on a form to be prescribed and furnished by the commissioner, stating the amount of net written premiums on policies issued, renewed or extended by such carrier, to insure payment of compensation pursuant to this chapter or the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. s.901 et seq.), as authorized by this article. For the purposes of this article "net written premiums" shall mean gross written premiums less return premiums on policies returned not taken, and on policies canceled.

4. R.S.34:15-107 is amended to read as follows:

Contributions to the fund.

34:15-107. For the privilege of carrying on the business of workers' compensation insurance in this State, every carrier shall pay into the fund a sum equal to one per cent of its net written premiums as shown by the return hereinbefore prescribed for the period covered by such return.

5. R.S.34:15-111 is amended to read as follows:

Payment of claims; application; recovery.

34:15-111. A valid claim for compensation or death benefits, or installments thereof, heretofore or hereafter made pursuant to this chapter or the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. s.901 et seq.), as authorized by this article, which has remained or shall remain due and unpaid for 60 days, by reason of default by an insolvent carrier, shall be paid from the fund in the manner provided in this section. Any person in interest may file with the New Jersey Property-Liability Insurance Guaranty Association an application for payment of compensation or death benefits from the fund on a form to be prescribed and furnished by the New Jersey Property-Liability Insurance Guaranty Association. If there has been an award, final or otherwise, a certified copy thereof shall accompany the application.

Any person recovering under R.S.34:15-103 et seq. shall be deemed to have assigned his rights under the policy to the fund to the extent of his recovery from the fund. Every insured or claimant seeking the protection of R.S.34:15-103 et seq. shall cooperate with the fund to the same extent as that person would have been required to cooperate with the insolvent carrier. The fund shall have no cause of action against the insured employer or the insolvent carrier for any sums it has paid out, except those causes of action that the insolvent carrier would have had if those sums had been paid by the insolvent carrier, including, but not limited to, the right to receive the benefit of, and to enforce any and all obligations on the part of the insured, to either fund directly (or indirectly through a third party administrator), or secure the payment of, compensation due under the policies of the insolvent carrier, to the extent of claims paid. The foregoing vests the fund with an exclusive cause of action against the insured and includes the right to enforce against the insured the rights of the carrier with respect to any obligation of the insured to reimburse the carrier for deductibles or pay claims within a deductible. Further, the fund is vested with a first lien in any collateral provided by the insured to the carrier to secure the insured's performance, to the extent of claims paid by the fund, which lien can be perfected by notice to the liquidator. In the case of an insolvent insurer operating on a plan with an assessment liability, payments of claims of the fund shall not operate to reduce the liability of insureds to the receiver, liquidator or statutory successor for unpaid assessments.

The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by settlements of covered claims by the fund or its representatives. The court having jurisdiction shall grant a claim priority equal to that to which the claimant would have been entitled in the absence of

R.S.34:15-103 et seq. against the assets of the insolvent carrier. The expenses of the fund or similar organization in handling claims shall be accorded the same priority as the liquidator's expenses.

Except as otherwise provided in this section, an employer may pay such award or part thereof in advance of payment from the fund and shall thereupon be subrogated to the rights of the employee or other party in interest against the fund to the extent of the amount so paid.

The New Jersey Property-Liability Insurance Guaranty Association shall be entitled to recover the sum of all liabilities of such insolvent carrier assumed by such fund from such carrier, its receiver, liquidator, rehabilitator or trustee in bankruptcy and may prosecute an action or other proceedings therefor. All moneys recovered in any such action or proceedings shall forthwith be placed to the credit of the fund to reimburse the fund to the extent of the moneys so recovered and paid.

6. Section 2 of P.L.1974, c.17 (C.17:30A-2) is amended to read as follows:

C.17:30A-2 Payment of covered claims.

2. a. The purpose of this act is to provide a mechanism for the payment of covered claims under certain insurance policies, to avoid excessive delay in payment, to minimize financial loss to claimants or policyholders because of the insolvency of an insurer, to assist in the detection and prevention of insurer insolvencies, to provide an association to assess the cost of such protection among insurers, and to provide a mechanism to run off, manage, administer and pay claims asserted against the Unsatisfied Claim and Judgment Fund, created pursuant to P.L.1952, c.174 (C.39:6-61 et seq.), the New Jersey Automobile Full Insurance Underwriting Association, created pursuant to P.L.1983, c.65 (C.17:30E-1 et seq.), the Market Transition Facility, created pursuant to section 88 of P.L.1990, c.8 (C.17:33B-11), and "the workers' compensation security fund," created pursuant to R.S.34:15-105.

b. This act shall apply to all kinds of direct insurance, except life insurance, accident and health insurance, workers' compensation insurance, except as provided by P.L.2009, c.327 (C.34:15-105.1 et al.), title insurance, annuities, surety bonds, credit insurance, mortgage guaranty insurance, municipal bond coverage, fidelity insurance, investment return assurance, ocean marine insurance and pet health insurance.

C.17:30A-2.2 Findings, declarations relative to transfer, consolidation of "the workers' compensation security fund."

7. The Legislature finds and declares that:

a. It is in the public interest to authorize the transfer and consolidation of compatible operations of "the workers' compensation security fund" to the New Jersey Property-Liability Insurance Guaranty Association.

b. Following the transfer to the New Jersey Property-Liability Insurance Guaranty Association of its respective management, administrative and claim functions, "the workers' compensation security fund" shall continue to exist as a separate legal entity subject to the provisions of P.L.2009, c.327 (C.34:15-105.1 et al.).

c. The New Jersey Property-Liability Insurance Guaranty Association will administer the obligations of "the workers' compensation security fund" pursuant to R.S.34:15-105 et seq., and take over all governance, administrative and financial functions of "the workers' compensation security fund," including the claim payment function.

d. The New Jersey Property-Liability Insurance Guaranty Association is formally designated as the servicing facility for several statutory entities for which it currently provides administrative services and also for "the workers' compensation security fund."

8. Section 6 of P.L.1974, c.17 (C.17:30A-6) is amended to read as follows:

C.17:30A-6 New Jersey Property-Liability Insurance Guaranty Association.

6. There is created a private, nonprofit, unincorporated, legal entity to be known as the New Jersey Property-Liability Insurance Guaranty Association. All insurers defined as member insurers in section 5 shall be and remain members of the association as a condition of their authority to transact insurance in this State. The association shall perform its functions under a plan of operation established and approved under section 9 and shall exercise its powers through a board of directors established under section 7.

The association is also authorized and shall have all of the powers necessary and appropriate for the management and administration of the affairs of the New Jersey Surplus Lines Insurance Guaranty Fund, in accordance with the provisions of the "New Jersey Surplus Lines Insurance Guaranty Fund Act," P.L.1984, c.101 (C.17:22-6.70 et seq.).

The association is also authorized and shall have all of the powers necessary and appropriate for the management and administration of the affairs of, and the payment of valid claims asserted against: the Unsatisfied Claim

and Judgment Fund, created pursuant to the provisions of P.L.1952, c.174 (C.39:6-61 et seq.); the New Jersey Automobile Full Insurance Underwriting Association, created pursuant to the provisions of P.L.1983, c.65 (C.17:30E-1 et seq.); the Market Transition Facility created pursuant to the provisions of section 88 of P.L.1990, c.8 (C.17:33B-11); and "the workers' compensation security fund" created pursuant to R.S.34:15-105.

9. Section 8 of P.L.1974, c.17 (C.17:30A-8) is amended to read as follows:

C.17:30A-8 Association's obligations, powers and duties.

8. a. The association shall:

(1) Be obligated to the extent of the covered claims against an insolvent insurer incurred prior to or 90 days after the determination of insolvency, or before the policy expiration date if less than 90 days after said determination, or before the insured replaces the policy or causes its cancellation, if he does so within 90 days of the determination, except that in the case of private passenger automobile insurance, the commissioner may, depending upon factors such as the level of that insurance written by the insolvent insurer, the volume of claims arising under that insurance, and conditions currently relating to the voluntary market for that insurance in this State, order the association to treat all or a portion of claims arising under that insurance as covered claims if they are incurred prior to or after the determination of insolvency, but before the policy expiration date or the date upon which the insured replaces the policy or causes its cancellation, and otherwise qualify as covered claims under the act. That obligation shall include only that amount of each covered claim which is less than $300,000.00 per claimant and subject to any applicable deductible and self-insured retention contained in the policy, except that the $300,000.00 limitation shall not apply to a covered claim arising out of insurance coverage mandated by section 4 of P.L.1972, c.70 (C.39:6A-4), or to a valid claim for compensation or death benefits arising out of workers' compensation insurance coverage under R.S.34:15-1 et seq. or under the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. s.901 et seq.). In the case of benefits payable under subsection a. of section 4 of P.L.1972, c.70 (C.39:6A-4), the association shall be liable for payment of benefits in an amount not to exceed the amount set forth in section 4 of P.L.1972, c.70 (C.39:6A-4). In the case of workers' compensation claims, the association shall administer the payment of valid claims with respect to the injury or death of workers under R.S.34:15-1 et seq., or the federal "Longshore and

Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. s.901 et seq.), arising from insurance coverage of risks located or resident in this State, as provided in R.S.34:15-105 and secured through a standard, primary workers' compensation policy. The commissioner may pay a portion of or defer the association's obligations for covered claims based on the monies available to the association. In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the limits of liability stated in the policy of the insolvent insurer from which the claim arises. Any obligation of the association to defend an insured shall cease upon the association's payment or tender of an amount equal to the lesser of the association's covered claim statutory limit or the applicable policy limit;

(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 amounts necessary to pay:

(a) The obligations of the association under paragraphs (1) and (11) of this subsection;

(b) The expenses of handling covered claims;

(c) The cost of examinations under section 13; and

(d) Other expenses authorized by this act.

The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment bears to the net direct written premiums of all member insurers for the calendar year preceding the assessment.

Each member insurer shall be notified of the assessment not later than 30 days before it is due. No member insurer of the association may be assessed pursuant to this paragraph (3) in any year in an amount greater than 2% of that member insurer's net direct written premiums for the calendar year preceding the assessment with regard to the association's obligation to pay covered claims and related expenses arising under coverages issued by insolvent insurers pursuant to P.L.1974, c.17 (C.17:30A-1 et seq.).

The association may, subject to the approval of the commissioner, exempt, abate or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. In the event an assessment against a member insurer is exempted, abated, or deferred, in whole or in part, because of the limitations set forth in this section, the amount by which such assessment is exempted, abated, or deferred shall be

assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. If the maximum assessment, together with the other assets of the association, does not provide in any one year an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as it is permitted by this act. Each member insurer serving as a servicing facility may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by such member insurer;

(4) Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims and may review settlements, releases and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which such settlements, releases and judgments may be properly contested;

(5) Notify such persons as the commissioner directs under paragraph (1) of subsection b. of section 10 of P.L.1974, c.17 (C.17:30A-10);

(6) Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but such designation may be declined by a member insurer. The association is designated as a servicing facility for the administration of claim obligations of: (a) the New Jersey Surplus Lines Insurance Guaranty Fund; (b) the New Jersey Medical Malpractice Reinsurance Association; (c) the Unsatisfied Claim and Judgment Fund; and (d) "the workers' compensation security fund." The association may also be designated or may contract as a servicing facility for any other entity which may be recommended by the association's board of directors and approved by the commissioner;

(7) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this act;

(8) Make loans to the New Jersey Surplus Lines Insurance Guaranty Fund, the Unsatisfied Claim and Judgment Fund, and "the workers' compensation security fund" in such amounts and on such terms as the board of directors may determine are necessary or appropriate to effectuate the purposes of P.L.1974, c.17 (C.17:30A-1 et seq.), P.L.1984, c.101 (C.17:22-6.70 et seq.), P.L.1952, c.174 (C.39:6-61 et seq.) and R.S.34:15-103 et seq. in accordance with the plan of operation; provided, however, no such loan transaction shall be authorized to the extent the federal tax exemption of the

association or any entity for which it serves as administrator would be withdrawn or the association or any such serviced entity would otherwise incur any federal tax or penalty as a result of such transaction;

(9) (Deleted by amendment, P.L.2004, c.175.)

(10) (Deleted by amendment, P.L.2004, c.175.)

(11) Reimburse an insurer for medical expense benefits in excess of $75,000 per person per accident as provided in section 2 of P.L.1977, c.310 (C.39:6-73.1) for injuries covered under an automobile insurance policy issued prior to January 1, 2004;

(12) Undertake all of the management, administrative, and claims activities of the Unsatisfied Claim and Judgment Fund, created pursuant to P.L.1952, c.174 (C.39:6-61 et seq.), the New Jersey Automobile Full Insurance Underwriting Association, created pursuant to P.L.1983, c.65 (C.17:30E-1 et seq.), the Market Transition Facility, created pursuant to section 88 of P.L.1990, c.8 (C.17:33B-11) and "the workers' compensation security fund," created pursuant to R.S.34:15-105.

b. The association may:

(1) Employ or retain such persons as are necessary to handle claims and perform such other duties of the association;

(2) Borrow and separately account for funds from any source, including, but not limited to, the New Jersey Surplus Lines Insurance Guaranty Fund, the Unsatisfied Claim and Judgment Fund, and "the workers' compensation security fund," in such amounts and on such terms, as the board of directors may determine are necessary or appropriate to effectuate the purpose of this act in accordance with the plan of operation; provided, however, no such borrowing transaction shall be authorized to the extent the federal tax exemption of the association or any entity for which it serves as administrator would be withdrawn or the association or any such serviced entity would otherwise incur any federal tax or penalty as a result of such transaction;

(3) Sue or be sued;

(4) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this act;

(5) Perform such other acts as are necessary or proper to effectuate the purpose of this act;

(6) Refund to the member insurers in proportion of the contribution of each member insurer that amount by which the assets exceed the liabilities if, at the end of any calendar year, the board of directors finds that the assets of the association exceed the liabilities, as estimated by the board of directors for the coming year.

10. Section 9 of P.L.1974, c.17 (C.17:30A-9) is amended to read as follows:

C.17:30A-9 Plan of operation.

9. a. (1) The association shall submit to the commissioner a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendments thereto shall become effective upon approval in writing by the commissioner;

(2) If the association fails to submit a plan of operation acceptable to the commissioner within 90 days following the effective date of this act, or if at any time thereafter the association fails to submit an acceptable amendment to the plan, the commissioner shall, after notice and hearing adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this act. Such rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

b. All member insurers shall comply with the plan of operation.

c. The plan of operation shall:

(1) Establish the procedures whereby all the powers and duties of the association under section 8 of this act will be performed;

(2) Establish procedures for handling assets of the association;

(3) Establish the amount and method of reimbursing members of the board of directors under section 7 of this act;

(4) Establish procedures by which claims may be filed with the association and establish acceptable forms of proof of covered claims. Notice of claims to the receiver or liquidator of the insolvent insurer shall be deemed notice to the association or its agent and a list of such claims shall be periodically submitted to the association by the receiver or liquidator;

(5) Establish regular places and times for meetings of the board of directors;

(6) Establish procedures for records to be kept in all financial transactions of the association, its agents, and the board of directors;

(7) Provide that any member insurer aggrieved by any final action or decision of the association may appeal to the commissioner within 30 days after the action or decision;

(8) Establish the procedures whereby selections for the board of directors will be submitted to the commissioner;

(9) Contain additional provisions necessary or proper for the execution of the powers and duties of the association;

(10) Establish procedures for the transition and consolidation of compatible functions of the Unsatisfied Claim and Judgment Fund, the New Jersey Automobile Full Insurance Underwriting Association, the Market Transition Facility, and "the workers' compensation security fund" in order to eliminate redundant operational activities and promote greater efficiencies in claims handling and other operations;

(11) Establish procedures as necessary or proper to finance the operation of and account for receipts and disbursements as well as other financial transactions involving the Unsatisfied Claim and Judgment Fund, the New Jersey Automobile Full Insurance Underwriting Association, the Market Transition Facility, and "the workers' compensation security fund";

(12) Create such advisory boards as necessary or proper to assist in the administration and management of the operations of the Unsatisfied Claim and Judgment Fund.

d. The plan of operation may provide that any or all powers and duties of the association except those under sections 8a.(3) and 8b.(2), are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this association, or its equivalent. Such a corporation, association or organization shall be reimbursed as a servicing facility would be reimbursed and shall be paid for its performance of the functions of the association. A delegation under this subsection shall take effect only with the approval of both the board of directors and the commissioner, and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by this act.

Repealer.

11. R.S.34:15-109, R.S.34:15-110, and R.S.34:15-118 through 34:15-120 are repealed.

12. This act shall take effect on July 1, 2009.

Approved January 18, 2010.

CHAPTER 328

AN ACT concerning the sentencing and incarceration of convicted offenders, addressing the impact of certain related matters on women and families, amending and supplementing various parts of the statutory law, and repealing section 3 of P.L.1999, c.427.

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

1. Section 5 of P.L.1997, c.14 (C.44:10-48) is amended to read as follows:

C.44:10-48 Eligibility of citizens, eligible aliens.

5. a. Only those persons who are United States citizens or eligible aliens shall be eligible for benefits under the Work First New Jersey program. Single adults or couples without dependent children who are legal aliens who meet federal requirements and have applied for citizenship, shall not receive benefits for more than six months unless (1) they attain citizenship, or (2) they have passed the English language and civics components for citizenship, and are awaiting final determination of citizenship by the federal Immigration and Naturalization Service.

b. The following persons shall not be eligible for assistance and shall not be considered to be members of an assistance unit:

(1) non-needy caretakers, except that the eligibility of a dependent child shall not be affected by the income or resources of a non-needy caretaker;

(2) Supplemental Security Income recipients, except for the purposes of receiving emergency assistance benefits pursuant to section 8 of P.L.1997, c.14 (C.44:10-51);

(3) illegal aliens;

(4) other aliens who are not eligible aliens;

(5) a person absent from the home who is incarcerated in a federal, State, county or local corrective facility or under the custody of correctional authorities, except as provided by regulation of the commissioner;

(6) a person who: is fleeing to avoid prosecution, custody or confinement after conviction, under the laws of the jurisdiction from which the person has fled, for a crime or an attempt to commit a crime which is a felony or a high misdemeanor under the laws of the jurisdiction from which the person has fled; or is violating a condition of probation or parole imposed under federal or state law;

(7) a person convicted on or after August 22, 1996 under federal or state law of any offense which is classified as a felony or crime, as appropriate, under the laws of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the federal "Controlled Substances Act" (21 U.S.C. s.802 (6)), who would otherwise be eligible for general public assistance pursuant to P.L.1947, c.156 (C.44:8-107 et seq.); except that such a

person who is convicted of any such offense which has as an element the possession or use only of such a controlled substance may be eligible for Work First New Jersey general public assistance benefits if the person enrolls in or has completed a licensed residential drug treatment program. Eligibility for benefits shall commence upon the person's enrollment in the drug treatment program, and shall continue during the person's active participation in, and upon completion of, the drug treatment program, except that during the person's active participation in a drug treatment program and the first 60 days after completion of a drug treatment program, the commissioner shall provide for testing of the person to determine if the person is free of any controlled substance. If the person is determined to not be free of any controlled substance during the 60-day period, the person's eligibility for benefits pursuant to this paragraph shall be terminated; except that this provision shall not apply to the use of methadone by a person who is actively participating in a drug treatment program, as prescribed by the drug treatment program. The commissioner, in consultation with the Commissioner of Health and Senior Services, shall adopt regulations to carry out the provisions of this paragraph, which shall include the criteria for determining active participation in and completion of a drug treatment program.

Cash benefits, less a personal needs allowance, for a person receiving general public assistance benefits under the Work First New Jersey program who is enrolled in and actively participating in a licensed residential drug treatment program shall be issued directly to the drug treatment provider to offset the cost of treatment. Upon completion of the drug treatment program, the cash benefits shall be then issued to the person. In the case of a delay in issuing cash benefits to a person receiving Work First New Jersey general public assistance benefits who has completed the drug treatment program, the drug treatment provider shall transmit to the person those funds received on behalf of that person after completion of the drug treatment program;

(8) a person found to have fraudulently misrepresented his residence in order to obtain means-tested, public benefits in two or more states or jurisdictions, who shall be ineligible for benefits for a period of 10 years from the date of conviction in a federal or state court; or

(9) a person who intentionally makes a false or misleading statement or misrepresents, conceals or withholds facts for the purpose of receiving benefits, who shall be ineligible for benefits for a period of six months for the first violation, 12 months for the second violation, and permanently for the third violation.

c. A person who makes a false statement with the intent to qualify for benefits and by reason thereof receives benefits for which the person is not eligible is guilty of a crime of the fourth degree.

d. Pursuant to the authorization provided to the states under 21 U.S.C. s.862a(d)(1), this State elects to exempt from the application of 21 U.S.C. s.862a(a):

(1) needy persons and their dependent children domiciled in New Jersey for the purposes of receiving benefits under the Work First New Jersey program and food assistance under the federal "Food and Nutrition Act of 2008," Pub.L.110-234 (7 U.S.C. s.2011 et seq.); and

(2) single persons and married couples without dependent children domiciled in New Jersey for the purposes of receiving food assistance under Pub.L.110-234.

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

Procedure on sentence; presentence investigation and report.

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

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

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

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

(2) the defendant has a prior conviction for murder pursuant to N.J.S.2C:11-3, aggravated sexual assault or sexual assault pursuant to N.J.S.2C:14-2, kidnapping pursuant to N.J.S.2C:13-1, endangering the welfare of a child which would constitute a crime of the second degree pursuant to N.J.S.2C:24-4, or stalking which would constitute a crime of the third degree pursuant to section 1 of P.L.1992, c.209 (C.2C:12-10); or

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

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

The presentence report shall also include a report on any compensation paid by the Victims of Crime Compensation Agency as a result of the commission of the offense and, in any case where the victim chooses to provide one, a statement by the victim of the offense for which the defendant is being sentenced. The statement may include the nature and extent of any physical harm or psychological or emotional harm or trauma suffered by the victim, the extent of any loss to include loss of earnings or ability to work suffered by the victim and the effect of the crime upon the victim's family. The probation department shall notify the victim or nearest relative of a homicide victim of his right to make a statement for inclusion in the presentence report if the victim or relative so desires. Any such statement shall be made within 20 days of notification by the probation department.

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

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

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

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

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

3. a. There is established a Commission to Examine Strategies for Strengthening the Familial Bond Between Children and Incarcerated Parents.

The commission shall consist of 21 members as follows:

(1) two members of the Senate to be appointed by the President of the Senate who shall each be of different political parties;

(2) two members of the General Assembly to be appointed by the Speaker of the General Assembly who shall each be of different political parties;

(3) the Commissioners of Corrections, Education, Community Affairs, Human Services, and Children and Families, the Chairman of the State Parole Board, and the Executive Director of the Juvenile Justice Commission, or their designees, who shall serve ex-officio;

(4) eight public members appointed by the Governor who shall include a representative of the Association for Children of New Jersey, a representative of Legal Services of New Jersey, a representative of the law enforcement community, a child protection services caseworker with experience in working with children of incarcerated parents, a licensed social worker with experience or expertise in working with incarcerated parents and their fami-

lies, a parent of a child whose other parent is incarcerated, a person whose parent has been incarcerated, and a member of the clergy; and

(5)two public members with an interest in children's issues, one of whom shall be appointed by the President of the Senate and one of whom shall be appointed by the Speaker of the General Assembly.

b. Vacancies in the membership of the commission shall be filled in the same manner provided for in the original appointments. The public members of the commission shall serve without compensation but may be reimbursed for travel and other miscellaneous expenses necessary to perform their duties, within the limits of funds made available to the commission for its purposes.

c. The commission shall organize as soon as practicable but no later than 60 days following the appointment of its members and shall select a chairperson and vice-chairperson from among the members. The chairperson shall appoint a secretary who need not be a member of the commission.

d. The commission may meet at the call of its chair and hold hearings at the times and in the places it may deem appropriate and necessary to fulfill its charge. The commission shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purposes.

e. The commission may seek the advice of experts, such as persons specializing in the fields of psychology, education, criminal or family law or other related fields as deemed appropriate by the membership of the commission.

f.The Office of Legislative Services shall provide staff services and other necessary support to the commission.

g. The commission shall examine the policies, procedures and operations of the State and county correctional systems in order to develop recommendations regarding the most effective methods of:

(1) developing strategies for strengthening the familial bond between children and incarcerated parents, when strengthening the familial bond is in the best interests of the child; and

(2) reducing antisocial behavior and attachment disorders of children of incarcerated parents and the intergenerational cycle of criminality common among families of incarcerated parents.

h. The commission shall present a report of its findings and recommendations to the Governor and the Legislature no later than 12 months after the date of its initial meeting. The commission shall expire 30 days after the filing of the report.

4. Section 5 of P.L.1976, c.98 (C.30:1B-5) is amended to read as follows:

C.30:1B-5 Deputy and assistants; administrative divisions, personnel.

5. a. The commissioner may appoint one deputy and such assistant commissioners as he shall deem necessary to serve at the pleasure of the commissioner. Each deputy or assistant commissioner shall exercise such powers and perform such duties as the commissioner shall prescribe. The commissioner shall designate one department official to exercise the powers and perform the duties of the commissioner during his disability or absence. Notwithstanding the provisions of this subsection, the commissioner shall designate an assistant commissioner who shall be responsible for establishing and monitoring policies affecting incarcerated mothers with children. The assistant commissioner may be chosen by the commissioner from among the current employees of the department and may continue the duties and responsibilities of his regular employment in addition to the duties and responsibilities of the assistant commissioner position as provided in this subsection.

b. The commissioner shall have the authority to establish, organize and maintain in the department such administrative divisions to perform all necessary personnel, planning, budget and finance, facilities and equipment services for the department and to assign such personnel thereto as he shall deem necessary.

C.30:4-8.6 Assignment of inmates in proximity to family.

5. During initial classification, the commissioner shall make every effort to assign an inmate to a State correctional facility in close proximity to the residence of the inmate's family.

C.30:4-8.7 Incarceration of female inmates.

6. The commissioner shall not confine a female inmate in the same correctional facility as a male inmate if that confinement subjects the female inmate to conditions more oppressive or restrictive than conditions to which male inmates are subjected.

C.30:4-8.8 Submission of complaints concerning female inmates.

7. The commissioner shall semiannually submit all inmate complaints submitted to the department concerning female inmates to the Director of the Division on Women in the Department of Community Affairs established pursuant to the "Division on Women Act of 1974," P.L.1974, c.87

(C.52:27D-43.8 et seq.). This shall be in addition to the requirement that the commissioner semiannually compile and submit all records of all inmate complaints to the Public Advocate pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as section 2 of Assembly Bill No. 4199 or Senate Bill No. 531).

C.30:4-8.9 Defendant advised of child support orders, judgments.

8. The Department of Corrections, through the Office of Transitional Services, shall, in addition to any other information provided during the intake process to a defendant sentenced to a period of incarceration, advise the defendant about any child support orders and judgments entered against him by the New Jersey Superior Court, and provide information on how he may petition the court for a temporary modification of these financial obligations. The Administrative Office of the Courts shall provide sample forms and instructions for the self-represented modification of child support orders to the Department of Corrections.

C.30:4-8.10 Posting of change in visitation privileges on website.

9. a. Whenever there is a change in the status of an inmate incarcerated in a State correctional facility which affects the visitation privileges of that inmate, the correctional facility shall immediately post that change of status on its website. This information shall remain on the website until those visitation rights have been restored.

b. If the change in status in visitation is due to the relocation of the inmate to another facility, the change shall be noted on the website of the facility from which the inmate has been transferred and shall remain on the website for two weeks. The posting shall include the name, address, telephone number, and website address of the facility to which the inmate has been transferred.

Repealer.

10. Section 3 of P.L.1999, c.427 (C.44:10-48.1) is repealed.

11. This act shall take effect on the first day of the fourth month after enactment, except that section 3 shall expire on the 30th day after the commission presents its report to the Governor and the Legislature.

Approved January 18, 2010.

CHAPTER 329

AN ACT concerning inmates and formerly incarcerated persons, amending P.L.1969, c.22 and supplementing Titles 30 and 52 of the Revised Statutes.

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

C.30:1B-6.1 Short title.

1. Sections 1 and 2 of this act may be known and shall be cited as the "Fair Release and Reentry Act of 2009."

C.30:1B-6.2 Information provided to inmate prior to release.

2. The Commissioner of Corrections shall provide to each inmate at least ten days prior to release from a State correctional facility:

a. A copy of the inmate's criminal history record and written information on the inmate's right to have his criminal records expunged under chapter 52 of Title 2C of the New Jersey Statutes;

b. General written information on the inmate's right to vote under R.S.19:4-1;

c. General written information on the availability of programs, including faith-based and secular programs, that would assist in removing barriers to the inmate's employment or participation in vocational or educational rehabilitative programs, including, but not limited to information concerning the "Rehabilitated Convicted Offenders Act," P.L.1968, c.282 (C.2A:168A-1 et seq.) and the certificate of rehabilitation under P.L.2007, c.327 (C.2A:168A-7 et seq.);

d. A detailed written record of the inmate's participation in educational, training, employment, and medical or other treatment programs while the inmate was incarcerated;

e. A written accounting of the fines, assessments, surcharges, restitution, penalties, child support arrearages, and any other obligations due and payable by the inmate upon release;

f. A non-driver identification card, which shall be issued by the New Jersey Motor Vehicle Commission and for which the Motor Vehicle Commission shall accept a former inmate's Department of Corrections identification card to have a two-point value in applying for the non-driver identification card;

g. A copy of the inmate's birth certificate if the inmate was born in New Jersey;

h. Assistance in obtaining a Social Security card;

i. A one-day New Jersey bus or rail pass;

j. A two-week supply of prescription medication;

k. General written information concerning child support, including child support payments owed by the inmate, information on how to seek child support payments and information on where to seek services regarding child support, child custody, and establishing parentage; and

l. A copy of the inmate's full medical record at no charge to the inmate made available to the inmate in a safe and secure manner.

C.30:4-91.15 Program to record and analyze recidivism.

3. a. The Commissioner of Corrections, in conjunction with the Juvenile Justice Commission and the State Parole Board, shall establish a program to record and analyze the recidivism of all inmates and juveniles adjudicated delinquent who are released from a State correctional facility or a training school for juveniles, whether on parole or upon the completion of their maximum sentences. The purpose of this program shall be to assist in measuring the effectiveness of the State's reentry initiatives and programs.

b. The program shall record the arrests for all offenses committed by releasees within three years following their release and any convictions resulting from the arrests. These data shall be analyzed to determine whether the rates and nature of rearrests and convictions differ according to the criminal histories and personal characteristics of releasees, the treatment they received while confined, length of sentence, conditions of parole, participation and involvement in reentry initiatives and programs, and such other factors as may be relevant to the purposes of this section, including, but not limited to, race, gender, ethnicity, and age.

c. The commissioner shall prepare and disseminate semi-annual reports summarizing the recidivism rates, patterns, and other findings and analyses resultant of the information gathered pursuant to this section. These reports shall be available to the general public. To facilitate the accessibility of these reports to the general public, the commissioner shall, to the greatest extent possible, utilize the Internet.

d. The commissioner shall annually prepare and transmit to the Governor and the Legislature a summary of the recommendations set forth in the reports prepared pursuant to subsection c. of this section, along with any recommendations the department, Juvenile Justice Commission or the State Parole Board may have for legislation to improve the effectiveness of the State's reentry initiatives and programs.

C.30:1B-6.3 Coordinator for Reentry and Rehabilitative Services.

4. a. The Commissioner of Corrections shall designate a staff member as Coordinator for Reentry and Rehabilitative Services. The coordinator shall be qualified by training and experience to perform the duties of this position. The coordinator may be chosen by the commissioner from among the current employees of the department and the chosen employee may continue the duties and responsibilities of the current position in addition to the duties and responsibilities of the coordinator position as provided in this section.

b. The coordinator shall compile and disseminate to inmates information concerning organizations and programs, whether faith-based or secular programs, which provide assistance and services to inmates reentering society after a period of incarceration. In compiling this information, the coordinator shall consult with non-profit entities, including but not limited to the New Jersey Institute for Social Justice, that provide informational services concerning reentry, the Executive Director of the Office of Faith-based Initiatives in the Department of State, and the Public Advocate.

c. The coordinator shall ensure that inmates are made aware of and referred to organizations which provide services in the county where the inmate is to reside after being released from incarceration. The coordinator shall assist inmates in gaining access to programs and procuring the appropriate services.

d. The coordinator may employ professional and clerical staff as necessary within the limits of available appropriations.

C.30:1B-6.4 Notification to inmate of outstanding fines, assessments, warrants, detainers.

5. At the time of release from a State correctional facility, every inmate shall be notified in writing of all outstanding fines, assessments, and restitution charges ordered as part of that inmate's sentence, as well as any outstanding warrants or detainers.

To assist in an inmate's transition and reentry into the community, no inmate shall be required to pay any portion of any outstanding fine, assessment, or restitution ordered as part of that inmate's sentence during the first 90 days following his release. During that 90-day period no warrant shall be issued against the inmate for any nonpayment of any such fine, assessment, or restitution. Nothing in this section shall be construed to diminish or in any way impair the inmate's responsibility for paying all such outstanding fines, assessments, and restitutions ordered by the court.

6. Section 4 of P.L.1969, c.22 (C.30:4-91.4) is amended to read as follows:

C.30:4-91.4 Withdrawals from inmate's account.

4. The commissioner, as a part of any work release program for an inmate, shall require that any wages, salary, earnings and other income of each gainfully employed prisoner be paid, less payroll deductions required or authorized by law, to the superintendent of the institution who shall deposit such sums so received to the credit of such inmate in a trust fund account at such institution. From such trust fund account belonging to any inmate the superintendent of the institution is empowered to withdraw moneys, in an amount not to exceed one-half the total income, as follows:

The superintendent shall withdraw up to one-third of that amount in order to collect assessments, restitutions and fines pursuant to the requirements of section 3 of P.L.1979, c.396 (C.2C:46-4).

The superintendent may withdraw up to two-thirds of that amount as may be required to pay the following:

(a) Such costs of maintenance related to the prisoner's confinement as are determined by the State Board of Control to be appropriate and reasonable, including costs and fees charged or owing pursuant to section 2 of P.L.1995, c.254 (C.30:7E-2).

(b) Necessary travel expenses to and from work or other business and incidental expenses of the prisoner.

(c) Support of the prisoner's dependents, if necessary.

(d) (Deleted by amendment, P.L.1991, c.329).

(e) Payment of either in full or ratably of the prisoner's debts which have been reduced to judgment or which have been acknowledged in writing by him.

(f) The balance, if any, shall be paid to the prisoner in accordance with section 7 of P.L.2009, c.329 (C.30:4-91.16) at the completion of the period of his confinement.

C.30:4-91.16 Transfer of account balance to inmate upon release.

7. a. The commissioner shall, at least 30 days prior to an inmate's release from confinement, assist the inmate in establishing a consumer checking account pursuant to the provisions of P.L.1991, c.210 (C.17:16N-1 et seq.). The inmate may be issued a basic debit card by the bank. For the purposes of this section, "debit card" means any instrument or device, whether known as a debit card, automated teller machine card, or by any other name, issued with or without fee by an issuer for the use of the debit card holder in obtain-

ing money, goods, services or anything else of value through the electronic authorization of a financial institution to debit the debit card holder's account. "Debit card holder" means a consumer named on the face of a debit card to whom or for whose benefit the debit card is issued by an issuer.

b. Upon an inmate's release, the balance remaining in the inmate account administered by the correctional facility, following all payments and withdrawals pursuant to section 4 of P.L.1969, c.22 (C.30:4-91.4), shall be transferred into the consumer checking account established pursuant to this section.

c. Nothing in this section shall be construed to require an inmate to establish a consumer checking account. The commissioner shall not be required to establish a consumer checking account if the inmate chooses not to establish such an account pursuant to this section. Any consumer checking account or debit card provided under this section shall be established or issued in a manner that is consistent with State and federal law and regulation.

d. The commissioner, in consultation with the Commissioner of Banking and Insurance, and pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations necessary to implement and effectuate the purposes of P.L.2009, c.329 (C.30:1B-6.1 et al.).

C.52:17B-171.12 Reinstatement of juvenile in Medicaid program upon release.

8. The Juvenile Justice Commission shall ensure that prior to the scheduled date of release of a juvenile from a detention facility or a facility in which the juvenile was incarcerated, the appropriate staff at the facility notify the applicable county welfare agency to process the reinstatement of the juvenile in the Medicaid program if the juvenile was enrolled in Medicaid prior to detention or incarceration and continues to meet eligibility requirements for the program.

As used in this act, "Medicaid" means the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

C.30:4-91.17 Reinstatement of inmate into Medicaid program upon release.

9. The Commissioner of Corrections shall ensure that at least 30 days prior to the scheduled date of release of an inmate from a correctional institution in the State, the appropriate staff at the institution notify the applicable county welfare agency to process the reinstatement of the inmate in the Medicaid program if the inmate was enrolled in Medicaid prior to incarceration and continues to meet eligibility requirements for the program.

As used in this act, "Medicaid" means the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

C.30:4-6.2 "Prisoner Reentry Commission."

10. a. To assist and advise in issues pertaining to prisoner reentry, there is established in the Department of Corrections an advisory commission to be known as the "Prisoner Reentry Commission." The purpose of the commission shall be to review, study, and offer solutions to problems facing prisoners re-entering society, including, but not limited to determining whether:

(1) New Jersey should seek a federal waiver under Section 1115 of the Social Security Act to expand Medicaid eligibility to non-disabled adults, to leverage additional federal funds in order to target high risk populations;

(2) Health care and treatment resources for former prisoners are adequate and if not, methods by which they can be improved;

(3) The prison population can be incorporated fully into New Jersey's workforce development strategy; and

(4) Sources of funding intended for the same populations and communities could be tapped, coordinated and leveraged effectively.

b. In addition, the commission shall:

(1) Evaluate and provide recommendations for special issues concerning juvenile reentry;

(2) Evaluate and make recommendations concerning current law on juvenile waiver; and

(3) Evaluate and provide recommendations for inter-agency communication, information sharing, and problem solving.

c. (1) The advisory commission shall consist of 18 members as follows:

(a) The Attorney General or his designee, who shall serve ex officio;

(b) The Secretary of State or his designee, who shall serve ex officio;

(c) The Commissioner of Corrections or his designee, who shall serve ex officio;

(d) The Commissioner of Human Services or his designee, who shall serve ex officio;

(e) The Commissioner of Labor and Workforce Development or his designee, who shall serve ex officio;

(f) The Commissioner of Community Affairs or his designee, who shall serve ex officio;

(g) The Commissioner of Education or his designee, who shall serve ex officio;

(h) Two members of the Senate, to be appointed by the President of the Senate, who shall each be of different political parties;

(i) Two members of the General Assembly, to be appointed by the Speaker of the General Assembly, who shall each be of different political parties;

(j) The Chairman of the State Parole Board or his designee, who shall serve ex officio;

(k) The Executive Director of the Juvenile Justice Commission or his designee, who shall serve ex officio;

(l) The Executive Director of the Housing and Mortgage Finance Agency or his designee, who shall serve ex officio;

(m) The New Jersey Public Defender or his designee, who shall serve ex officio;

(n) One representative from the New Jersey Institute for Social Justice; and

(o) Two public members, who by experience or training have expertise in issues facing former prisoners, to be appointed by the Governor.

(2) The Governor shall designate one member as chairman and two members as vice-chairmen of the commission from among the members listed in this subsection.

(3) The public members shall be appointed for a five-year term. Vacancies in the membership of the advisory commission shall be filled in the same manner provided for in the original appointments. The members of the advisory commission shall serve without compensation but may be reimbursed for travel and other miscellaneous expenses necessary to perform their duties, within the limits of funds made available to the advisory commission for its purposes.

(4) A member of the commission may be removed for good cause.

d. The commission may meet at the call of its chair and hold hearings at the times and in the places it may deem appropriate and necessary to fulfill its charge. The advisory commission shall be entitled to call to its assistance, and avail itself of the services of, the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purposes.

e. The commission shall annually submit a report to the Governor and the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) along with any recommendations it deems appropriate, including any legislative proposals it may wish to make.

C.30:4-123.96 "Blue Ribbon Panel for Review of Long-Term Prisoners' Parole Eligibility."

11. a. (1) There is hereby created in the State Parole Board a committee known as the "Blue Ribbon Panel for Review of Long-Term Prisoners' Parole Eligibility." The committee shall be comprised of six members who are residents of this State, who shall have served as judges, prosecutors or pub-

lic defenders but are not currently serving as judges, prosecutors or public defenders. The members of the committee shall be appointed by the Governor, without regard to the appointees' political affiliations and shall be subject to removal by the Governor at any time for good and sufficient cause. The chairperson of the committee shall be designated by the Governor.

(2) The members appointed by the Governor pursuant to this section shall be appointed for terms of six years. All appointed members shall serve after the expiration of their terms until their respective successors are appointed and shall qualify. Vacancies shall be filled for the unexpired term.

(3) Members of the committee shall receive no compensation for services, but shall be reimbursed for actual expenditures incurred in the performance of their duties.

b. It shall be the duty of the committee to consider if prisoners who have been incarcerated and served more than 20 years of their sentences should be eligible for parole and submit any recommendations for parole to the appropriate parole board panel with a written recommendation regarding the case. The committee shall have discretion to determine whether to consider a prisoner's case and the committee shall also have the discretion to make recommendations regarding any case that the committee has considered.

12. This act shall take effect the first day of the fourth month following enactment; provided that the Commissioner of Corrections, the Commissioner of Banking and Insurance, the Executive Director of the Juvenile Justice Commission, and the Chairman of the State Parole Board may take any anticipatory action prior to the effective date necessary to implement the provisions of this act.

Approved January 18, 2010.

CHAPTER 330

AN ACT concerning inmates, revising various parts of the statutory law and supplementing Title 30 of the Revised Statutes.

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

C.30:4-92.1 Mandatory workforce skills training program.

1. The Commissioner of Corrections, in consultation with the Commissioner of Labor and Workforce Development, shall establish a mandatory workforce skills training program in each State correctional facility under the jurisdiction of the Department of Corrections.

a. The requirement of participating in a workforce skills training program shall apply to an inmate who:

(1) is in the custody of the Department of Corrections on the effective date of P.L.2009, c.330 (C.30:4-92.1 et al.);

(2) has 18 months or more remaining to be served before a mandatory release date; and

(3) is not exempted due to a medical, developmental, or learning disability.

b. The mandatory workforce skills training program requirement may be deferred for an inmate who is serving a sentence exceeding 10 years.

c. The workforce skills training program shall contain a computer literacy component, including instruction on word processing, typing, Internet navigation, and use of e-mail.

d. An inmate who satisfactorily participates in the mandatory workforce skills training program shall be eligible for commutation time for good behavior pursuant to R.S.30:4-140 or credits for diligent application to work and other institutional assignments pursuant to R.S.30:4-92.

e. The commissioner shall report to the State Parole Board the progress of an inmate participating in the mandatory workforce skills training program.

f. The commissioner, in consultation with the Commissioner of Labor and Workforce Development, shall promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) the rules and regulations that are necessary to implement the provisions of P.L.2009, c.330 (C.30:4-92.1 et al.). These rules and regulations shall include, but not be limited to, provisions to:

(1) determine when an inmate shall be exempted from the mandatory workforce skills training requirement due to a medical, developmental, or learning disability as authorized under paragraph (3) of subsection a. of this section; and

(2) authorize these exempted inmates to voluntarily participate in the mandatory workforce skills training program.

C.30:4-92.2 Program of mandatory education.

2. a. The Commissioner of Corrections, in consultation with the Commissioner of Education, shall establish a program of mandatory education

in each State correctional facility under the jurisdiction of the Department of Corrections for each inmate who fails to attain a minimal educational standard.

b. The minimal educational standard set forth in subsection a. of this section shall be the attainment of a high school equivalency certificate or high school diploma.

c. Consistent with the phase-in schedule adopted by the commissioner pursuant to subsection h. of this section, the requirement of attaining a minimal educational standard shall apply to an inmate who:

(1) is in the custody of the Department of Corrections on and after the effective date of P.L.2009, c.330 (C.30:4-92.1 et al.);

(2) has 18 months or more remaining to be served before a mandatory release date;

(3) is not exempted due to a medical, developmental, or learning disability; and

(4) does not possess a high school equivalency certificate or high school diploma.

d. The mandatory education requirement may be deferred for an inmate who is serving a sentence exceeding 10 years.

e. An inmate who satisfactorily participates in the mandatory education program shall be eligible for commutation time for good behavior pursuant to R.S.30:4-140 or credits for diligent application to work and other institutional assignments pursuant to R.S.30:4-92.

f. The commissioner shall report to the State Parole Board the academic progress of an inmate participating in the mandatory education program.

g. The commissioner may utilize digital technology and on-line education methods to meet the mandatory education requirement established by this section provided these alternate methods are documented to be as effective with inmate populations as live instruction.

h. The commissioner shall establish a schedule for the incremental implementation of the minimal educational standard required by this section. As hereinafter provided, the schedule shall consist of five foundation stages and shall provide for the full implementation of the minimal educational standard within five years of the effective date of this act.

(1) Stage One: The Prisoner Reentry Commission, established pursuant to section 10 of P.L.2009, c.329 (C.30:4-6.2), shall prepare a report outlining and assessing the availability of innovative technology, volunteer services and private sector resources the Department of Corrections may utilize to support and enhance in-prison education programs. In preparing

this report, the commission, in consultation with the Department of Corrections and the Department of Education, shall prepare an inventory of the in-house educational programs currently available to inmates, the curricula for those programs, and the educational materials utilized. The report shall be submitted to the Commissioner of Corrections and the Commissioner of Education, along with any recommendations the commission may have, not later than the first day of the 12th month following the effective date of P.L.2009, c.330 (C.30:4-92.1 et al.).

(2) Stage Two: Beginning in the 13th month following the effective date of P.L.2009, c.330 (C.30:4-92.1 et al.), the commissioner shall initiate a program designed to raise the literacy level of inmates scheduled for release within three years to a ninth grade level. The program shall utilize, to the greatest extent feasible, available technology, volunteer services and private sector resources.

(3) Stage Three: Beginning in the 25th month following the effective date of P.L.2009, c.330 (C.30:4-92.1 et al.), the commissioner shall initiate a program designed to raise the literacy level of inmates scheduled to be released within 10 years to a ninth grade level. The program shall utilize, to the greatest extent feasible, available technology, volunteer services and private sector resources.

(4) Stage Four: Beginning in the 48th month following the effective date of P.L.2009, c.330 (C.30:4-92.1 et al.), the commissioner shall initiate a program designed to raise the literacy level of inmates scheduled to be released within 10 years to a 12th grade level. The program shall utilize, to the greatest extent feasible, available technology, volunteer services and private sector resources.

(5) Stage Five: Beginning in the 60th month following the effective date of P.L.2009, c.330 (C.30:4-92.1 et al.), the commissioner shall initiate a program designed to raise the literacy level of all inmates to a 12th grade level. The program shall utilize, to the greatest extent feasible, available technology, volunteer services and private sector resources.

i. The commissioner, in consultation with the Commissioner of Education, shall promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) the rules and regulations that are necessary to implement the provisions of P.L.2009, c.330 (C.30:4-92.1 et al.). These rules and regulations shall include, but not be limited to, provisions to:

(1) determine when an inmate shall be exempted from the mandatory education program due to a medical, developmental, or learning disability as authorized under paragraph (3) of subsection c. of this section;

(2) authorize these exempted inmates to voluntarily participate in the mandatory education program; and

(3) offer and encourage these exempted inmates who possess the capability to participate in an alternate educational program.

C.30:4-92a Special credits.

3. In addition to credits received pursuant to R.S.30:4-92 and R.S.30:4-140, the commissioner also may award inmates special credits to provide further remission from time of sentence for achievements in education and workforce training.

4. R.S.30:4-127 is amended to read as follows:

Visitation of certain institutions; application to Superior Court judge.

30:4-127. a. An assignment judge of the Superior Court may grant, on a written application to him of a majority of the board of managers of the State Charities Aid Association of New Jersey, to such person as may be named in such application an order enabling such person to visit, inspect and examine, on behalf of such association, any of the county, town, township or city prisons, jails, penitentiaries, and reformatories, located within any of the counties of which he is the assignment judge. Every such order shall specify the institutions to be visited, inspected and examined, and the name of the person by whom the visitation, inspection and examination are to be made, and shall be in force for one year from the date on which it shall have been granted, unless sooner revoked.

b. A person convicted of a crime or offense in this State, or another state or jurisdiction, who has completed his sentence, and who seeks to visit persons incarcerated in a State correction facility for motivational purposes, but has been denied access to that facility, may apply to the Superior Court for an order granting access to that, or any other, State correctional facility. A copy of the written application shall be served on the Commissioner of Corrections at the same time it is filed with the court. A judge of the Superior Court may grant the relief requested in the application and issue an order granting the applicant access to the State correctional facility, or facilities, cited in the application; provided, the applicant successfully establishes that the visits are for motivational purposes and are likely to be beneficial to the rehabilitation of certain inmates incarcerated in that facility, or facilities, as the case may be, and if the commissioner provides no valid objections to the court identifying safety or security concerns associated with the applicant being granted access to a particular facility, or facilities.

C.30:4-91.18 Establishment of mentoring program.

5. The Department of Corrections shall establish a program within each prison facility to provide for the mentoring of inmates who have been in the department's custody for a continuous uninterrupted period of less than two years. The program shall utilize inmates who have been in the department's custody for a continuous uninterrupted period of more than 10 years to provide the mentoring services, provided that such inmates have demonstrated to the commissioner and the supervisor of the facility wherein they are incarcerated that they can serve as positive role models to inmates being mentored pursuant to this section.

6. Section 12 of P.L.1979, c.441 (C.30:4-123.56) is amended to read as follows:

C.30:4-123.56 Schedule of future parole eligibility dates; statement of denial.

12. a. The board shall develop a schedule of future parole eligibility dates for adult inmates denied release at their eligibility date. In developing such schedule, particular emphasis shall be placed on the severity of the offense for which he was denied parole and on the characteristics of the offender, such as, but not limited to, the prior criminal record of the inmate and the need for continued incapacitation of the inmate, however, in no case shall any parole eligibility date scheduled pursuant to this subsection be more than three years following the date on which an inmate was denied release.

b. If the release on the eligibility date is denied, the board panel which conducted the hearing shall refer to the schedule published pursuant to subsection a., and include in its statement denying parole notice of the date of future parole consideration. If such date differs from the date otherwise established by the schedule, the board panel shall include particular reasons therefor, however, in no case shall such date be more than three years following the date on which the inmate was denied release. The future parole eligibility date shall not be altered to take into account remissions of sentence for good behavior and diligent application to work and other assignments; provided however, the future parole eligibility date may be altered pursuant to section 8 of P.L.1979, c. 441 (C.30:4-123.52).

c. An inmate shall be released on parole on the new parole eligibility date unless information filed pursuant to a procedure identical to that set forth in section 10 of P.L.1979, c.441 (C.30:4-123.54) indicates by a preponderance of the evidence that the inmate has failed to cooperate in his or her own rehabilitation or that there is a reasonable expectation that the inmate will violate conditions of parole imposed pursuant to section 15 of

P.L.1979, c.441 (C.30:4-123.59) if released on parole at that time. The determination of whether the inmate shall be released on the new parole eligibility date shall be made pursuant to the procedure set forth in section 11 of P.L.1979, c.441 (C.30:4-123.55) and this section.

For the purposes of this subsection, "failed to cooperate in his or her own rehabilitation" shall include, in the case of an inmate who suffers from mental illness as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2) that does not require institutionalization, that the inmate failed to fully participate in or cooperate with all prescribed treatment offered during incarceration.

7. Section 23 of P.L.1979, c.441 (C.30:4-123.67) is amended to read as follows:

C.30:4-123.67 Parole contract agreements resulting in reduction of term of parole.

23. a. The appropriate board panel and the Department of Corrections or the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) shall enter into formal parole contract agreements with officials of the board, officials of the Department of Corrections or the Juvenile Justice Commission and individual parolees or inmates reduced to writing and signed by all parties, which parole contract agreements stipulate individual programs of education, training, or other activity which shall result in a specified reduction of the parolee's parole term pursuant to section 22 of P.L.1979, c.441 (C.30:4-123.66) or the inmate's primary parole eligibility date pursuant to section 8 of P.L.1979, c.441 (C.30:4-123.52), upon such successful completion of the program. The formal parole contract agreements required under this subsection shall be entered into within two months of an inmate's admission to a correctional facility.

b. Any parolee or inmate shall be permitted to apply to the board for such an agreement. The board panel shall accept all such applications. The board panel shall approve any application consistent with eligibility requirements promulgated by the board pursuant to section 4 of P.L.1979, c.441 (C.30:4-123.48). The commission may, by regulation, specify eligibility requirements for agreements with juvenile parolees and inmates and the procedures for effecting such agreements and reviewing juveniles' application for such agreements.

c. Upon approval of the parolee or inmate's application, the board panel shall be responsible for specifying the components necessary for any such agreement. Upon acceptance of the agreement by the Department of Corrections or by the commission, by the board panel and by the parolee or

the inmate, the board panel shall reduce the agreement to writing and monitor compliance with the parole contract agreement at least once every 12 months. The parolee or inmate and the Department of Corrections or the Juvenile Justice Commission shall be given a copy of any such agreement.

d. Any such agreement shall be terminated by the board panel in the event the parolee or inmate fails to or refuses to satisfactorily complete each component of the agreement. The inmate or parolee shall be notified in writing of any such termination and the reasons therefor. Any such termination may be appealed to the full board pursuant to section 14 of P.L.1979, c.441 (C.30:4-123.58).

C.30:4-123.51d Early release under certain circumstances.

8. a. An inmate sentenced to a term of incarceration in a State correctional institution who (1) has declined to participate in the parole consideration hearing process or (2) has been denied parole release pursuant to the provisions of section 11 of P.L.1979, c.441 (C.30:4-123.55) shall, notwithstanding the provisions of section 12 of P.L.1979, c. 441 (C.30:4-123.56), be released on parole on a date which precedes the date on which the aggregate of the inmate's court imposed term of incarceration is to end by six months; provided, however, that the early release authorized under the provisions of this subsection shall not apply to any inmate subject to a judicial or statutory mandatory minimum term of incarceration. An inmate subject to a mandatory minimum term of incarceration shall remain in the custody of the Commissioner of Corrections until the completion of that term.

b. In computing the date on which the inmate's court imposed term of incarceration is to end, the calculations shall include any reductions for good behavior remitted to the inmate in accordance with the provisions of R.S.30:4-140 and credits for diligent application to work and other institutional assignments granted the inmate pursuant to R.S.30:4-92; provided, however, that commutation time for good behavior and credits for diligent application to work and other institutional assignments shall not be utilized to reduce any judicial or statutory mandatory minimum term of incarceration imposed on an inmate.

c. An inmate released on parole pursuant to subsection a. of this section shall, during the term of parole supervision, remain in the legal custody of the Commissioner of Corrections; be supervised by the Division of Parole of the State Parole Board; and be subject to the provisions and conditions established by the appropriate board panel in accordance with the procedures and standards set forth in section 15 of P.L.1979, c.441 (C.30:4-123.59). If the parolee violates a condition of parole, the parolee shall be

subject to the provisions of section 16 through section 19 of P.L.1979, c.441 (C.30:4-123.60 through C.30:4-123.63) and may have his parole revoked and be returned to custody. If revocation and return to custody are deemed appropriate, the appropriate board panel shall revoke the parolee's release and return the parolee to custody and confinement for the remainder of his sentence.

d. An inmate released on parole pursuant to this section and whose parole is revoked shall not be credited for any time served during that period of parole and shall not be eligible for parole during the remainder of his sentence.

e. For the purpose of establishing a primary parole eligibility date pursuant to subsection h. of section 7 of P.L.1979, c.441 (C.30:4-123.51), the period of incarceration required to be served pursuant to subsections c. and d. of this section shall not be aggregated with a term of imprisonment imposed on the parolee for the commission of any offense.

f. The provisions of this section shall not apply to any inmate paroled pursuant to section 11 of P.L.1979, c.441 (C.30:4-123.55) and returned to custody upon the revocation of parole by the appropriate board panel pursuant to the provisions of section 16 through section 20 of P.L.1979, c.441 (C.30:4-123.60 through C.30:4-123.64).

g. The provisions of this section shall not apply to an inmate serving a sentence subject to the provisions of section 2 of P.L.1997, c.117 (C.2C:43-7.2) or a sentence imposed for the offense of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to paragraph (2) of subsection c. of N.J.S.2C:13-1, endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of a child pursuant to subsection a. of N.J.S.2C:24-4, endangering the welfare of a child pursuant to paragraph (3) of subsection b. of N.J.S.2C:24-4, endangering the welfare of a child pursuant to paragraph (4) of subsection b. of N.J.S.2C:24-4, luring, or an attempt to commit any of these offenses.

h. The provisions of section 22 of P.L.1979, c.441 (C.30:4-123.66) shall not apply to an inmate released on parole pursuant to this section.

i. Written notice of the parole release of an inmate pursuant to this section shall be provided to the prosecutor of that inmate in accordance with the provisions of section 3 of P.L.1994, c.131 (C.30:4-6.1).

j. Except as otherwise provided, the provisions of this section shall apply to all inmates in the custody of the Commissioner of Corrections on and after the effective date of P.L.2009, c.330 (C.30:4-92.1 et al.). In the case of inmates in the custody of the commissioner on the effective date of

P.L.2009, c.330 (C.30:4-92.1 et al.), the Parole Board may postpone, for a period not to exceed six months, the application of P.L.2009, c.330 (C.30:4-92.1 et al.) in order to permit the board an opportunity to identify, investigate and process the development and establishment of specific policies and plans, including the availability of treatment services, if deemed appropriate, for inmates eligible for release under P.L.2009, c.330 (C.30:4-92.1 et al.).

k. In accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Parole Board shall promulgate rules and regulations necessary to effectuate the purposes of this act.

C.30:4-91.19 Report on status of Residential Community Release Program beds.

9. The Commissioner of Corrections shall certify on a monthly basis to the Director of the Division of Budget and Accounting that all available Residential Community Release Program beds in the State of New Jersey are filled to contract capacity with eligible State inmates who are within 18 to 24 months of release, pursuant to the eligibility requirements for community release programs provided under the administrative code, prior to the incarceration of any inmate in any county penal facility.

C.30:4-91.20 Inventory, review of vocational training programs.

10. The Commissioner of Corrections, in collaboration with the Commissioner of Labor and Workforce Development, biennially shall inventory and review the various vocational training programs offered to inmates in the State's adult correctional facilities to ensure that:

a. Each inmate vocational training program is attuned to actual post-release employment opportunities and reflects current industry and business workforce needs; and

b. The inmate vocational training programs meet the same curricula standards as the current standards of programs at private and public vocational training institutions, and earn the inmates who successfully complete inmate vocational training programs comparable certifications or certificates of achievement to those issued by programs at private and public vocational training institutions.

C.30:4-91.21 Actions relative to revising, terminating inmate vocational training program.

11. If the Commissioner of Corrections and Commissioner of Labor and Workforce Development determine that an inmate vocational training program is not attuned to actual post-release employment opportunities or does not reflect current industry and business workforce needs, or that an

inmate vocational training program does not meet the same current curricula standards of programs at private and public vocational training institutions or earn inmates who successfully complete an inmate vocational training program comparable certifications or certificates of achievement to those issued by private and public vocational training institutions, the commissioners, in concert, shall:

a. Revise the affected inmate vocational training program to reflect post-release employment opportunities, adjust to changes in industry and business workforce needs, or award inmates who successfully complete the program comparable certifications or certificates of achievement; or

b. Terminate the affected inmate vocational training program and direct the inmates participating in that program to alternative inmate vocational training programs.

12. Section 3 of this act shall take effect immediately; section 8 of this act shall take effect on the first day of the fourth month following enactment; sections 1, 2, 5, 6 , 7, 9, 10, and 11 of this act shall take effect on the first day of the seventh month after enactment; section 4 shall take effect on the first day of the 13th month following enactment. The Commissioner of Corrections, the Commissioner of Education, and the Commissioner of Labor and Workforce Development, and the State Parole Board may take any anticipatory action prior to the effective date necessary to implement the provisions of this act.

Approved January 18, 2010.

CHAPTER 331

AN ACT concerning motor vehicle equipment and inspections, revising various parts of the statutory law, and supplementing Title 39 of the Revised Statutes.

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

1. R.S.39:3-70 is amended to read as follows:

Mufflers.

39:3-70. Every motor vehicle having a combustion motor shall at all times be equipped with a muffler in good working order and in constant op-

eration to prevent excessive or unusual noise and no person shall use a muffler cut-out, bypass, or similar device upon a motor vehicle on a highway.

2. Section 2 of P.L.1966, c.15 (C.39:3-70.2) is amended to read as follows:

C.39:3-70.2 Air pollution; penalty.

2. Any person who operates a motor vehicle or owns a motor vehicle, other than a school bus, which the person permits to idle in violation of rules and regulations, or to be operated upon the public highways of the State when the motor vehicle is emitting smoke or other air contaminants in excess of standards adopted by the Department of Environmental Protection pursuant to the "Air Pollution Control Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.) shall be liable to a penalty of not less than $250 nor more than $1,000 per day, per vehicle, which shall be enforced in accordance with the provisions of chapter 5 of Title 39 of the Revised Statutes and P.L.2005, c.219 (C.26:2C-8.26 et al.).

The owner of any school bus that is operated or is permitted to idle in violation of rules and regulations adopted pursuant to the Department of Environmental Protection pursuant to the "Air Pollution Control Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.) or any applicable rules and regulations adopted pursuant to P.L.2005, c.219 (C.26:2C-8.26 et al.) shall be liable for a penalty of not less than $250 nor more than $1,000 per day, per vehicle, which shall be enforced in accordance with the provisions of chapter 5 of Title 39 of the Revised Statutes, except that no penalty may be assessed against any driver of a school bus who is not the owner of the school bus.

The provisions of this section shall not apply to a motor vehicle idling in traffic, or a motor vehicle other than a school bus idling in a queue of motor vehicles, that are intermittently motionless and moving because the progress of the motor vehicles in the traffic or the queue has been stopped or slowed by the congestion of traffic on the roadway or other conditions over which the driver of the idling motor vehicle has no control.

3. Section 4 of P.L.1999, c.5 (C.39:3B-21) is amended to read as follows:

C.39:3B-21 Establishment of school bus enhanced safety inspection program.

4. a. The chief administrator shall establish a school bus enhanced safety inspection program which shall include, but not be limited to, the following elements:

(1) an in-terminal school bus inspection program which provides for the semi-annual or annual inspection of school buses by commission inspectors;

(2) standards and requirements pertaining to the equipment, maintenance, and repair of school buses subject to inspection pursuant to this act; all in-terminal inspections, including those involving diesel vehicles, shall include an emission inspection to determine whether that vehicle meets the State's emission specifications and standards;

(3) standards and requirements pertaining to the establishment and maintenance of school bus maintenance, repair, and inspection records for all school buses in the operator's fleet; and

(4) standards and requirements pertaining to the establishment and maintenance of driver employment records, including records which demonstrate a driver's compliance with all statutory and regulatory requirements for authorization to operate a school bus, and any other records and credentials deemed necessary by the chief administrator for school bus drivers employed by the operator. The records shall be made available to commission inspectors during each in-terminal inspection.

b. If an operator does not have adequate terminal facilities to allow for a proper and thorough in-terminal inspection, the chief administrator shall designate an in-lieu-of terminal site and direct the operator to present his buses and records to that site for inspection on such terms and conditions as determined by the chief administrator.

c. The time and location of any inspection or reinspection conducted pursuant to this section shall be determined by the chief administrator. Unless an owner agrees to a different time schedule, the chief administrator shall schedule a reinspection within three days of the date of the inspection that necessitated the reinspection.

4. R.S.39:8-1 is amended to read as follows:

Motor vehicle inspections, exceptions.

39:8-1. a. Every motor vehicle registered in this State which is used over any public road, street, or highway or any public or quasi-public property in this State, and every vehicle subject to enhanced inspection and maintenance programs pursuant to 40 C.F.R. s.51.356, except historic motor vehicles registered as such, collector motor vehicles designated as such pursuant to this subsection, and those vehicles over 8,500 pounds gross weight that are under the inspection jurisdiction of the commission pursuant to Titles 27 and 48 (as amended by this legislation) of the Revised Stat-

utes, shall be inspected by designated inspectors or at official inspection facilities to be designated by the commission or at licensed private inspection facilities. The commission shall adopt rules and regulations establishing a procedure for the designation of motor vehicles as collector motor vehicles, which designation shall include consideration by the commission of one or more of the following factors: the age of the vehicle, the number of such vehicles originally manufactured, the number of such vehicles that are currently in use, the total number of miles the vehicle has been driven, the number of miles the vehicle has been driven during the previous year or other period of time determined by the commission, and whether the vehicle has a collector classification for insurance purposes.

b. The commission shall determine the official inspection facility or private inspection facility at which a motor vehicle, depending upon its characteristics, shall be inspected. The commission, with the concurrence of the Department of Environmental Protection, may exclude by regulation from this inspection requirement any category of motor vehicle if good cause for such exclusion exists, unless the exclusion is likely to prevent this State from meeting the applicable performance standard established by the United States Environmental Protection Agency. The commission may determine that a vehicle is in compliance with the inspection requirements of this section if the vehicle has been inspected and passed under a similar inspection program of another state, district, or territory of the United States.

5. R.S.39:8-2 is amended to read as follows:

Inspectors of motor vehicles; rules, regulations.

39:8-2. a. The commission may designate and appoint, subject to existing laws, competent inspectors 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 inspectors may be delegated to enforce the provisions of the motor vehicle and traffic law.

b. (1) The commission 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.

(2) The Department of Environmental Protection and the commission 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 commission 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 commission to distribute evenly the volume of inspections, all motor vehicles required by the commission, 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 commission of the federal approval by the Environmental Protection Agency of the State waiver request, model year 2004 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. Motor vehicles four model years old or newer, purchased in a foreign jurisdiction, and to be registered in this State, shall receive a temporary inspection certificate of approval. Motor vehicles four model years old or newer, purchased in a foreign jurisdiction, shall be subject to inspection not later than four years from the last day of the last calendar month of the model year of the vehicle, and thereafter, inspected biennially. Whenever a used motor vehicle four model years old or newer is purchased in this or any other state which has an unexpired New Jersey inspection certificate of approval and is initially registered by the purchaser in this State, the New Jersey inspection certificate of approval displayed on

the windshield shall be valid for the remaining time indicated on the inspection certificate of approval. Upon expiration of the inspection certificate of approval, such vehicle shall be subject to inspection and inspected biennially thereafter; 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 commission after consultation with the Department of Environmental Protection. At any time, the commission may require the owner, lessee, or operator of a motor vehicle to submit the vehicle for inspection.

d. The commission shall furnish to designated inspectors 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 it 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 commission 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 it in carrying out the provisions of this chapter. This property may also be used by the commission for the exercise of the duties and powers conferred upon it 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 commission 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 commission 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 commission. The commission 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 commission. Failure to appear and pass inspection within the time period fixed by the commission shall result in registration suspension in addition to any other penalties provided in this Title. The commission 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 commission, and, when appropriate, the Department of Environmental Protection, shall conduct inspections and audits of licensed private inspection facilities, official inspection facilities and designated inspectors 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 commission or by the Department of Environmental Protec-

tion. These inspections and audits shall be conducted at such times and in such manner as the commission, 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 commission shall make a charge of $2.50 for the initial inspection for each vehicle subject to inspection, which amount shall be paid to the commission or its representative when payment of the registration fees fixed in chapter 3 of this Title is made which inspection charge shall be considered a service charge and shall be subject to the calculation of proportional revenue remitted to the commission pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36); 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 fees 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 commission if the reinspection is conducted on the same day as the inspection that necessitated the reinspection. If an additional trip is required by the commission's inspectors, a fee of $25 per bus shall be charged. School bus inspection fees shall be paid to the commission or the commission's designee subject to the terms and conditions prescribed by the commission and shall be considered service charges of the commission and not subject to the calculation of proportional revenue remitted to the commission pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36). 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 commission 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 commission 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, nonlapsing 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. This fee shall be considered a service charge of the commission and shall be subject to the calculation of proportional revenue remitted to the commission pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36). 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 commission as provided pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36) 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.

6. R.S.39:8-5 is amended to read as follows:

Reports to chief administrator; forms.

39:8-5. a. Every designated inspector, official inspection facility or private inspection facility shall make such reports to the chief administrator concerning inspections made and the results thereof, and in such form and at such time, as the chief administrator may require. The chief administrator may furnish to the inspectors and inspection facilities forms for such reports. The chief administrator may require the use of electronic media for the gathering and transmission of inspection data and reports when the chief administrator deems it appropriate or when electronic media are required by federal law.

b. Every motor vehicle repair facility that is registered pursuant to section 13 of P.L.1995, c.112 (C.39:8-53) shall make such reports to the chief administrator concerning emission repairs made and the results thereof, as the chief administrator may require. The chief administrator may furnish to registered motor vehicle repair facilities forms to be completed by them in documenting emission repairs to motor vehicles, which forms shall be presented by the operator of the vehicle to an emission inspector at the time of vehicle reinspection.

7. Section 5 of P.L.1995, c.112 (C.39:8-45) is amended to read as follows:

C.39:8-45 Licensing of private inspection facility, requirements, application fee.

5. a. (1) The chief administrator, after appropriate inquiry and investigation, may license persons to operate private inspection facilities to inspect initially, reinspect and certify all motor vehicles that are subject to inspection pursuant to R.S.39:8-1. A person shall not be licensed unless qualified to conduct the inspections and reinspections, and in possession of the necessary equipment.

(2) The chief administrator, by regulation with the concurrence of the Department of Environmental Protection, may establish a limited number of distinct classes of licenses, may restrict the activities authorized by each distinct class of license, including restrictions as to the vehicles that may be

inspected or reinspected, and may restrict the services that holders of each class may perform in addition to the activities authorized by the license. These regulations shall permit private inspection facilities to perform initial inspections on motor vehicles four years old or newer and, to the maximum extent feasible, permit private inspection facilities to perform initial inspections on motor vehicles that are more than four years old and to repair and reinspect all motor vehicles.

b. (1) The chief administrator may license as a private inspection facility any person who is the owner or lessee of 10 or more motor vehicles or any owner or lessee of diesel buses, heavy-duty diesel trucks, or other diesel-powered motor vehicles to initially inspect, reinspect and certify vehicles that the person owns or leases.

(2) The chief administrator, by regulation with the concurrence of the Department of Environmental Protection, may restrict the activities authorized by a license issued pursuant to this subsection, including restrictions as to the vehicles that may be inspected or reinspected, and may restrict the services that holders of this license may perform in addition to the activities authorized by the license.

c. The chief administrator shall require a private inspection facility licensee to have in effect at all times liability insurance or such other proof of financial responsibility as the chief administrator may prescribe; and may require a performance bond.

d. The chief administrator shall prescribe the form and content of the application for a private inspection facility license, and may charge a nonrefundable application fee not to exceed $20. The chief administrator may charge a license fee, not to exceed $250, to be paid by a person for each year in which that person holds a private inspection facility license. The chief administrator may require licenses that shall expire on a date fixed by the chief administrator. 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 R.S.39:8-2.

e. For the purposes of this section, each applicant for a license shall submit to the chief administrator the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The chief administrator is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations, for purposes of facilitating determinations concerning licensure eligibility. The applicant shall bear the cost for the crimi-

nal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the chief administrator in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

8. Section 12 of P.L.1995, c.112 (C.39:8-52) is amended to read as follows:

C.39:8-52 Licensing of inspectors, fees.

12. a. A person shall not conduct any inspection required by the chief administrator on a motor vehicle or diesel bus, heavy-duty diesel truck, or any diesel-powered vehicle unless that person is licensed as an inspector by the chief administrator. The chief administrator may establish a fee not to exceed $50 for the licensure and relicensure of inspectors and shall establish standards and requirements for the licensure and relicensure of inspectors including, at a minimum, the successful completion of emission training and testing requirements determined by the chief administrator in consultation with the Department of Environmental Protection as a prerequisite to licensing. Any license issued pursuant to this section shall be valid for the period set by the chief administrator, which shall not be longer than two years. The successful completion of refresher training and testing, at a minimum, shall be required prior to license renewal. All fees collected pursuant to this subsection shall be turned over to the State Treasurer and deposited in the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of R.S.39:8-2.

b. The chief administrator may deny, suspend or revoke any license authorized to be issued by this section or refuse renewal thereof for cause, including, but not limited to, one or more of the following:

(1) Violation of any provision of P.L.1995, c.112 (C.39:8-41 et al.) or of any regulation adopted pursuant thereto;

(2) Fraud, misrepresentation or misstatement in securing the license or in the conduct of the licensed activity;

(3) Conviction of a crime involving fraud or moral turpitude;

(4) Violation of P.L.1960, c.39 (C.56:8-1 et seq.) or of any regulation adopted pursuant thereto;

(5) Failure to successfully complete any training or testing requirements that are a prerequisite to licensure;

(6) Failure to pay any fee required by law;

(7) Other good cause; or

(8) Violation of P.L.1995, c.157 (C.39:8-59 et seq.), or of any regulation adopted pursuant thereto.

9. Section 11 of P.L.1995, c.157 (C.39:8-69) is amended to read as follows:

C.39:8-69 Licensing of private inspection facilities.

11. a. The commission shall designate as many qualified and properly equipped duly licensed private inspection facilities as the commission determines shall be necessary to conduct periodic inspections. A licensee shall inspect and pass or reject a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle presented to the licensee for inspection. Passing shall indicate that the licensee or the licensed inspector has inspected the diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle as prescribed by the commission and has found that the vehicle conforms to the standards established by law and rule or regulation. The commission may establish by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) an application fee for the authority to conduct diesel emission inspections, which fee shall not exceed $250 per year.

b. For the purpose of documenting compliance with periodic inspection requirements, the commission shall furnish official inspection forms to licensed private inspection facilities authorized to conduct diesel emission inspections. The commission shall require each licensee and each owner or lessee of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle subject to periodic inspection to keep such records and file such reports regarding these inspections as the commission shall deem necessary. The commission may conduct such audits or inspections of licensee facilities as the commission deems appropriate.

c. The commission may deny, suspend or revoke the authority to conduct diesel emission inspections or refuse renewal thereof for cause, including, but not limited to, one or more of the following:

(1) Violation of any provision of this act or of any rule or regulation adopted pursuant thereto; or

(2) Fraud or misrepresentation in securing a license or in the conduct of the licensed activity; or

(3) Conviction of a crime demonstrating that the applicant or licensee is unfit; or

(4) Improper, negligent, or fraudulent inspection of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle; or

(5) Other good cause.

d. In addition to any other civil or criminal penalties that may be applicable, a person licensed by the commission to conduct diesel emission inspections who commits fraud or misrepresentation in securing a license or in the conduct of the licensed activity or who improperly or negligently or fraudulently conducts an inspection of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle shall be liable for a civil penalty of $1,500. In addition to any other civil or criminal penalties that may be applicable, a person licensed by the commission to conduct diesel emission inspections, who otherwise violates any provision of this act or of any rule or regulation adopted pursuant thereto, shall be liable for a civil penalty of $500.

C.39:8-90 Redesignation of diesel emission inspection centers.

10. All diesel emission inspection centers licensed pursuant to section 11 of P.L.1995, c.157 (C.39:8-69) shall be redesignated by virtue of this act as private inspection facilities with the authority to make diesel emission inspections to the extent and under the conditions permitted herein. All diesel emission inspection center licenses shall be renewed as private inspection facility licenses upon their current expiration.

Repealer.

11. Section 15 of P.L.1995, c.112 (C.39:8-55) is repealed.

12. This act shall take effect on the 120th day following enactment.

Approved January 18, 2010.

CHAPTER 332

AN ACT concerning owners of motor vehicles who permit certain drivers with suspended licenses to operate those vehicles 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 at least one but 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 and 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 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) In addition to any penalty imposed under the provisions of subsections a. through e. of this section, 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) In addition to any penalty imposed under 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) In addition to any penalty imposed under 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. (Deleted by amendment, P.L.2009, c.224);

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 or reciprocity privilege 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 or reciprocity privilege 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.

In any case where a person who owns or leases a motor vehicle knows that the operator's license or reciprocity privilege of the person he permits to operate the motor vehicle is suspended or revoked for any violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the person also shall be subject to the following penalties: for a first or second offense, a fine of $1,000, imprisonment for not more than 15 days, or both; and for a third or subsequent offense, a fine of $1,000, imprisonment for not more than 15 days, or both, and forfeiture of the right to operate a motor vehicle over the highways of this State for a period of 90 days;

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) or for failure to comply with a time payment order, the violator shall be subject to a maximum fine of $100 upon proof that the violator has paid all fines and other assessments related to the parking violation that were the subject of the Order of Suspension, or if the violator makes sufficient payments to become current with respect to payment obligations under the time payment order;

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 chief administrator pursuant to section 1 of P.L.1982, c.43 (C.39:5-30.5).

2. This act shall take effect on the first day of the nineteenth month after enactment; provided however, the Chief Administrator of the New Jersey Motor Vehicle Commission may take any anticipatory administrative action prior to the effective date necessary for its timely implementation.

Approved January 18, 2010.

CHAPTER 333

AN ACT concerning the operation of a motor vehicle with a suspended driver's license 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:40-26 Operating motor vehicle during period of license suspension, fourth degree crime.

1. a. It shall be a crime of the fourth degree to operate a motor vehicle during the period of license suspension in violation of R.S.39:3-40, if the actor's license was suspended or revoked for a first violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and the actor had previously been convicted of violating R.S.39:3-40 while under suspension for that first offense. A person convicted of an offense under this subsection shall be sentenced by the court to a term of imprisonment.

b. It shall be a crime of the fourth degree to operate a motor vehicle during the period of license suspension in violation of R.S.39:3-40, if the actor's license was suspended or revoked for a second or subsequent violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a). A person convicted of an offense under this subsection shall be sentenced by the court to a term of imprisonment.

c. Notwithstanding the term of imprisonment provided under N.J.S.2C:43-6 and the provisions of subsection e. of N.J.S.2C:44-1, if a person is convicted of a crime under this section the sentence imposed shall

include a fixed minimum sentence of not less than 180 days during which the defendant shall not be eligible for parole.

2. This act shall take effect on the first day of the nineteenth month after enactment; provided however, the Chief Administrator of the New Jersey Motor Vehicle Commission may take any anticipatory administrative action prior to the effective date necessary for its timely implementation.

Approved January 18, 2010.

CHAPTER 334

AN ACT concerning neighborhood stabilization and amending and supplementing P.L.2008, c.127.

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

1. Section 3 of P.L.2008, c.127 (C.55:14K-84) is amended to read as follows:

C.55:14K-84 Short title.

3. Sections 3 through 7 of P.L.2008, c.127 (C.55:14K-84 et seq.) and sections 4 and 5 of P.L.2009, c.334 (C.55:14K-86.1 and C.55:14K-86.2) shall be known and may be referred to as the "Mortgage and Neighborhood Stabilization Financing Assistance Program."

2. Section 4 of P.L.2008, c.127 (C.55:14K-85) is amended to read as follows:

C.55:14K-85 Definitions relative to "Mortgage and Neighborhood Stabilization Financing Assistance Program."

4. As used in sections 4 through 7 of P.L.2008, c.127 (C.55:14K-84 et seq.) and sections 4 and 5 of P.L.2009, c.334 (C.55:14K-86.1 and C.55:14K-86.2):

"Affordable mortgage payment" means a monthly mortgage payment that does not exceed the greater of either 33% or the applicable percentage required by governmental or private first mortgage loan insurance, of the household's monthly average annual gross income, towards the payment of

principal, interest, taxes, and insurance (PITI) which is determined using traditional underwriting standards.

"Agency" means the New Jersey Housing and Mortgage Finance Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.).

"Community Development Financial Institution" means any entity designated by the United States Department of the Treasury as a Community Development Financial Institution pursuant to 12 CFR 1805.

"Covered Mortgage" means a first mortgage loan that is in imminent danger of foreclosure.

"Eligible property" means any residential property that is vacant, is or has been the subject of mortgage or tax foreclosure proceedings, and is located in an area that has been impacted by foreclosures which is the subject of a program of neighborhood stabilization.

"Homeowner" means the individual who holds legal title to a residential real property that is the individual's principal dwelling and is in imminent danger of foreclosure.

"Lender" means any lawfully constituted mortgage lender, mortgage investor or mortgage loan servicer that owns and is willing to refinance or is authorized to negotiate the terms of the homeowner's mortgage.

"Maximum income limit" means a household income that does not exceed 120% of the area median income, as defined for New Jersey in guidelines published annually by the United States Department of Housing and Urban Development, or that does not exceed the New Jersey Housing and Mortgage Finance Agency's Mortgage Revenue Bond Program income limits, whichever is greater.

"Mortgage lender loan" means a loan provided by a lender that is secured by a lien holding second priority and equal to one-half of the difference between the new first mortgage loan and the current appraised value of the property.

"Mortgage Stabilization Program" or "program" means a financing program established pursuant to section 5 of P.L.2008, c.127 (C.55:14K-86).

"Mortgage stabilization program loan" means the loan provided to the homeowner by the agency pursuant to section 5 of P.L.2008, c.127 (C.55:14K-86).

"Program of neighborhood stabilization" means a concerted program to stabilize a neighborhood which has been impacted negatively by foreclosures or by vacant property, including, but not limited to, any program being carried out with federal funds provided by the United States Depart-

ment of Housing and Urban Development or that is the subject of a comprehensive neighborhood stabilization plan.

"Property" means an owner-occupied primary residence, (1) that is either a single-family one-unit house; an attached, semi-detached, or detached house; a condominium unit; or an owner-occupied two- or three-unit house, and (2) that is the principal dwelling of a homeowner who has resided in the property for at least one year prior to applying for assistance.

"Qualified entity" means a non-profit or public entity whose purposes include the acquisition and rehabilitation of residential property and which has demonstrated experience in carrying out such activities in the State of New Jersey.

3. Section 5 of P.L.2008, c.127 (C.55:14K-86) is amended to read as follows:

C.55:14K-86 Mortgage and Neighborhood Stabilization Assistance Program, Fund.

5. There is established in the New Jersey Housing and Mortgage Finance Agency a Mortgage and Neighborhood Stabilization Financing Assistance Program and Mortgage and Neighborhood Stabilization Financing Assistance Program Fund for the purpose of assisting homeowners and lenders willing to refinance covered mortgages in order to ensure that the homeowner has an affordable mortgage payment and assisting Community Development Financial Institutions to finance the acquisition and rehabilitation of eligible properties.

a. (Deleted by amendment, P.L.2009, c.334.)
b. (Deleted by amendment, P.L.2009, c.334.)
c. (Deleted by amendment, P.L.2009, c.334.)
d. (Deleted by amendment, P.L.2009, c.334.)
e. (Deleted by amendment, P.L.2009, c.334.)
f. (Deleted by amendment, P.L.2009, c.334.)
g. (Deleted by amendment, P.L.2009, c.334.)
h. (Deleted by amendment, P.L.2009, c.334.)
i. (Deleted by amendment, P.L.2009, c.334.)
j. (Deleted by amendment, P.L.2009, c.334.)
k. (Deleted by amendment, P.L.2009, c.334.)
l. (Deleted by amendment, P.L.2009, c.334.)

C.55:14K-86.1 Certain funds used for acquisition, rehabilitation of certain properties.

4. The agency shall set aside all $10,800,000 of the funds appropriated to the Mortgage and Neighborhood Stabilization Financing Assistance

Program Fund to be used for the purpose of financing the acquisition and rehabilitation of eligible properties by qualified entities subject to the following requirements:

a. $8,600,000 of the funds appropriated to the Mortgage and Neighborhood Stabilization Financing Assistance Program Fund shall be used to provide loans or permanent loan capital to Community Development Financial Institutions for such purposes.

b. In order to be eligible to receive funds under this section, a Community Development Financial Institution shall demonstrate to the agency, in such form and manner as the agency shall prescribe:

(1) that it is financially sound;

(2) that it has experience financing the acquisition and rehabilitation of housing in the State of New Jersey;

(3) that it has a plan for the utilization of funds received under this section compliant with the requirements of subsection c. of this section and appropriate to further the acquisition and rehabilitation of eligible properties by qualified entities; and

(4) any other eligibility criteria as the agency may prescribe.

c. A Community Development Financial Institution receiving funds under this section, shall use these funds to provide direct loans, establish lines of credit, or provide credit enhancements for loan pools or loans by third parties as may be appropriate to further the acquisition and rehabilitation of eligible properties by qualified entities.

d. A Community Development Financial Institution receiving funds under this section, shall maximize the extent to which those funds will leverage private financing.

e. All loans made by Community Development Financial Institutions under this section shall be secured by a mortgage on the subject property.

f. Community Development Financial Institutions receiving funds under this section shall adopt written loan criteria as the agency may prescribe for all loans made, which shall take into account the development capacity and financial soundness of the loan recipient, market conditions in the areas in which eligible properties are located, and the reuse potential of such properties.

g. A Community Development Financial Institution receiving funds under this section shall provide semi-annual reports to the agency, in such form and manner as the agency shall prescribe, on activities carried out with those funds and the compliance of the institution with the requirements of this section and the regulations adopted thereunder.

C.55:14K-86.2 Regulations.

5. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the agency may adopt immediately upon filing with the Office of Administrative Law such regulations as the agency deems necessary to implement the provisions of this act, which shall be effective for a period not to exceed 180 days following enactment of P.L.2009, c.334 (C.55:14K-86.1 et al.) and which may thereafter be amended, adopted or readopted by the agency in accordance with the requirements of P.L.1968, c.410.

6. Section 7 of P.L.2008, c.127 is amended to read as follows:

7. Notwithstanding the provisions of P.L.2008, c.22 (C.52:9H-2.1 et al.), there is appropriated from the Long Term Obligation and Capital Expenditure Fund the sum of $10,800,000 to the Mortgage and Neighborhood Stabilization Financing Assistance Program Fund for the purposes of the Mortgage and Neighborhood Stabilization Financing Assistance Program, of which five percent may be used for the purposes of administering the program.

C.55:14K-86.3 Additional uses for funds.

7. In addition to the uses specified for the Mortgage and Neighborhood Stabilization Financing Program Fund created by section 5 of P.L.2008, c.127 (C.55:14K-86) the agency shall use up to $2,200,000 in that fund to make grants to qualified non-profit agencies to support counseling on behalf of owner-occupant households at risk of foreclosure.

8. This act shall take effect immediately.

Approved January 18, 2010.

CHAPTER 335

AN ACT establishing certain standards and requirements for the use of funds from the federal American Recovery and Reinvestment Act of 2009 and supplementing Title 52 of the Revised Statutes.

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

C.52:40-1 Findings, declarations relative to the "American Recovery and Reinvestment Act of 2009."

1. The Legislature finds and declares that all members of the public should be afforded the opportunity to benefit from the federal economic recovery funds provided through the American Recovery and Reinvestment Act of 2009 and associated State spending, and every public contract, whether for construction services, goods, or other services, should provide equal employment opportunities for women and minorities.

C.52:40-2 Definitions relative to the "American Recovery and Reinvestment Act of 2009."

2. For the purposes of this act, P.L.2009, c.335 (C.52:40-1 et seq.):

"ARRA" means the federal American Recovery and Reinvestment Act of 2009; and

"Reporting agencies" means the State entities whose performance is monitored by the Division of Public Contracts Equal Employment Opportunity Compliance in the Department of the Treasury.

C.52:40-3 Meetings.

3. The Commissioners of the Departments of Community Affairs, Education, Environmental Protection, and Transportation, or their designees; the President of the Board of Public Utilities, or a designee; and the Chief Executive Officers of the Schools Development Authority and the Economic Development Authority, or their designees, shall meet with representatives of the Governor's office, the Department of the Treasury, and the United States Department of Labor's Office of Federal Contract Compliance Programs to ensure that those departments receiving the bulk of federal economic recovery funds provide the United States Department of Labor's Office of Federal Contract Compliance Programs their complete cooperation in complying with its mandates.

C.52:40-4 Determination of fair employment opportunities for minorities and women.

4. The Division of Public Contracts Equal Employment Opportunity Compliance in the Department of the Treasury shall be the entity within the Executive Branch responsible for determining whether minorities and women have been offered a fair opportunity for employment on State contracts. Executive Branch departments and agencies, independent authorities, and State colleges and universities are directed to cooperate fully with the Division of Public Contracts Equal Employment Opportunity Compliance's enforcement efforts, consistent with law, and to award public contracts only

to those businesses that agree to comply with equal employment opportunity and affirmative action requirements.

C.52:40-5 Cooperation.

5. The Division of Public Contracts Equal Employment Opportunity Compliance shall work cooperatively with the United States Department of Labor's Office of Federal Contract Compliance Programs, including sharing its workforce data to the maximum extent permitted by law, to assist the United States Department of Labor's Office of Federal Contract Compliance Programs in its enforcement efforts.

C.52:40-6 Determination of compliance.

6. When not restricted by any other State or federal law, the Division of Public Contracts Equal Employment Opportunity Compliance shall determine whether each of the State entities whose performance it monitors have properly allocated and released to the Department of Labor and Workforce Development, as authorized by law, one-half of one percent of the total cost of a construction contract of $1,000,000 or more, to be used by the department for the New Jersey Builders Utilization Initiative for Labor Diversity program to train minorities and women for employment in construction trades. This provision shall apply to those construction contracts when the funding for the contract consists entirely of appropriated funds or a combination of funds from appropriated funds and other sources.

C.52:40-7 Mandatory contract language.

7. All construction contracts entered into and funded, in whole or in part, by the State shall include mandatory equal employment opportunity and affirmative action contract language that requires contractors to make a good faith effort to recruit and employ minorities and women as required by the provisions of the regulations promulgated in the New Jersey Administrative Code, including but not limited to N.J.A.C.17:27-3.6 to 3.8, and 17:27-7.3 and 7.4. As to the portion of each contract that is State funded, the language of the contract shall provide that payment may be withheld for failure of the contractor to demonstrate to the satisfaction of the reporting agency that the required good faith effort was made. Failure of a contractor to satisfy the good faith effort requirement of its contract may also subject it to assessments imposed pursuant to findings of the Division of Public Contracts Equal Employment Opportunity Compliance, in accordance with administrative regulation N.J.A.C. 17:27-10.

C.52:40-8 Posting of job openings, exceptions.

8. Except as described in subsections a. and b. of this section, each Executive Branch agency that is a recipient of federal economic recovery funds pursuant to the American Recovery and Reinvestment Act of 2009 shall include in any contract, grant, or agreement funded in whole or in part with funds from the American Recovery and Reinvestment Act of 2009 a clause requiring subrecipients, contractors, subcontractors, local education agencies, and vendors to post all job openings created pursuant to the contract, grant, or agreement on the State's Job Bank at least 14 days before hiring is to commence. The clause shall state: "Since the funds supporting this contract, grant, or agreement are provided through the American Recovery and Reinvestment Act of 2009 (ARRA), the subrecipient, contractor, subcontractor, local education agency, or vendor will post any jobs that it creates or seeks to fill as a result of this contract, grant, or agreement. The subrecipient, contractor, subcontractor, local education agency, or vendor shall post jobs to the New Jersey State Job Bank by submitting a job order using the form available on the Internet, notwithstanding any other posting the subrecipient, contractor, subcontractor, local education agency, or vendor might make. Any advertisements posted by the subrecipient, contractor, subcontractor, local education agency, or vendor for positions pursuant to this contract, grant, or agreement must indicate that the position is funded with ARRA funds."

a. Posting shall not be required when the employer intends to fill the job opening with a present employee, a laid-off former employee, or a job candidate from a previous recruitment, when pre-existing, legally binding collective bargaining agreements provide otherwise, or when an exception has been granted to the reporting agency by the Department of Labor and Workforce Development.

b. Nothing in this act, P.L.2009, c.335 (C.52:40-1 et seq.), shall be interpreted to require the employment of apprentices if such employment may result in the displacement of journey workers employed by any employer, contractor or subcontractor.

C.52:40-9 Job postings encouraged for local government entities, education agencies, New Jersey employers.

9. All local government entities and local education agencies that have received or will receive directly from a federal agency federal economic recovery funds are encouraged but not mandated to require their contractors and subcontractors to post job openings on the State's Job Bank at least 14 days before hiring is to commence.

All New Jersey employers that enter into contracts funded with funds from the American Recovery and Reinvestment Act of 2009 received by a local government entity or a local education agency directly from a federal agency are encouraged but not mandated to post job openings created pursuant to the American Recovery and Reinvestment Act of 2009.

C.52:40-10 Required contractual language.

10. The Division of Development for Small Businesses, and Women's and Minority Businesses shall send to the reporting agencies required contractual language. The Division of Development for Small Businesses and Women's and Minority Businesses shall work with each reporting agency to ensure the reporting of and compliance with contract-specific contracting and subcontracting goals for the reporting agency that are consistent with the availability percentages set forth.

C.52:40-11 Responsibilities of reporting agency.

11. Each reporting agency shall:

a. Inform the Division of Development for Small Businesses, and Women's and Minority Businesses of contracting opportunities at the same time that it advertises or otherwise posts public notices of such opportunities, via consistent and timely upload of all-inclusive information to the bid opportunities database services managed by the Division of Development for Small Businesses, and Women's and Minority Businesses. All pre-bid requirements shall be prominently advertised at the time of uploading to the Division of Development for Small Businesses, and Women's and Minority Businesses;

b. Actively and regularly use the databases and other on-line services managed and operated by the Division of Development for Small Businesses, and Women's and Minority Businesses to identify additional potential bidders. The ongoing use of these resources by buyers, procurement agents, and other purchasing staff shall be closely monitored by the reporting agency's senior management;

c. Contact the businesses identified in the Division of Development for Small Businesses, and Women's and Minority Businesses's databases and on-line services to provide them with notice of the contracting opportunities available through the reporting agency; and

d. Report to the Division of Development for Small Businesses, and Women's and Minority Businesses all payments and awards prime contractors have issued to subcontractors, identifying payments and awards to minority and women-owned businesses on at least a quarterly basis.

C.52:40-12 Incorporation of certain language into contracts.

12. To the maximum extent practicable, and when not restricted by any other State or federal law, each reporting agency shall incorporate the substance of required contractual language regarding small businesses into its contracts, while continuing to follow the State and federal laws and regulations governing its contracting and procurement practices.

C.52:40-13 Policies relative to subcontractors, subconsultants, vendors.

13. Each reporting agency shall, when substitution of subcontractors or sub-consultants is permitted, promulgate policies governing the circumstances under which contractors or consultants may substitute subcontractors or sub-consultants named in bid proposals or otherwise identified as small or women or minority-owned business subcontractors, subconsultants, or vendors. The substitution policies shall provide that:

a. The contractor or consultant shall notify and obtain approval from a small or women or minority-owned business subcontractor, sub-consultant, or vendor before including that contractor in a bid proposal or similar contract-related submission;

b. The contractor or consultant shall notify and obtain authorization from the reporting agency before it substitutes a small or women or minority-owned business subcontractor, sub-consultant, or vendor named in a bid proposal or other contract-related submission; and

c. If the substitution is approved, the contractor or consultant shall make a good faith effort to utilize another small or women or minority-owned business subcontractor, sub-consultant, or vendor in place of the previous small or women or minority-owned business subcontractor, subconsultant, or vendor.

C.52:40-14 Reports.

14. Each reporting agency shall report to the Division of Development for Small Businesses, and Women's and Minority Businesses when it incorporates required language in its contracts. It shall also report to the Division of Development for Small Businesses, and Women's and Minority Businesses when it has adopted a substitution policy, when such policy is permitted. The Division of Development for Small Businesses, and Women's and Minority Businesses shall report on the number of reporting agencies that have modified their contracts and adopted a substitution policy at three-month intervals until all of the reporting agencies have completed incorporation of contractual language as may be required and promulgated and, when legally permitted, adoption of the substitution policy.

C.52:40-15 Cooperation with recipients of funding.

15. The Department of Labor and Workforce Development shall work together with all other reporting agencies that will receive funding from the American Recovery and Reinvestment Act of 2009 and with the representatives of the United States Environmental Protection Agency, the Federal Departments of Labor, Energy, Transportation, and Housing and Urban Development, and any other federal agencies distributing funds from the American Recovery and Reinvestment Act of 2009 to:

a. Coordinate with labor unions that will aggressively recruit minorities and women for apprenticeships and training opportunities;

b. Increase outreach to and enrollment of minorities and women in apprenticeship, training, and related programs; and

c. Ensure that, to the greatest extent possible under the law, minorities and women apprentices and trainees are working on State and ARRA-funded work sites.

C.52:40-16 Increased engagement with certain banks, credit unions.

16. The New Jersey Department of the Treasury and other departments, agencies, and independent authorities shall, consistent with law, take steps to increase their engagement of small, minority, or women-owned or controlled banks and credit unions to meet their financial services needs.

C.52:40-17 Interpretation as compliance with federal law.

17. Nothing in P.L.2009, c.335 (C.52:40-1 et seq.) shall modify existing law, State or federal, or authorize a reporting agency to amend, modify, or otherwise alter pre-existing legal obligations. P.L.2009, c.335 (C.52:40-1 et seq.) shall be interpreted consistently with the American Recovery and Reinvestment Act of 2009, and the federal regulations and guidelines governing its implementation, and in the event of a conflict between P.L.2009, c.335 (C.52:40-1 et seq.) and federal law governing the American Recovery and Reinvestment Act of 2009, P.L.2009, c.335 (C.52:40-1 et seq.) shall be interpreted to comply with federal law.

C.52:40-18 Rules, regulations.

18. The Division of Public Contracts Equal Employment Opportunity Compliance shall promulgate rules and regulations to effectuate the purposes of this act, P.L.2009, c.335 (C.52:40-1 et seq.), that are consistent with Executive Order No. 151 (2009) and its appendices.

C.52:40-19 Preparation of contracting guide.

19. Within 90 days of the effective date of this act, P.L.2009, c.335 (C.52:40-1 et seq.), the Division of Development for Small Businesses and Women's and Minority Businesses shall prepare a contracting guide identifying the management practices that have the greatest success in: increasing the number of small and minority and women-owned businesses made aware of contracting opportunities with the State; and increasing the number of such businesses competing for contracts with the State or subcontracts with entities contracting with the State. As soon as practicable thereafter, the Division of Development for Small Businesses and Women's and Minority Businesses shall distribute the contracting guide to the reporting agencies.

C.52:40-20 Implementation of provisions.

20. As soon as practicable after its receipt of the contracting guide, each reporting agency shall implement those provisions that it views as most likely to have the greatest impact in increasing contracting opportunities for small and minority and women-owned businesses.

C.52:40-21 Reports.

21. Within 15 months of the effective date of this act, P.L.2009, c.335 (C.52:40-1 et seq.), the Division of Development for Small Businesses and Women's and Minority Businesses and the Division of Public Contracts Equal Employment Opportunity Compliance shall each prepare a report describing the reporting agencies' implementation of this act. The Division of Development for Small Businesses and Women's and Minority Businesses and the Division of Public Contracts Equal Employment Opportunity Compliance each shall prepare a second report within 12 months of issuing its first report.

22. This act shall take effect immediately.

Approved January 18, 2010.

CHAPTER 336

AN ACT concerning the extension of certain permits and approvals affecting the physical development of property located within the State of New Jersey, and amending P.L.2008, c.78.

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

1. Section 3 of P.L.2008, c.78 (C.40:55D-136.3) is amended to read as follows:

C.40:55D-136.3 Definitions relative to extension of certain permits and approvals.

3. As used in this act:

"Approval" means, except as otherwise provided in section 4 of this act, any approval of a soil erosion and sediment control plan granted by a local soil conservation district under the authority conferred by R.S.4:24-22 et seq., waterfront development permit issued pursuant to R.S.12:5-1 et seq., permit issued pursuant to "The Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-1 et seq.), permit issued pursuant to the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et al.), approval of an application for development granted by the Delaware and Raritan Canal Commission pursuant to the "Delaware and Raritan Canal State Park Law of 1974," P.L.1974, c.118 (C.13:13A-1 et seq.), permit issued by the New Jersey Meadowlands Commission pursuant to the "Hackensack Meadowlands Reclamation and Development Act," P.L.1968, c.404 (C.13:17-1 et al.), approval of an application for development granted by the Pinelands Commission and determination of municipal and county plan conformance pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), permit issued and center designations pursuant to the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), septic approval granted pursuant to Title 26 of the Revised Statutes, permit granted pursuant to R.S.27:7-1 et seq. or any supplement thereto, right-of-way permit issued by the Department of Transportation pursuant to paragraph (3) of subsection (h) of section 5 of P.L.1966, c.301 (C.27:1A-5), approval granted by a sewerage authority pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.), approval granted by a municipal authority pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), approval issued by a county planning board pursuant to chapter 27 of Title 40 of the Revised Statutes, preliminary and final approval granted in connection with an application for development pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), permit granted pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), plan endorsement and center designations pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.), permit or certification issued pursu-

ant to the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et al.), permit granted authorizing the drilling of a well pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.), certification or permit granted, exemption from a sewerage connection ban granted, wastewater management plan approved, and pollution discharge elimination system permit pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), certification granted pursuant to "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), certification or approval granted pursuant to P.L.1971, c.386 (C.58:11-25.1 et al.), certification issued and water quality management plan approved pursuant to the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), approval granted pursuant to the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et al.), permit issued pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), any municipal, county, regional, or State approval or permit granted under the general authority conferred by State law or rule or regulation, or any other government authorization of any development application or any permit related thereto whether that authorization is in the form of a permit, approval, license, certification, permission, determination, interpretation, exemption, variance, exception, waiver, letter of interpretation, no further action letter, agreement or any other executive or administrative decision which allows a development or governmental project to proceed.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure or facility, or of any grading, soil removal or relocation, excavation or landfill or any use or change in the use of any building or other structure or land or extension of the use of land.

"Environmentally sensitive area" means an area designated pursuant to the State Development and Redevelopment Plan adopted, as of the effective date of this act, pursuant to P.L.1985, c.398 (C.52:18A-196 et al.) as Planning Area 4B (Rural/Environmentally Sensitive), Planning Area 5 (Environmentally Sensitive), or a critical environmental site; the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3) but shall not include any area designated for growth in the Highlands regional master plan adopted by the Highlands Water Protection and Planning Council pursuant to P.L.2004, c.120 (C.13:20-1 et al.); and the pinelands area designated in section 10 of P.L.1979, c.111 (C.13:18A-11) but shall not include any growth area designated in the comprehensive management plan pre-

pared and adopted by the Pinelands Commission pursuant to section 7 of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8).

"Extension period" means the period beginning January 1, 2007 and continuing through December 31, 2012.

"Government" means any municipal, county, regional, or State government, or any agency, department, commission or other instrumentality thereof.

2. This act shall take effect immediately.

Approved January 18, 2010.

CHAPTER 337

AN ACT concerning urban revitalization and amending and supplementing P.L.2002, c.43.

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

1. Section 5 of P.L.2002, c.43 (C.52:27BBB-5) is amended to read as follows:

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 only. The designation shall expire at the commencement of the economic recovery 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.

2. 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. (1) 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. No action taken at any meeting of any independent board or authority shall have force or effect until 10 days, exclusive of Saturdays, Sundays and public holidays, after the copy of the minutes shall have been delivered to the mayor. If, in that 10-day period, the 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.

(2) During the first 18 months of the economic recovery term, the mayor shall have the power to veto or terminate any employment contract not subject to a collective bargaining agreement, whether or not subject to Title 11A, Civil Service, of the New Jersey Statutes. This shall not apply to employment contracts under extension pursuant to terms under the expired contract.

(3) The mayor shall cause to be issued a final report on the progress of the municipality toward achieving municipal rehabilitation and economic recovery, as set forth in section 8 of P.L.2002, c.43 (C.52:27BBB-8) at the end of the economic recovery term.

(4) The mayor shall authorize the municipal planning board, from time to time, to prepare a program of municipal capital improvement projects projected over a term of at least six years, and amendments thereto. The program may include current and future major projects being, or to be, undertaken with federal, State, county, or other public funds, or under federal, State, or county supervision. The first year of the program shall, upon adoption by the governing body, constitute the capital budget of the municipality as required by N.J.S.40A:4-43 et seq. The program shall classify projects in regard to the urgency and need for realization, and shall recommend a time sequence for their implementation. The program may also contain the estimated cost of each project and indicate probable operating and maintenance costs and probable revenues, if any, as well as existing sources of funds, or the need for additional sources of funds, for the implementation and operation of each project. The program shall, as far as possible, be based on existing information in the possession of the departments and agencies of the municipality and shall take into account public facility needs indicated by the prospective development shown in the master plan of the municipality or as permitted by other municipal land use controls.

(5) 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 during the rehabilitation term.

(6) The Director of the Division of Local Government Services in the Department of Community Affairs shall annually conduct a compliance audit of the activities of a qualified municipality during the economic recovery term to ensure compliance with P.L.2002, c.43 (C.52:27BBB-1 et al.) and other relevant State laws and shall report the findings to the Local Finance Board and the mayor.

(7) The financial incentives set forth in sections 54 through 56 of P.L.2002, c.43 (C.52:27BBB-53 through 55) shall remain in effect until the municipality is no longer eligible for financial assistance pursuant to the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.).

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.

During the rehabilitation term, the chief operating officer shall be responsible for entering into any memorandum of understanding on behalf of the qualified municipality that is required as a condition of receiving assistance under P.L.1987, c.75 (C.52:27D-118.24 et seq.), or any other law;

provided, however, that those memoranda of understanding shall be consistent with the provisions of P.L.2002, c.43 (C.52:27BBB-1 et al.) and P.L.2007, c.176 (C.52:27BBB-2.2 et al.), and the powers of the chief operating officer granted pursuant thereto. Any such memoranda of understanding shall be executed between the chief operating officer and the Director of the Division of Local Government Services in the Department of Community Affairs. Whenever the powers and duties of the chief operating officer have devolved upon the director pursuant to subsection b. of section 7 of P.L.2002, c.43 (C.52:27BBB-7), the memorandum of understanding shall be executed between the director, on behalf of the qualified municipality, and the State Treasurer, on behalf of the State.

3. 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; term.

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. (1) The term of the chief operating officer shall terminate five years following the assumption of duties on the part of the initial chief operating officer first appointed pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or 10 years thereafter, except as provided under paragraph (2) of this subsection, if the fourth-year report required by section 8 of P.L.2002, c.43 (C.52:27BBB-8) recommends an extension of that term, provided that the extension is approved by the Commissioner of Community Affairs. 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.

(2) An extended term of the office of chief operating officer shall terminate early upon the recommendation of the Commissioner of Community Affairs to end the rehabilitation term for a qualified municipality and to commence the economic recovery term.

d. Subject to the approval of the State Treasurer, 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 and paid through the Department of the Treasury.

4. Section 8 of P.L.2002, c.43 (C.52:27BBB-8) is amended to read as follows:

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 or his or her successor 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, recommen-

dations 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.

5. Section 19 of P.L.2002, c.43 (C.52:27BBB-19) is amended to read as follows:

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 during the rehabilitation term or the mayor during the economic recovery term, 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 during the rehabilitation term, or within the first 60 days of the economic recovery term. 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.

6. Section 23 of P.L.2002, c.43 (C.52:27BBB-23) is amended to read as follows:

C.52:27BBB-23 Approval, veto of ordinance, resolution.

23. a. (1) (a) During the rehabilitation term, 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.

(b) If, in the opinion of the chief operating officer, the action is contrary to the rehabilitation or 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.

(2) During the economic recovery term, in addition to the normal procedures for adopting resolutions and ordinances set forth in the form of government of the qualified municipality, 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 Commissioner of Community Affairs, 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 commissioner 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. The action by the commissioner regarding an ordinance pursuant to this paragraph shall supersede any action by the mayor on that same ordinance.

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.

7. Section 27 of P.L.2002, c.43 (C.52:27BBB-27) is amended to read as follows:

C.52:27BBB-27 Increase in municipal portion of general tax rate limited.

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. During the economic recovery term, the governing body of the qualified municipality may only increase the municipal tax levy by three percent per year, notwithstanding the spending limitations set forth in P.L.1976, c.68 (C.40A:4-45.1 et seq.) and the limitations on increases to the tax levy pursuant to sections 9 through 13 of P.L.2007, c.62 (C.40A:4-45.44 through C.40A:4-45.47 and C.40A:4-45.3e), except upon application by the mayor of the qualified municipality to the Local Finance Board for authorization.

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 during the rehabilitation term, 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 pursuant to subsection c. of this section, 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.

8. 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, or until its funds have been disbursed, whichever occurs first. 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 mu-

nicipality which shall include improvements or other economic benefits totaling not less than $20 million and a proposed construction schedule for the completion thereof.

9. Section 44 of P.L.2002, c.43 (C.52:27BBB-43) is amended to read as follows:

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, 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.

10. Section 62 of P.L.2002, c.43 (C.52:27BBB-60) is amended to read as follows:

C.52:27BBB-60 Arrangements with other public entities by qualified municipalities.

62. During the rehabilitation and economic recovery terms, 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 and economic recovery terms as are necessary or useful in furthering the purposes of P.L.2002, c.43 (C.52:27BBB-1 et al.).

11. Section 63 of P.L.2002, c.43 (C.52:27BBB-61) is amended to read as follows:

C.52:27BBB-61 Contract to contain provision for termination.

63. a. 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 subsection shall not apply to collective bargaining agreements.

b. 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.) may be terminated by the mayor, upon 30 days' notice, for any reason, without payment of penalty or damages, during the economic recovery term. This subsection shall not apply to collective bargaining agreements.

C.52:27BBB-63.1 School districts affected by economic recovery term.

12. a. Notwithstanding the provisions of section 67 of P.L.2002, c.43 (C.52:27BBB-63) or any other section of law to the contrary, upon the commencement of the economic recovery term in a qualified municipality pursuant to the provisions of section 6 of P.L.2002, c.43 (C.52:27BBB-6), a school district which is contiguous with that qualified municipality shall become or remain, as applicable, a Type I school district and, except at otherwise provided pursuant to subsection b. of this section, shall be governed by the provisions of Title 18A of the New Jersey Statutes relating to Type I districts.

b. The terms of the appointed members of the board of education in office at the time of the commencement of the economic recovery term shall continue to, and cease upon, the appointment of members to the Type I school district board of education by the mayor or other chief executive officer of the qualified municipality. The terms of the newly-appointed members shall be staggered. Any elected members of the board of education in office at the time of the commencement of the economic recovery term shall continue in office until the expiration of their respective terms and the qualification of their respective successors following appointment to the Type I school district board of education by the mayor or other chief elected officer of the qualified municipality.

c. At the April school election in the fourth school year following the commencement of the economic recovery term in a qualified municipality, the board of education of the district shall place the question of the classification status of the district as a Type I or Type II district before the voters, which election shall be conducted in accordance with the provisions of Title 19 of the Revised Statutes concerning school elections.

If the voters of the district elect to become a Type II district, it shall be governed by the provisions of Title 18A of the New Jersey Statutes relating to Type II districts and the members of the board of education at the time of the election shall remain and continue in office until the expiration of their respective terms and the qualification of their respective successors.

If the voters of the district elect to remain a Type I district, it shall be governed in accordance with the provisions of Title 18A of the New Jersey Statutes relating to Type I districts.

d. The provisions of section 68 of P.L.2002, c.43 (C.52:27BBB-64) shall not be applicable to a school district subject to this section.

13. This act shall take effect immediately.

Approved January 18, 2010.

CHAPTER 338

AN ACT concerning the contractual salary applicable to certain employees enrolled in the Public Employees' Retirement System and amending P.L.1954, c.84.

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

1. Section 6 of P.L.1954, c.84 (C.43:15A-6) is amended to read as follows:

C.43:15A-6 Definitions.

6. As used in this act:

a. "Accumulated deductions" means the sum of all the amounts, deducted from the compensation of a member or contributed by or on behalf of the member, standing to the credit of the member's individual account in the annuity savings fund.

b. "Annuity" means payments for life derived from the accumulated deductions of a member as provided in this act.

c. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, granted under the provisions of this act, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

d. "Beneficiary" means any person receiving a retirement allowance or other benefit as provided in this act.

e. "Child" means a deceased member's unmarried child either (1) under the age of 18 or (2) of any age who, at the time of the member'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 board.

f. "Parent" shall mean the parent of a member who was receiving at least 1/2 of the parent's support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

g. (1) "Widower," for employees of the State, means the man to whom a member was married, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), at least five years before the date of her death and to whom she continued to be married or a domestic partner until the date of her death and who was receiving at least 1/2 of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower will be considered terminated by marriage of, or establishment of a domestic partnership by, the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(2) Subject to the provisions of paragraph (3) of this subsection, "widower," for employees of public employers other than the State, means the man to whom a member was married at least five years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least 1/2 of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower shall be considered terminated by marriage of the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(3) A public employer other than the State may adopt a resolution providing that the term "widower" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

h. "Final compensation" means the average annual compensation for which contributions are made for the three years of creditable service in New Jersey immediately preceding the member's retirement or death, or it shall mean the average annual compensation for New Jersey service for which contributions are made during any three fiscal years of his or her

membership providing the largest possible benefit to the member or the member's beneficiary.

i. "Fiscal year" means any year commencing with July 1 and ending with June 30 next following.

j. "Medical board" shall mean the board of physicians provided for in section 17 of P.L.1954, c.84 (C.43:15A-17).

k. "Pension" means payments for life derived from appropriations made by the employer as provided in this act.

l. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of a pension granted under the provisions of this act, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

m. "Public Employees' Retirement System of New Jersey," hereinafter referred to as the "retirement system" or "system," is the corporate name of the arrangement for the payment of retirement allowances and other benefits under the provisions of this act including the several funds placed under said system. By that name all of its business shall be transacted, its funds invested, warrants for money drawn, and payments made and all of its cash and securities and other property held.

n. "Regular interest" shall mean interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the board of trustees and the actuary. It shall bear a reasonable relationship to the percentage rate of earnings on investments based on the market value of the assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the board of trustees shall not set the average percentage rate of increase applied to salaries below 6%.

o. "Retirement allowance" means the pension plus the annuity.

p. "Veteran" means any honorably discharged officer, soldier, sailor, airman, marine or nurse who served in any Army, Air Force or Navy of the Allies of the United States in World War I, between July 14, 1914, and November 11, 1918, or who served in any Army, Air Force or Navy of the Allies of the United States in World War II, between September 1, 1939, and September 2, 1945, and who was inducted into such service through voluntary enlistment, and was a citizen of the United States at the time of such enlistment, and who did not, during or by reason of such service, renounce or lose United States citizenship, and any officer, soldier, sailor, marine, airman, nurse or army field clerk, who has served in the active military or naval service of the United States and has or shall be discharged or released

therefrom under conditions other than dishonorable, in any of the following wars, uprisings, insurrections, expeditions, or emergencies, and who has presented to the retirement system evidence of such record of service in form and content satisfactory to said retirement system:

(1) The Indian wars and uprisings during any of the periods recognized by the War Department of the United States as periods of active hostility;

(2) The Spanish-American War between April 20, 1898, and April 11, 1899;

(3) The Philippine insurrections and expeditions during the periods recognized by the War Department of the United States as of active hostility from February 4, 1899, to the end of 1913;

(4) The Peking relief expedition between June 20, 1900, and May 27, 1902;

(5) The army of Cuban occupation between July 18, 1898, and May 20, 1902;

(6) The army of Cuban pacification between October 6, 1906, and April 1, 1909;

(7) The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

(8) The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

(9) World War I, between April 6, 1917, and November 11, 1918;

(10) World War II, between September 16, 1940, and December 31, 1946, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 90-day service as herein provided;

(11) Korean conflict on or after June 23, 1950, and on or prior to January 31, 1955, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury

or disability shall be classed as a veteran whether or not that person has completed the 90-day service as herein provided; and provided further, that any member classed as a veteran pursuant to this paragraph prior to August 1, 1966, shall continue to be classed as a veteran whether or not that person completed the 90-day service between said dates as herein provided;

(12) Lebanon crisis, on or after July 1, 1958, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 1, 1958 or the date of termination of that conflict, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(13) Vietnam conflict on or after December 31, 1960, and on or prior to May 7, 1975, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 90 days' service as herein provided;

(14) Lebanon peacekeeping mission, on or after September 26, 1982, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before December 1, 1987 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(15) Grenada peacekeeping mission, on or after October 23, 1983, who has served in Grenada or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggre-

gate, of at least 14 days commencing on or before November 21, 1983 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(16) Panama peacekeeping mission, on or after December 20, 1989 or the date of inception of that mission, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in Panama or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before January 31, 1990 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(17) Operation "Desert Shield/Desert Storm" mission in the Arabian peninsula and the Persian Gulf, on or after August 2, 1990 or the date of inception of that operation, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in the Arabian peninsula or on board any ship actively engaged in patrolling the Persian Gulf for a period, continuous or in the aggregate, of at least 14 days commencing on or before the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(18) Operation Northern Watch and Operation Southern Watch, on or after August 27, 1992, or the date of inception of that operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of inception is earliest, who served in the theater of operation, including in the Arabian peninsula and the Persian Gulf, and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service, commencing on or before the date of termination of that operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of termination is the latest; provided, that any person receiving an actual service-incurred injury or disability while engaged in such

service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(19) Operation "Restore Hope" in Somalia, on or after December 5, 1992, or the date of inception of that operation as proclaimed by the President of the United States or Congress, whichever date is earliest, who has served in Somalia or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before March 31, 1994; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14-day service as herein provided;

(20) Operations "Joint Endeavor" and "Joint Guard" in the Republic of Bosnia and Herzegovina, on or after November 20, 1995, who served in such active service in direct support of one or both of the operations for at least 14 days, continuously or in the aggregate, commencing on or before June 20, 1998 and (1) was deployed in that nation or in another area in the region, or (2) was on board a United States naval vessel operating in the Adriatic Sea, or (3) operated in airspace above the Republic of Bosnia and Herzegovina; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person completed the 14-day service requirement;

(21) Operation "Enduring Freedom", on or after September 11, 2001, who served in a theater of operation and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided; and

(22) Operation "Iraqi Freedom", on or after the date the President of the United States or the United States Secretary of Defense designates as the inception date of that operation, who served in Iraq or in another area in the region in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided.

"Veteran" also means any honorably discharged member of the American Merchant Marine who served during World War II and is declared by the United States Department of Defense to be eligible for federal veterans' benefits.

q. (1) "Widow," for employees of the State, means the woman to whom a member was married, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), at least five years before the date of his death and to whom he continued to be married or a domestic partner until the date of his death and who was receiving at least 1/2 of her support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widow will be considered terminated by the marriage of, or establishment of a domestic partnership by, the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(2) Subject to the provisions of paragraph (3) of this subsection, "widow," for employees of public employers other than the State, means the woman to whom a member was married at least five years before the date of his death and to whom he continued to be married until the date of his death and who was receiving at least 1/2 of her support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widow shall be considered terminated by the marriage of the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(3) A public employer other than the State may adopt a resolution providing that the term "widow" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

r. (1) "Compensation" means the base or contractual salary, for services as an employee, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary or extracurricular duties beyond the regular workday or the regular work year.

(2) In the case of a person who becomes a member of the retirement system on or after July 1, 2007, "compensation" means the amount of base or contractual salary equivalent to the annual maximum wage contribution base for Social Security, pursuant to the Federal Insurance Contributions

Act, for services as an employee, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary or extracurricular duties beyond the regular workday or the regular work year. This paragraph shall not apply to a person who at the time of enrollment in the retirement system on or after July 1, 2007 transfers service credit from another State-administered retirement system pursuant to section 14 of P.L.1954, c.84 (C.43:15A-14), but shall apply to a former member of the retirement system who has been granted a retirement allowance and is reenrolled in the retirement system on or after July 1, 2007 pursuant to section 27 of P.L.1966, c.217 (C.43:15A-57.2) after becoming employed again in a position that makes the person eligible to be a member of the retirement system.

In cases where salary includes maintenance, the retirement system shall fix the value of that part of the salary not paid in money which shall be considered under this act.

For the period of July 1, 2009 through June 30, 2011, "contractual salary" for State employees shall include across the board negotiated wage increases under a collective negotiations agreement that were payable to all State employees covered by that agreement notwithstanding that, by amendment to that collective negotiations agreement, the effective date of the contractual increase has been deferred. For the purpose of this paragraph, "State employee" means an employee in the Executive Branch or the Judicial Branch of State government of New Jersey, or an employee of the State University authorized to participate in the system under subsection b. of section 73 of P.L.1954, c.84 (C.43:15A-73), but shall not include employees of agencies authorized to participate in the system under subsections a., c., d., e., f., and g. of section 73 of P.L.1954, c.84 (C.43:15A-73) or under P.L.1990, c.25 (C.43:15A-73.2 et al.).

For the period of July 1, 2009 through June 30, 2011, "contractual salary" for county and municipal employees shall include across the board negotiated wage increases under a collective negotiations agreement that were payable to all county or all municipal employees covered by that agreement notwithstanding that, by amendment to that collective negotiations agreement which has been filed with the Division of Pensions and Benefits, the effective date of the contractual increase has been deferred. For the purpose of this paragraph, "county and municipal employees" means all persons employed by a county or municipality in this State.

2. This act shall take effect immediately.

Approved January 18, 2010.

CHAPTER 339

AN ACT concerning initiative and referendum in certain municipalities and amending various parts of the statutory law.

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

1. R.S.40:74-18 is amended to read as follows:

Ordinances; adoption, submission to voters.

40:74-18. If a majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the municipality. An ordinance proposed by petition, or which shall be adopted by a vote of the people, shall not be repealed or amended within 3 years of the date of adoption by the voters, except by a vote of the people; except that an ordinance proposed by petition to increase or decrease either the term of office of the members of the governing body or the number of members of the governing body, or regarding the division of the municipality into a number of wards, shall not be submitted to the voters of the municipality more than once in any 10-year period.

2. R.S.40:76-26 is amended to read as follows:

Proposition not adopted, resubmission to voters.

40:76-26. If a majority of the votes cast at the special election are against the proposition submitted, no other petition for the submission, to the voters of such municipality, of the same proposition, as provided for in this chapter shall be filed with the clerk within two years thereafter, except that an ordinance proposed by petition to increase or decrease either the term of office of the members of the governing body or the number of members of the governing body, or regarding the division of the municipality into a number of wards, shall not be submitted to the voters of the municipality more than once in any 10-year period, after which date, upon the presentation of another petition or request as provided for herein, the same procedure

shall be had, and the same proposition shall be again submitted to a vote in the manner herein prescribed and with the same force and effect.

3. Section 1-23 of P.L.1950, c.210 (C.40:69A-23) is amended to read as follows:

C.40:69A-23 Optional form of government; adoption, no vote for 10 years thereafter to change.

1-23. The voters of any municipality which has adopted an optional form of government pursuant to this act may not vote on the question of adopting another form of government until 10 years thereafter.

4. Section 17-47 of P.L.1950, c.210 (C.40:69A-196) is amended to read as follows:

C.40:69A-196 Repeal, amendment of ordinances.

17-47. a. If a majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the municipality and be published as in the case of other ordinances. No such ordinance shall be amended or repealed within 3 years immediately following the date of its adoption by the voters, except by a vote of the people. The council may, within 3 years immediately following the date of adoption of the ordinance, submit a proposition for the repeal or amendment of that ordinance to the voters at any succeeding general election or regular municipal election. If the proposition submitted shall receive a majority of the votes cast at that election, the ordinance shall be repealed or amended accordingly. If the provisions of two or more measures approved or adopted at the same election conflict then the measure receiving the greatest affirmative vote shall control.

b. Notwithstanding the provisions of this section, an ordinance proposed by petition to increase or decrease the term of office of the members of the governing body or the number of members of the governing body, or the division of the municipality into a number of wards, shall not be submitted to the voters of the municipality more than once in any 10-year period.

5. Section 1 of N.J.S.40A:62-2 is amended to read as follows:

C.40A:62-2 Elected officers, terms.

1. a. The mayor shall be elected by the voters of the municipality at large and shall be known as the councilman-at-large. The mayor shall serve for a term of four years.

b. (Deleted by amendment, P.L.2005, c.93).

c. The council shall consist of eight members, two elected from each of four wards. The members of council shall serve for a term of four years.

d. Notwithstanding the provisions of subsection c. of this section, any town, whose council immediately prior to the effective date of P.L.1988, c.7 had a council whose method of election, composition or tenure of its membership differed in any way from the provisions set out in subsection c. of this section, shall continue to be governed by those provisions which determined the council's method of election, composition or tenure of its membership, as the case may be, until such time it wishes to adopt the provisions as set out in subsection c. of this section. Any adoption shall be by referendum of voters, after the town council shall have passed an ordinance not less than 60 days preceding any general election calling for the referendum to be placed upon the ballot. The referendum shall not be submitted to the voters more than once in any 10-year period.

e. The annual election for town officers shall be held at the same time and places as the general election. No person shall be permitted to vote at any such election unless he is an actual resident of the election district in which he offers his vote.

6. Section 1 of P.L.1991, c.227 (C.40A:62-2.1) is amended to read as follows:

C.40A:62-2.1 Voters may increase terms of certain mayors, council members.

1. a. The legal voters of any town in which the mayor and council members are elected for two-year terms of office, may by petition and referendum, require that the mayor and council members shall be elected for four-year terms of office.

b. Upon the submission to the town clerk of a petition, signed by at least fifteen per centum (15%) of the legal voters of the municipality who cast their votes in the municipality at the last election in which members of the General Assembly were elected, the proposition shall be submitted to the voters at the next general election. The proposition shall not be submitted more than once in any 10-year period.

c. The notice, advertisement and conduct of the referendum shall be in the same manner as for offices voted at the general election.

d. The proposition shall be submitted to the voters at the election in substantially the following form: "Shall the term of the mayor and council members in ..... be increased to four years?"

(name of town)

e. A canvass and return of the vote upon the proposition shall be made by the election officers in the same manner as for officers voted for at the general election, and a majority of all the votes cast upon the proposition in favor of the proposition shall be sufficient to adopt it.

7. R.S.40:81-1 is amended to read as follows:

Members; number; increase or decrease by initiative and referendum.

40:81-1. The municipal council shall consist of three, five, seven or nine members as authorized on the effective date of this 1981 amendatory act.

After the effective date of this 1981 amendatory act, the legal voters of any municipality may, by petition and referendum, increase or decrease the number of the municipal council to three, five, seven or nine members. Upon the submission of a petition signed by a number of the legal voters of the municipality equal in number to at least 15% of the total votes cast in the municipality at the last election at which members of the General Assembly were elected, the proposition to increase or decrease the membership of the municipal council shall be submitted to the voters at the next general election. The proposition shall not be submitted more than once in any 10-year period.

The signatures, verification, authentication, inspection, certification, amendment and submission of the petition shall be the same as for petitions to recall councilmen and shall be filed and certified to by the municipal clerk at least 60 days before the general election at which the proposition shall be submitted to a vote.

The question of the increase in the number of commissioners shall be submitted to the voters at the election in substantially the following form:

"Shall the membership of the municipal council of .....
(name of municipality)
be ..... from .....
(insert "increased" or "decreased" as appropriate) (insert current number)
to ..... members?"
(insert proposed number)

A canvass and return of the vote upon the proposition shall be made by the election officers in the same manner as for officers voted for at the election, and a majority of all the votes cast upon the proposition in favor of the proposition shall be sufficient to make the change.

When the legal voters shall have voted to increase or decrease the membership of the municipal council as provided in this section, the increase or decrease shall take effect for the next regular municipal election of councilmen.

8. Section 4 of P.L.1981, c.427 (C.40:81-5.1) is amended to read as follows:

C.40:81-5.1 Staggered terms for municipal council members under municipal manager form of government.

4. Where the members of the municipal council in any municipality adopting the municipal manager form of government have 4-year terms of office pursuant to R.S. 40:81-5, the legal voters of the municipality, by petition and referendum, may provide that the terms of office of the members of the municipal council shall expire in staggered years as provided in this section.

a. An election upon the proposition to elect members of the municipal council to terms of office which expire in staggered years shall be ordered by the municipal council upon the submission of a petition signed by a number of the legal voters of the municipality equal to not less than 15% of the total votes cast in the municipality at the last preceding election at which members of the General Assembly were elected. The proposition shall be submitted at the next general election. The proposition shall not be submitted more than once in any 3-year period;

b. The signatures, verification, authentication, inspection, certification, amendment and submission of the petition shall be the same as for petitions to recall councilmen and shall be filed and certified to by the municipal clerk at least 60 days before the general election at which the proposition shall be submitted to a vote;

c. The question of the election of members of the municipal council to staggered terms of office shall be submitted to the voters at such election in substantially the following form:

"Shall the terms of office of members of the municipal council of ..... expire in staggered years?"
(name of municipality)

d. A canvass and return of the vote upon the proposition shall be made by the election officers in the same manner as for officers voted for at the election, and a majority of all the votes cast upon the proposition in favor of the proposition shall be sufficient to make the change;

e. When the legal voters shall have voted to have the terms of office of members of the municipal council expire in staggered years, there shall be elected at the next regular municipal election of councilmen the following:

(1) If the municipal council consists of three members, two of the members shall be elected for 4 years, and one for 2 years, the respective terms of each to be designated on the ballot;

(2) If the municipal council consists of five members, two of the members shall be elected for 4 years, and three for 2 years, the respective terms of each to be designated on the ballot;

(3) If the municipal council consists of seven members, three of the members shall be elected for 4 years, and four for 2 years, the respective terms of each to be designated on the ballot;

(4) If the municipal council consists of nine members, four of the members shall be elected for 4 years, and five for 2 years, the respective terms of each to be designated on the ballot.

Each council member elected thereafter shall serve for a 4-year term of office.

Notwithstanding the provisions of this section, an ordinance proposed by petition to increase or decrease the term of office of the members of the governing body or the number of members of the governing body, or the division of the municipality into a number of wards, shall not be submitted to the voters of the municipality more than once in any 10-year period.

9. This act shall take effect immediately and shall be retroactive to public questions on the November 3, 2009 ballot.

Approved January 18, 2010.

JOINT RESOLUTIONS

JOINT RESOLUTION NO. 1

A JOINT RESOLUTION designating the week of February 14 in each year as "Salute To Hospitalized Veterans Week."

WHEREAS, The Department of Military and Veterans' Affairs provides services and programs directed to New Jersey's estimated 634,000 veterans and their families; and

WHEREAS, There are approximately 800 residents served in State Veterans' Memorial Homes located in Paramus, Menlo Park and Vineland; and

WHEREAS, Veterans Haven, a transitional housing program for homeless veterans, has served over 376 veterans since it opened in 1995; and

WHEREAS, The federal Department of Veterans Affairs (VA) cares for more than 98,000 veterans of the U.S. armed services — some of whom are residents of this State — every day throughout this Nation in medical centers, outpatient clinics, domiciliaries, and nursing homes; and

WHEREAS, Nearly 100,000 volunteers serve veterans in VA facilities; and

WHEREAS, During the "Salute To Hospitalized Veterans Week" the Department of Military and Veterans' Affairs and the VA would invite individuals, veterans groups, military personnel, civic organizations, businesses, schools, local media, celebrities and sports stars to participate in a variety of activities at their nursing homes and medical centers; now, therefore,

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

C.36:2-122 "Salute To Hospitalized Veterans Week," week of February 14; designated.

1. The week of February 14 in each year is designated as "Salute To Hospitalized Veterans Week" in the State of New Jersey.

C.36:2-123 Observance of "Salute To Hospitalized Veterans Week."

2. The Governor shall annually issue a proclamation calling upon public officials and the citizens of this State to observe the week with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved February 17, 2009.

JOINT RESOLUTION NO. 2

A JOINT RESOLUTION designating the month of March of each year as "Prescription Drug Abuse Awareness Month" in New Jersey.

WHEREAS, According to the National Center on Addiction and Substance Abuse at Columbia University (CASA), the number of persons in the United States who abused controlled prescription drugs nearly doubled from 1992 to 2003, from 7.8 million to 15.1 million, and such abuse among teenagers in the United States more than tripled over that time period; and

WHEREAS, The 15.1 million persons who abused controlled prescription drugs exceeds the combined number of those abusing cocaine (5.9 million), hallucinogens (4.0 million), inhalants (2.1 million) and heroin (0.3 million); and

WHEREAS, CASA also reports that, from 1992 to 2003, while the population of the United States increased 14%, the number of adults 18 years of age and older who were abusing controlled prescription drugs climbed 81%, and the number of youths 12 to 17 years of age who were abusing such drugs jumped 212%; and

WHEREAS, CASA's analysis of emergency room data confirms the sharp increase in abuse of controlled prescription drugs and the consequences from such use; in 2002, controlled prescription drugs were implicated in 29.9% of drug-related emergency room deaths and in at least 23% of drug-related admissions to emergency departments; and

WHEREAS, According to a 2005 study conducted by the Partnership for a Drug-Free America about drug abuse among teenagers, abuse of controlled prescription drugs is now so prevalent that it is "normalized" among teenagers, and nearly one in five teenagers, (19% or 4.5 million) report having abused prescription drugs to get high; and

WHEREAS, The Substance Abuse and Mental Health Services Administration in the United States Department of Health and Human Services reports that in 2004, 283,000 of New Jerseyans 12 years of age or older abused nonmedical pain reliever drugs, such as Vicodin, Oxycontin, Oxycodone, and Codeine; of these users, 45,000 were youths 12 to 17 years of age, 91,000 were young adults 18 to 25 years of age, and 147,000 were adults 26 years of age or older; and

WHEREAS, Because youths see controlled prescription drugs in their own families' medicine cabinets, these drugs are more accessible to them than street drugs; and since controlled prescription drugs are in their

medicine cabinets, youths perceive these familiar drugs as safe to use and feel more comfortable abusing these "safer" prescription drugs than street drugs; and

WHEREAS, The ease of unregulated purchasing of controlled prescription drugs over the Internet, with just a credit card and no prescription, and the opportunity to obtain controlled prescription drugs from their families' medicine cabinets have increased the availability of drugs to youths; and

WHEREAS, It is in the public interest for the State to educate and raise awareness among the general public, youths, and especially parents, about the dangers of abusing controlled prescription drugs; now, therefore,

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

C.36:2-124 "Prescription Drug Abuse Awareness Month," March; designated.

1. The month of March of each year is designated as "Prescription Drug Abuse Awareness Month" in New Jersey.

C.36:2-125 Annual observance.

2. The Governor shall annually issue a proclamation calling upon public officials and the citizens of the State to observe the month of March of each year with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved March 21, 2009.

JOINT RESOLUTION NO. 3

A JOINT RESOLUTION designating May of each year as "Brain Tumor Awareness Month."

WHEREAS, Approximately 17,000 malignant tumors of the brain or spinal cord are diagnosed each year in the United States; and

WHEREAS, About 20% of those people will be diagnosed with a primary brain tumor, while the majority will be found to have metastatic brain tumors; and

WHEREAS, Primary tumors are tumors that begin in the brain and tend to stay in the brain; and metastatic brain tumors begin as a cancer elsewhere in the body and spread, or metastasize, to the brain; and

WHEREAS, The most common kinds of cancer that metastasize to the brain are lung and breast cancer; and

WHEREAS, The precise cause of different kinds of brain tumors is unknown, but certain factors may increase the likelihood of developing a brain tumor; and

WHEREAS, Brain tumors can occur at any age, but studies show that they are most common among children from three to 12 years of age, and adults from 40 to 70 years of age; and

WHEREAS, Studies indicate that some types of brain tumors are more frequent among workers in certain industries, such as oil refining and rubber manufacturing; and some studies have found that chemists and embalmers have a higher incidence of brain tumors; and

WHEREAS, Scientists do not believe that head injuries cause brain tumors to develop; and

WHEREAS, Improvements in childhood cancer survival rates have been made as a result of clinical trials, with more than one half of children diagnosed with brain tumors surviving five years from diagnosis; and, in some subgroups of patients, an even higher rate of survival and cure is possible; and

WHEREAS, Despite the efforts of some of the world's finest researchers to develop better therapies, individuals who are diagnosed with brain tumors still do not have adequate treatment choices; and, in fact, the outlook for brain tumor patients has not improved significantly in the last 20 years; and

WHEREAS, Because various organizations nationwide join together to promote public awareness about brain tumors during the first full week in May, which is designated as national "Brain Tumor Action Week," it is appropriate for this State to designate the month of May as "Brain Tumor Awareness Month" in New Jersey in order to coincide with the national observance; now, therefore,

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

C.36:2-126 "Brain Tumor Awareness Month," May; designated.

1. The month of May of each year is designated as "Brain Tumor Awareness Month" in New Jersey in order to promote public awareness about brain tumors.

C.36:2-127 Observance.

2. The Governor shall annually issue a proclamation calling upon public officials and the citizens of the State to observe the month with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved April 15, 2009.

JOINT RESOLUTION NO. 4

A JOINT RESOLUTION designating the Sunset Lake Hydrofest in Wildwood Crest, New Jersey, as the New Jersey Governor's Cup Hydrofest Series.

WHEREAS, The racing of hydroplanes and flatbottom powerboats is an exciting form of outdoor competition that draws thousands of devoted racing fans to New Jersey; and

WHEREAS, The Sunset Lake Hydrofest in Wildwood Crest, New Jersey, is the final stop of the national Hydroplane Super Series, sanctioned by the American Power Boat Association, inboard racing division; and

WHEREAS, This event features powerboat racing at its finest and it draws thousands of people who enjoy the competition, visit nearby vendors and displays, and enjoy accommodations throughout the southern New Jersey shore area; and

WHEREAS, Not only does the Sunset Lake Hydrofest benefit tourism, but it also helps to raise money for the Cape May County Public Safety Training Academy; and

WHEREAS, Given the importance of the Sunset Lake Hydrofest to tourism in the Garden State and its contributions to the public safety of Cape May County, it is fitting and proper for the Legislature to designate the Sunset Lake Hydrofest in Wildwood Crest as the New Jersey Governor's Cup Hydrofest Series; now, therefore,

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

C.34:1A-52.1 New Jersey Governor's Cup Hydrofest Series; designated.

1. The Sunset Lake Hydrofest in Wildwood Crest, New Jersey, is designated as the New Jersey Governor's Cup Hydrofest Series.

C.34:1A-52.2 Designation of trophy, commendation.

2. An appropriate perpetual trophy or commendation, to be provided by the governing body of the event, shall be designated as the New Jersey Governor's Cup of the Sunset Lake Hydrofest in Wildwood Crest, New Jersey.

C.34:1A-52.3 Annual award.

3. Every year, the Governor, or the designee thereof, shall award the New Jersey Governor's Cup to the winner of the Sunset Lake Hydrofest.

4. This joint resolution shall take effect immediately.

Approved May 4, 2009.

JOINT RESOLUTION NO. 5

A JOINT RESOLUTION declaring November of each year as "New Jersey Wine Month."

WHEREAS, New Jersey's excellent wines, wineries, and vineyards are an important part of the State's agricultural diversity, tourism, and economy; and

WHEREAS, New Jersey's wineries and wines are nationally and internationally recognized and have received numerous awards; and

WHEREAS, New Jersey's three federally recognized viticultural areas, including Warren Hills, the first federally-recognized viticulture area, Central Delaware Valley, and newly recognized Outer Coastal Plain, are all host to special geographical terrain allowing for an exceptional grape harvest used in the production of wine in those areas; and

WHEREAS, New Jersey is the fifth largest producer of wine in the United States and is the fourth highest leader in terms of wine sales and wine consumption; and

WHEREAS, The winemaking industry in New Jersey contributes approximately $1.3 million each year to the State's economy; and

WHEREAS, New Jersey is home to over 30 wineries in nearly every county, cultivating over 40 varieties of grapes and producing over 100 different varieties of wines across 623 acres of land dedicated to grape production; and

WHEREAS, Winemaking has been a tradition in New Jersey for over 200 years and continues to build upon a rich history that began in colonial times when, in 1767, London's Royal Society of the Arts recognized two New Jersey vintners for their excellent wines; and

WHEREAS, New Jersey's agricultural tourism is enhanced by the estimated 235,000 visitors who annually attend events and festivals hosted by the State's wineries and continue to support the vineyards and agricultural heritage of the State; and

WHEREAS, New Jersey offers residents and visitors three unique weekend wine trails developed by the Garden State Wine Growers Association to encourage and promote wine tourism, share information about New Jersey's wineries, and provide an opportunity to experience award-winning wine tasting; and

WHEREAS, It is recognized that wine in moderation has health benefits and is a food that should be enjoyed and complemented with other foods; and

WHEREAS, The New Jersey wine industry has achieved many accomplishments and greatly contributed to the culture and economy of the State; now, therefore,

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

C.36:2-128 "New Jersey Wine Month," November; designated.

1. The month of November of each year is declared "New Jersey Wine Month" to acknowledge the significant contributions and accomplishments of the New Jersey wine industry, and the people of New Jersey are urged to explore the wine culture and history of this State, especially during this month.

C.36:2-129 Observance.

2. The Governor shall annually issue a proclamation calling upon the State's wine industry, the New Jersey Department of Agriculture, and the New Jersey Department of State to observe and promote the month with appropriate activities and programs.

3. A duly authenticated copy of this joint resolution shall be transmitted to the Garden State Wine Growers Association.

4. This joint resolution shall take effect immediately.

Approved May 6, 2009.

JOINT RESOLUTION NO. 6

A JOINT RESOLUTION designating the Sunday before September 11th of each year as Freedom Walk Day.

WHEREAS, Tens of thousands of Americans in all 50 states and the District of Columbia and several foreign nations have participated in Freedom Walks to commemorate the fifth anniversary of the September 11, 2001, terrorist attacks and to support military service personnel, veterans and emergency responders, past and present; and in honor of the victims of the September 11, 2001 terrorist attacks; and

WHEREAS, The America Supports You Freedom Walk will be held in cities large and small across the country on September 11, 2008 and the fourth annual America Supports You National Freedom walk will take place on September 7th, in Washington D.C.; and

WHEREAS, The America Supports You Freedom Walk calls upon people to reflect on the lives lost on September 11, 2001, remember those who responded, honor our veterans past and present, and renew our commitment to freedom and the values of our country; and

WHEREAS, The Freedom Walk began when Pentagon employees organized a walk from the Pentagon to the National Mall to honor the victims of the attacks as well as their families, pay tribute to those who responded as well as to those who serve, with nearly 15,000 people taking part; and

WHEREAS, Now, America Supports You Freedom Walks are taking place in communities across the nation, with at least 255 having participated throughout the 50 states and in eight nations overseas; and

WHEREAS, Freedom Walks are sponsored by local communities, civic groups, schools, churches and grass roots organizations as a way for citizens to unite together and remember the victims of September 11, 2001, and support emergency responders and our men and women serving in harm's way; now, therefore,

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

C.36:2-130 "Freedom Walk Day," Sunday before September 11; designated.

1. The Sunday before September 11th of each year is designated as "Freedom Walk Day" in the State of New Jersey in support of the service men and women and veterans of the United States Armed Forces, the Reserve components thereof, and the National Guard, and the emergency responders of this Nation, and in memory of the victims of the September 11, 2001 terrorist attacks in New York City, Pennsylvania and Washington, D.C.

C.36:2-131 Observance.

2. The Governor shall annually issue a proclamation and call upon public officials, private organizations, and all citizens and residents of this State to observe this day each year with appropriate events and activities.

3. This joint resolution shall take effect immediately.

Approved May 6, 2009.

JOINT RESOLUTION NO. 7

A JOINT RESOLUTION designating February of each year as "Eating Disorders Awareness Month."

WHEREAS, Eating disorders involve such serious disturbances in eating behavior as unhealthy and extreme reduction of food intake or overeating and feelings of distress about body weight or shape; and

WHEREAS, The National Eating Disorders Association estimates that as many as 10 million females and one million males in the United States suffer from an eating disorder such as anorexia nervosa or bulimia nervosa, and that approximately 25 million more people suffer from binge-eating disorder; and

WHEREAS, Anorexia nervosa is characterized by self-starvation and excessive weight loss; bulimia nervosa is characterized by a cycle of binge eating and compensatory behaviors, such as self-induced vomiting, in order to compensate for the effects of binge eating; and binge-eating disorder is a type of eating disorder not otherwise specified and is characterized by recurrent binge eating without the regular use of compensatory behaviors to counter binge eating; and

WHEREAS, In this country, an estimated 0.5% to 3.7% of females suffer from anorexia nervosa during their lifetimes; an estimated 1.1% to 4.2%

of females suffer from bulimia nervosa; and an estimated 2% to 5% of the population experiences binge-eating disorder during any given six-month period; and

WHEREAS, The mortality rate among people with anorexia nervosa is approximately .56% per year, or about 12 times higher than the annual death rate from all causes for all females from 15 to 24 years of age; and

WHEREAS, Eating disorders are associated with serious physical health consequences, including irregular heartbeats, heart disease, heart and kidney failures, osteoporosis, gastric rupture, peptic ulcer, tooth decay, obesity, gall bladder disease, diabetes, and death, in addition to such serious psychological problems as depression, substance abuse, and suicide; and

WHEREAS, A person who suffers from an eating disorder often experiences tremendous shame and guilt, and must cope with a condition that is often misunderstood; and these negative feelings and lack of understanding may prevent that person from seeking appropriate treatment for the disorder; and

WHEREAS, Eating disorders can be treated and a healthy weight restored; and the sooner the disorder is diagnosed and treated, the better the chances are for a positive outcome for the person with the disorder; and

WHEREAS, Because the last week in February is designated as "National Eating Disorders Awareness Week," it is appropriate for the State to designate the entire month of February as "Eating Disorders Awareness Month" in New Jersey in order to coincide with the national week of awareness; now, therefore,

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

C.36:2-132 "Eating Disorders Awareness Month," February; designated.

1. The month of February of each year is designated as "Eating Disorders Awareness Month" in New Jersey in order to increase public awareness of eating disorders and the need to expand research for treatment and a cure, broaden access to treatment, and promote healthful eating habits and a healthy body image.

C.36:2-133 Annual observance.

2. The Governor shall annually issue a proclamation calling upon public officials and the citizens of the State to observe the month with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved June 10, 2009.

JOINT RESOLUTION NO. 8

A JOINT RESOLUTION designating the last week of May of each year as "Hypertrophic Cardiomyopathy Awareness Week."

WHEREAS, Hypertrophic cardiomyopathy (HCM) is an inherited cardiovascular disease that causes the cells of the heart muscle to grow abnormally thick, which can increase a person's chance of dying suddenly from a violent interruption in the electrical activity of the heart, known as sudden cardiac death; and

WHEREAS, It is the most common genetic cardiovascular disease which occurs in one out of 500 people and affects 50 percent of the children of people who suffer from it; and

WHEREAS, While patients range in age from infants to the elderly, HCM is the leading cause of heart-related sudden death in people under 30 years of age; and

WHEREAS, Because many people do not know that HCM is an inherited cardiovascular disease and do not experience any symptoms, HCM often goes undiagnosed; and

WHEREAS, Currently there is no cure for HCM, but with early diagnosis there are reliable and effective treatments available to HCM patients to alter the course of the disease and reduce the risk of sudden cardiac death; and

WHEREAS, If early diagnosis and proper treatment of HCM are to occur, the public needs to develop an awareness and understanding of this genetic disease and its inherited risks; now, therefore,

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

C.36:2-137 "Hypertrophic Cardiomyopathy Awareness Week," last week of May; designated.

1. The last week of May of each year is designated as "Hypertrophic Cardiomyopathy Awareness Week" in the State of New Jersey in order to develop an awareness and understanding of hypertrophic cardiomyopathy.

C.36:2-138 Annual observance.

2. The Governor is respectfully requested to annually issue a proclamation calling upon public officials and citizens of this State to observe "Hypertrophic Cardiomyopathy Awareness Week" with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved August 18, 2009.

JOINT RESOLUTION NO. 9

A JOINT RESOLUTION designating October 2 of each year as "Firefighter Recognition Day" in the State of New Jersey.

WHEREAS, Firefighters throughout the State are called upon to serve and protect their fellow citizens by responding to horrendous events and acting heroically to save the lives of others in spite of the clear danger to their own lives; and

WHEREAS, Firefighters are routinely subjected to dangerous situations, called upon to work overtime without proper sleep, and spend time away from their families and loved ones; and

WHEREAS, Since the terrorist attacks on this nation on September 11, 2001, firefighters throughout the State have been called upon to make even greater sacrifices to ensure the safety and security of Americans; and

WHEREAS, The events of September 11, 2001 have brought to the forefront the courageous deeds performed by firefighters every day and have caused the citizens of the State of New Jersey to take closer notice of these acts; and

WHEREAS, Communities that have an established partnership with their local fire departments develop increased awareness in areas such as fire safety and prevention; and

WHEREAS, It is fitting and proper that the State of New Jersey recognize October 2 of each year as "Firefighter Recognition Day," to salute the contributions of firefighters to the security and well-being of this State; now, therefore,

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

C.36:2-139 "Firefighter Recognition Day," October 2; designated.

1. October 2 of each year shall be designated "Firefighter Recognition Day," to salute the contributions of firefighters to the security and well-being of this State.

C.36:2-140 Annual celebration.

2. The Governor shall annually issue a proclamation establishing October 2 of each year as "Firefighter Recognition Day" and, with the Legislature, call upon all citizens of the State to celebrate this day with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved October 1, 2009.

JOINT RESOLUTION NO. 10

A JOINT RESOLUTION designating the month of October of every year as Italian-American Heritage Month and repealing Joint Resolution No. 3, approved June 20, 1996.

WHEREAS, The history of America and the State of New Jersey have been significantly influenced by the rich heritage of Italy; and

WHEREAS, The cultural heritage of Italy includes the classical civilization of Rome, the fine arts of the Renaissance, the scientific and artistic genius of Leonardo Da Vinci, the literary works of Dante and Petrarch, the operas of Verdi and Puccini and many other contributions that have enriched civilization; and

WHEREAS, Over 5.4 million Italians emigrated to the United States between the years 1820 and 1991; and

WHEREAS, Over 1.5 million New Jerseyans or 18 percent of the State population are of Italian descent, according to the 2000 U.S. Census; and

WHEREAS, Italian-Americans have made many contributions to the history of the United States and New Jersey; and

WHEREAS, The voyages of the Italian explorer Christopher Columbus brought together the civilizations of Europe and the Americas; and

WHEREAS, Columbus' first contact with the New World in 1492 is celebrated as a State and federal holiday every year in October; and

WHEREAS, It is altogether fitting and proper to designate a month honoring

the significant accomplishments and contributions of the Italian-American community by designating the month of October annually as Italian-American Heritage Month; and

WHEREAS, It is appropriate to encourage American history classes in this State to highlight the contributions which Italian-Americans have made throughout American history; now, therefore,

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

C.36:2-141 Italian-American Heritage Month, October; designated.

1. The month of October of every year is designated as Italian-American Heritage Month.

C.36:2-142 Observance encouraged.

2. The Governor and Legislature of the State of New Jersey encourage American history classes throughout the State to discuss and examine the contributions which Italian-Americans have made to the history of this country during Italian-American Heritage Month and the people of this State are encouraged to observe the month with appropriate activities and programs.

Repealer.

3. Joint Resolution No. 3 of 1996 (C.36:2-39), approved June 20, 1996, is repealed.

4. This joint resolution shall take effect immediately.

Approved October 11, 2009.

JOINT RESOLUTION NO. 11

A JOINT RESOLUTION honoring Charles Edward Taylor and designating May 24 of each year as "Aviation Maintenance Technician Day."

WHEREAS, Charles Edward Taylor was born on May 24, 1869 and in 1902 began working as a machinist for Orville and Wilbur Wright at the Wright Cycle Company in Dayton, Ohio; and

WHEREAS, Within six weeks, Charles Edward Taylor, using only a lathe and drill press, built the first engine used to power the Wright Flyer; and

WHEREAS, Charles Edward Taylor's ingenuity earned him a place in aviation history when the Wright Brothers successfully flew their airplane on December 17, 1903; and

WHEREAS, After this historic event, Charles Edward Taylor continued to design engines for the Wright Brothers and later taught them to build aircraft engines; and

WHEREAS, In 1908, Charles Edward Taylor accompanied Orville Wright to Fort Meyer, Virginia for test flights by the United States government, and in 1909 accompanied Wilbur Wright to New York for the Hudson-Fulton flights; and

WHEREAS, Charles Edward Taylor served as lead mechanic for Calbraith (Cal) Rodgers, who made his first transcontinental flight in 1911; and

WHEREAS, Charles Edward Taylor had a successful career in aviation maintenance for more than 60 years; and

WHEREAS, Charles Edward Taylor was honored by the Federal Aviation Administration with the establishment of the Charles Edward Taylor Master Mechanic Award, which recognizes persons with 50 years or more of aviation maintenance experience; and

WHEREAS, The Federal Aviation Administration has chosen May 24, the birthday of Charles Edward Taylor, to be Aviation Maintenance Technician Day as a way to advance public appreciation for the significant and vital contributions of aviation maintenance technicians to the safety of all airline passengers, pilots, crew members, and people on the ground; and

WHEREAS, It is altogether fitting and proper to designate May 24 of each year as "Aviation Maintenance Technician Day" in the State of New Jersey to bring attention to the achievements of Charles Edward Taylor and to recognize the important contributions of aviation maintenance technicians; now, therefore,

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

C.36:2-143 "Aviation Maintenance Technician Day:, May 24; designated.

1. May 24 of each year is designated as "Aviation Maintenance Technician Day" in the State of New Jersey.

C.36:2-144 Observance.

2. The Governor is hereby requested to issue a proclamation calling upon public officials and the citizens of this State to observe the day with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved November 20, 2009.

JOINT RESOLUTION NO. 12

A JOINT RESOLUTION designating October 20 of each year as "Postpartum Depression Awareness Day."

WHEREAS, Postpartum depression is a severe mood disorder that affects an estimated 10% to 15% of new mothers, usually within the first year after childbirth, miscarriage or stillbirth; and

WHEREAS, The exact cause of postpartum depression is currently unknown, but some contributing factors include changes in hormone levels, difficulty during labor or pregnancy, premature birth, miscarriage, lack of support from friends or family, lack of sleep, sudden changes in routines, personal or family history of depression, and high levels of stress; and

WHEREAS, The symptoms of postpartum mood and anxiety disorders include trouble sleeping, changes in appetite, not enjoying life as much as before, lack of interest in the baby, lack of interest in friends and family, lack of interest in sex, uncontrollable crying, difficulty concentrating, feeling angry, exhausted or hopeless, and thoughts of harming the baby or oneself; and

WHEREAS, Postpartum depression often goes undiagnosed or untreated due to the social stigma surrounding depression and mental illness, and the lack of understanding of the complexity of postpartum depression by society and the medical community; and

WHEREAS, Untreated, postpartum depression affects the entire family as well as society, because it affects the child's physical and psychological and cognitive development, and can lead to child abuse, neglect or death of the infant or other siblings; and

WHEREAS, Postpartum depression is a treatable disorder if promptly diagnosed and attended to with social support, therapy, medication, and hospitalization, when necessary; and

WHEREAS, Greater awareness of postpartum depression is needed so that mothers and their families will be better able to recognize the symptoms of postpartum depression and help new mothers receive needed treatment; now, therefore,

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

C.36:2-145 "Postpartum Depression Awareness Day," October 20; designated.

1. October 20 of each year is designated as "Postpartum Depression Awareness Day" in the State of New Jersey.

C.36:2-146 Observance.

2. The Governor is hereby requested to issue a proclamation calling upon public officials and the citizens of this State to observe this day with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved January 11, 2010.

JOINT RESOLUTION NO. 13

A JOINT RESOLUTION designating the first week of March in each year as "Technology Innovation Week."

WHEREAS, Technological innovation is a powerful engine of economic growth in the global economy; and

WHEREAS, In New Jersey the technology sector is a major contributor to the overall health of the State's economy and its continued success is dependent upon the State's ability to supply employers in this sector with a technologically-literate workforce; and

WHEREAS, Supporting programs that encourage the State's young citizens to pursue education and careers in science and technology is a proactive

way to meet the future workforce needs of the State's technology sector; and

WHEREAS, The FIRST (For Inspiration and Recognition in Science and Technology) Program is dedicated to inspiring young people's interest in science and technology through innovative student robotics programs that match students with local engineers, engineering professors and students, and business people to solve real-world engineering challenges; and

WHEREAS, By engaging students in the creative "hands-on, minds-on" process of technological innovation, FIRST's programs help young people develop technical expertise while gaining the self-confidence, knowledge, and skills they need to meet life's challenges; and

WHEREAS, With the financial and technical support of leading technology-based companies, business organizations, colleges, and universities, the New York City/New Jersey FIRST Regional Program based at the New Jersey Institute of Technology includes 93 FIRST Robotics teams, 240 FIRST LEGO League middle school teams, and other technology teams that participate in competitions, tournaments, and programs throughout the region; and

WHEREAS, By fostering interest in science and engineering in our future leaders, science and technology-based education programs will help establish New Jersey as a valuable source of technological talent; now, therefore,

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

C.36:2-147 "Technology Innovation Week," first week in March; designated.

1. The first week in March of each year is designated as "Technology Innovation Week" in the State of New Jersey to celebrate innovation and encourage scientific and technological education throughout the State and, in particular, to celebrate the efforts of the young citizens of this State participating in the regional FIRST (For Inspiration and Recognition in Science and Technology) Competition.

C.36:2-148 Observance.

2. The Governor is requested to annually issue a proclamation calling upon public officials and the citizens of this State to observe the week with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved January 11, 2010.

JOINT RESOLUTION NO. 14

A JOINT RESOLUTION designating the last Sunday in September as Gold Star Mother's Day in recognition of their sacrifices, compassion and patriotism.

WHEREAS, The men and women of America's Armed Forces selflessly serve to protect our nation, are among our greatest heroes, and many have given their lives so that Americans could live in freedom and security; and

WHEREAS, The heartache of the loss of a son or daughter in the service of our nation is something no mother should ever have to know; and

WHEREAS, After receiving notice of her son's death, Grace Darling Seibold, devoted her energy to volunteering in a local hospital and reaching out to other mothers whose sons had died in military service; and

WHEREAS, She organized a group of these special mothers and on June 4, 1928, a group of twenty five mothers met to make plans to organize a national organization to be known as American Gold Star Mothers, Inc. (Gold Star Mothers), named after the gold star service flag that families hung in their windows in honor of family members who had died in military service; and

WHEREAS, On January 5, 1929, the organization was incorporated under the laws of the District of Columbia with a purpose to perpetuate the ideals of American freedom and democracy for which their children had so gallantly fought and died; and

WHEREAS, Today, there are more than 200 chapters of Gold Star Mothers across the United States composed of mothers who have lost a son or daughter during past wars and armed conflicts, or while in service to our country; and

WHEREAS, Gold Star Mothers assist veterans of the Armed Forces and their dependents in the presentation of claims to the federal Veterans' Administration, aid the men and women who served and died or were wounded or incapacitated during hostilities, and provide countless hours of volunteer work and personal service in veteran's hospitals throughout the country; and

WHEREAS, Mothers who have lost a son or daughter while they were serving our country have made a tremendous sacrifice for our nation and it is only fitting that the State set aside a day to honor these women; and

WHEREAS, This day of recognition may not take away the pain of their loss, but it is a way to honor the Gold Star Mothers for their devotion to our country and for the efforts and the sacrifices they have endured to preserve our freedoms; and

WHEREAS, It is fitting and proper for the State of New Jersey to honor the Gold Star Mothers for their many outstanding contributions to America and its veterans, and to ensure their sacrifices are properly recognized; now, therefore,

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

C.36:2-149 Gold Star Mother's Day, last Sunday in September; designated.

1. The last Sunday in September of each year is designated as Gold Star Mother's Day in the State of New Jersey in recognition of Gold Star Mothers who have suffered the supreme sacrifice of motherhood by losing sons and daughters in service with the United States Armed Forces.

C.36:2-150 Annual observance.

2. The Governor shall annually issue a proclamation and call upon public officials, private organizations and all citizens of this State to observe this day each year with appropriate ceremonies and activities.

3. This joint resolution shall take effect immediately.

Approved January 16, 2010.

JOINT RESOLUTION NO. 15

A JOINT RESOLUTION designating April 28 of each year as "Denim Day" in the State of New Jersey.

WHEREAS, In Italy, the 1997 rape conviction of a man who forced himself on a young woman, by whom he was hired as a driving instructor, was overturned by the Italian Supreme Court; and

WHEREAS, A statement released by the Head Judge in the appeal argued, "Because the victim wore very, very tight jeans, she had to help him remove them...and by removing the jeans...it was no longer rape but consensual sex;" and

WHEREAS, Women worldwide were enraged by the verdict, and have since protested by wearing jeans; and

WHEREAS, Sexual assault or rape is a sexual act of forced penetration; and

WHEREAS, Complying out of fear or in response to threats is not consent; and

WHEREAS, Every two minutes someone in America is sexually assaulted; and

WHEREAS, Survivors deserve support and assistance, not shame and blame; and

WHEREAS, Forty-six percent of eighth and ninth graders think being raped is sometimes the victim's fault, and 33 percent felt they would not be arrested if they forced sex on someone; and

WHEREAS, Thirty-five percent of college men who voluntarily participated in psychological research conducted at several universities indicated they might commit a rape if they knew they could get away with it; and

WHEREAS, In three out of four incidents of sexual assault, the offender was not a stranger; and

WHEREAS, "Denim Day" and wearing jeans in April has become an international symbol of protest against harmful attitudes about rape; and

WHEREAS, Participating in "Denim Day" invites public discourse on the topic of sexual assault and rape, makes it possible for more survivors to reach out and find help, and advances the prevention of such crimes through education; and

WHEREAS, It is fitting and proper that the State recognize April 28 of each year as "Denim Day," to promote rape awareness; now, therefore,

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

C.36:2-151 "Denim Day," April 28; designated.

1. April 28 of each year shall be designated "Denim Day," to promote rape awareness throughout this State.

C.36:2-152 Annual observance.

2. The Governor is respectfully requested to annually issue a proclamation recognizing April 28 as "Denim Day" in New Jersey and calling

upon public officials and the citizens of this State to observe the day with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved January 16, 2010.

JOINT RESOLUTION NO. 16

A JOINT RESOLUTION designating March of each year as "Childhood Obesity Prevention Month" in New Jersey.

WHEREAS, The Centers for Disease Control and Prevention estimates that over nine million children ages six to 19 are overweight or obese, a number that has tripled since 1980; and

WHEREAS, In addition to the nine million children and adolescents who were overweight from 1999 to 2002, another 15% were considered at-risk of becoming overweight; and

WHEREAS, Over the past three decades the childhood obesity rate has more than doubled for preschool children ages two to five and adolescents ages 12 to 19, and has more than tripled for children ages six to 11; and

WHEREAS, For children born in the United States in 2000, the lifetime risk of being diagnosed with Type 2 diabetes at some point in their lives is estimated to be about 30% for boys and 40% for girls. Inpatient diabetes cases in children's hospitals have increased approximately 12% between 2002 and 2004; and

WHEREAS, In a population-based sample, approximately 60% of obese children ages five to 10 had at least one cardiovascular disease risk factor, such as elevated total cholesterol, triglycerides, insulin or blood pressure, and 25% had two or more risk factors; and

WHEREAS, Obesity-associated annual hospital costs for children and youth more than tripled over two decades, rising from $35 million in 1979 to $127 million in 1999; and

WHEREAS, Experts agree that inactivity and poor eating habits contribute to obesity. Nearly one-third of the country's children ages four to 19 eat fast food every day, resulting in approximately six extra pounds per year, per child. Fast food consumption has increased fivefold among children since 1970; and

WHEREAS, March of each year is designated as "National Nutrition Month" as a nutrition education and information campaign, sponsored by the American Dietetic Association, which focuses attention on the importance of making informed food choices and developing sound eating and physical activity habits; and

WHEREAS, The State must take whatever action it reasonably can to facilitate efforts to reduce the epidemic numbers of overweight and obese children and adolescents and the attendant health consequences in this country by promoting preventative health and fitness strategies for overweight and obese children and adolescents to include awareness of proper nutrition, diet, and exercise; now, therefore,

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

C.36:2-153 "Childhood Obesity Prevention Month," March; designated.

1. March of each year is designated as "Childhood Obesity Prevention Month" in New Jersey to promote preventative health and fitness strategies for overweight and obese children and adolescents, including awareness of proper nutrition, diet, and exercise.

C.36:2-154 Annual observance.

2. The Governor is respectfully requested to annually issue a proclamation recognizing March as "Childhood Obesity Prevention Month" in New Jersey calling upon public officials and citizens of this State to observe the month with appropriate activities and programs, and to coordinate their activities and programs with those annually planned for National Nutrition Month.

3. This joint resolution shall take effect immediately.

Approved January 16, 2010.

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 131

WHEREAS, All residents of the State of New Jersey, regardless of race, ethnicity, color, national origin, or income, deserve to live in communities free from the effects of pollution and are entitled to participate in decision-making that affects their environment, their communities, their homes, and their health; and

WHEREAS, The State of New Jersey is committed to promoting human health, protecting the environment, and providing its residents, especially persons of low-income and persons of color, with information about environmental conditions affecting their health, their homes, and their communities; and

WHEREAS, Within the State of New Jersey, some communities whose residents are predominantly of persons of low-income and persons of color bear a disproportionate share of the impact of pollution and other threats to public health and the quality of life; and

WHEREAS, Studies by the Centers for Disease Control and Prevention and other federal agencies have documented that the prevalence of childhood asthma is increasing nationwide, that this increase is linked in part to poor air quality, and that childhood asthma is found disproportionately in Black and Latino/Hispanic communities; and

WHEREAS, The cumulative exposure to pollution and other hazards from multiple sources in communities whose residents are predominantly low-income and persons of color creates a disproportionate impact on the health, well-being, and quality of life of persons living in those communities and addressing those impacts requires a coordinated response across multiple governmental agencies and a more inclusive process of decision-making; and

WHEREAS, The federal government and the State of New Jersey have acknowledged the significance of these disproportionate impacts in these communities and taken steps to coordinate governmental responses and improve decision-making, the federal government by issuing Executive Order 12898 and creating the National Environmental Justice Advisory Council to integrate environmental justice into the Environmental Protection Agency's policies, programs, initiatives and activities, and the State of New Jersey by issuing Executive Order No. 96 (2004) with similar purposes; and

WHEREAS, New Jersey's Executive Order No. 96 (2004) will expire on February 17, 2009;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by the virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Executive branch departments, agencies, boards, commissions, and any and all other bodies of the State's executive branch, including but not limited to the Department of Community Affairs (DCA), the Department of Environmental Protection (DEP), the Department of the Public Advocate, the Department of Health

and Senior Services (DHSS), and the Department of Law and Public Safety (DL&PS), which are involved in decisions that affect environmental quality and public health shall provide appropriate opportunities for all persons, regardless of race, ethnicity, color, religion, income, or education level to participate in decision-making. Programs to promote and protect human health and the environment shall be reviewed periodically to ensure that they: (a) meet the needs of persons living in low-income communities and communities of color; and (b) address disproportionate exposure to environmental hazards.

2. There is hereby created the Environmental Justice Advisory Council ("Advisory Council") in the Department of Environmental Protection. The members of the Advisory Council shall be appointed by the Commissioner of DEP, shall consist of fifteen individuals, and shall meet not less frequently than quarterly. The Council shall annually select a Chairperson from its membership and shall have a minimum composition of one third membership from grassroots or faith-based community organizations. Additional membership shall include representatives from: academic public health, statewide environmental, civil rights and public health organizations; large and small business and industry; municipal and county officials, and organized labor. The chief of staff shall designate a representative from the Governor's Office to serve as a liaison to the Advisory Council and to assist it in accomplishing its mission.

3. The Advisory Council shall be charged with making recommendations from time to time to the Commissioner of DEP about issues involving environmental justice in this State in fulfillment of this Executive Order.

4. The DEP shall review and consider all recommendations submitted by the Advisory Council, in fulfillment of this Executive Order, including recommendations for policy and regulatory changes that DEP can undertake to consider and incorporate cumulative impacts into its decision-making.

5. Nothing in this Executive Order is intended to create a private right of action to enforce any provision of this Order; nor is this Order intended to diminish any existing legal rights or remedies.

6. When this Executive Order is signed, Executive Order No. 96 (2004) shall have no further force and effect.

7. The Council shall operate until December 31, 2013.

8. This Executive Order shall take effect immediately.

Dated February 5, 2009.

EXECUTIVE ORDER NO. 132

WHEREAS, Beginning on March 1, 2009 and continuing throughout the daylight hours of March 2, 2009, severe weather conditions, including snow and high winds, made roadways hazardous to travel throughout the State; and

WHEREAS, Snow accumulations in excess of ten inches in some places rendered it difficult or impossible for many citizens to commute to work and school, caused State government to implement a delayed opening and early dismissal for most employees in Trenton, and required some units of local government, including school districts, to close their operations for part or all of the day on March 2, 2009; and

WHEREAS, Such closures were implemented in response to the aforesaid perilous weather conditions and were intended to avert or minimize the threats and danger posed by disaster from a natural cause to the health, safety, welfare, and resources of the residents of one or more municipalities or counties of this State; and

WHEREAS, In some cases, candidates for school board elections reportedly were prevented by school closures from making legally required filings in a timely manner, by 4:00 p.m. yesterday, consistent with State election laws; and

WHEREAS, The Constitution and statutes of the State of New Jersey, particularly the provisions 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, JON S. CORZINE, 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. School districts shall accept, as timely, filings that were due by 4:00 p.m. yesterday, but which are made by 4:00 p.m. tomorrow, March 4, 2009.

2. This Order shall take effect immediately and shall remain in effect until 4 p.m. tomorrow, March 4, 2009.

Dated March 3, 2009.

EXECUTIVE ORDER NO. 133

WHEREAS, Horse racing has been a part of the fabric of New Jersey sports entertainment since 1853; and

WHEREAS, The horse racing industry employs some 3,820 individuals, generates in excess of $31 million in taxes and fees annually, promotes approximately 176,000 acres of green space throughout the State and, as such, represents a critical economic element of the State; and

WHEREAS, New Jersey horse racing has experienced a reduction in revenues due to, among other factors, increased competition from surrounding states, causing a continued decline in the business operations of the New Jersey horse racing tracks; and

WHEREAS, Since 2004, the New Jersey casino industry and the New Jersey horse racing industry have agreed to certain interim funding arrangements that have assisted the New Jersey horse racing tracks to remain competitive with tracks in

neighboring jurisdictions; however, these stop-gap measures, which will expire in 2011, were not designed to address the long-term viability of the horse racing industry; and

WHEREAS, The New Jersey casino industry is a vital part of the State's economy, which has also recently experienced reduced revenues due to, among other factors, increased competition and the current economic recession; and

WHEREAS, A long-term financial solution that appropriately balances the interests and priorities of the State and the casino and horse racing industries is required if horse racing is to thrive in the State of New Jersey;

NOW, THEREFORE, I, JON S. CORZINE, 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, pursuant to Article V, Section IV, paragraph 1 of the New Jersey Constitution, the Governor's Commission on the Horse Racing Industry (the "Commission"). The mission of the Commission is to identify, assess, and recommend possible funding solutions for horse racing meets after 2010 and to propose long-term funding solutions that will promote the future sustained viability of the horse racing industry in New Jersey.

2. The Commission shall be composed of 15 members. The following shall serve ex officio and may appoint a designee: the Chief Executive Officer of the New Jersey Sports and Exposition Authority, the Executive Director of the Casino Reinvestment Development Authority, the State Treasurer, the Chief of the Office of Economic Growth, and the Executive Director of the Economic Development Authority. In addition, the Governor shall appoint two representatives of the Casino Association of New Jersey, one representative of the Standardbred Breeders and Owners Association, one representative of the New Jersey Thoroughbred Horsemen's Association, and two public members. The Commission also shall include one member of the Senate and one public member appointed by the President of the Senate; and one member of the General Assembly and one public member appointed by the Speaker of the General Assembly. Vacancies on the Commission shall be filled in the same manner as the original appointment. The members appointed by the Governor shall serve at the pleasure of the Governor and without compensation.

3. The Governor shall appoint one public member to serve as chair of the Commission and one member to serve as vice-chair of the Commission.

4. The Commission shall produce a report on the horse racing industry outlining its recommendations for maintaining the economic viability of the horse racing industry in the State of New Jersey, with a particular analysis of interim and long-term funding alternatives. The report shall be delivered to the Governor and the Legislature by no later than July 1, 2010.

5. In furtherance of its mission, the Commission shall be authorized to call upon any department, office, division, or agency of this State to supply it with data

and other information, personnel, or assistance available to such agency as the Commission deems necessary to discharge its duties under this Order. Each department, office, division, or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully with the Commission and to furnish the Commission such assistance on as timely a basis as is necessary to accomplish the purposes of this Order. The Commission may consult with experts or other knowledgeable individuals in the public or private sector on any aspect of its mission.

6. This Order shall take effect immediately.

Dated March 5, 2009.

EXECUTIVE ORDER NO. 134

WHEREAS, United States Army Specialist Brian M. Connelly was raised in Union Beach, New Jersey and graduated from Red Bank Regional High School in 2000; and

WHEREAS, Specialist Connelly enlisted in the United States Army after attending Brookdale Community College; and

WHEREAS, Specialist Connelly was assigned to the 40th Engineer Battalion, Task Force 1-6, 2nd Brigade Combat Team, 1st Armored Division, Baumholder, Germany; and

WHEREAS, Specialist Connelly was a dedicated soldier as well as a loving son, husband, brother, and friend, whose memory lives in the hearts of his family and fellow soldiers; and

WHEREAS, Specialist Connelly died near Adhamiya, Iraq, during a time of war while serving as a member of the United States Army; and

WHEREAS, Specialist Connelly's love for his family and friends, his patriotism, and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to mourn and remember him, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Tuesday, March 10, 2009, in recognition and mourning for a son of New Jersey and a brave and loyal American, United States Army Specialist Brian M. Connelly.

2 This Order shall take effect immediately.

Dated March 6, 2009.

EXECUTIVE ORDER NO. 135

WHEREAS, on June 30, 2008, I signed Executive Order No. 103 (2008), creating a mechanism to help eliminate the longstanding, bipartisan practice of relying upon non-recurring revenues to fund recurring expenses of State government; and

WHEREAS, this administration, working cooperatively with the Legislature, has made unprecedented progress in curbing State expenditures, actually cutting the State budget, and reducing the State's reliance on non-recurring sources of revenue to fund recurring State expenses; and

WHEREAS, from the outset of the administration, I have emphasized as one of my highest priorities that recurring revenues should meet or exceed recurring expenses; and

WHEREAS, during this period of fiscal and economic crisis, it is not only prudent, but imperative, that the State's finances be managed responsibly; and

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; and

WHEREAS, the United States of America is confronting a fiscal and economic crisis more severe than any experienced since the Great Depression, a consequence of which is dramatically reduced revenues to the State, and in particular, markedly diminished revenues derived from recurring sources; and

WHEREAS, in recognition of the scope and severity of the ongoing national and international economic crisis, the federal government in recent weeks enacted what has been described as an unprecedented short-term stimulus law intended to bolster the staggering national economy by creating and retaining more than three million jobs; and

WHEREAS, State legislation already has been enacted to amend New Jersey's Fiscal Year 2009 appropriations law, in compliance with constitutional mandates, to offset the shortfalls in State revenues experienced to date during the fiscal year; and

WHEREAS, such shortfalls compromise the State's ability to continue performing the core functions of government during the current economic crisis and to address the immediate needs of residents; and

WHEREAS, in order to continue to provide important and essential services and maintain a balanced budget, it is unavoidable to propose certain temporary revenue enhancing measures, in addition to available federal stimulus funds, which would not be "recurring" revenues under Executive Order No. 103 (2008); and

WHEREAS, in light of the magnitude of the ongoing economic crisis, it is appropriate to make a temporary adjustment to Executive Order No. 103 (2008);

NOW, THEREFORE, I, JON S. CORZINE, 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 provisions of Executive Order No. 103 (2008) are temporarily suspended.

2. To ensure transparency in the budgeting process, the State Treasurer, in consultation with the Office of Management and Budget, shall prepare an estimate of the recurring and non-recurring revenues of the State for Fiscal Year 2010, including but not limited to anticipated federal stimulus funds, and shall make the estimate publicly available on the Department of the Treasury's website.

3. This Order shall take effect immediately and shall apply only to State Fiscal Year 2010.

Dated March 10, 2009.

EXECUTIVE ORDER NO. 136

WHEREAS, Assemblyman Eric "Doc" Munoz, M.D., was a leader in public life, an accomplished surgeon and teacher, a director of professional and civic organizations, and a man deeply dedicated to serving others from all stations in life, and New Jersey is a better place today because of him; and

WHEREAS, Assemblyman Munoz was born in the Bronx, New York and raised in Colts Neck, New Jersey, where he often worked at his parents' general store; and

WHEREAS, Assemblyman Munoz obtained his bachelor's degree in 1969 from the University of Virginia, graduated from the Albert Einstein College of Medicine in 1974, completed his surgical training at Yale-New Haven Hospital in 1979, and earned a master's degree in business administration with a concentration in finance from Columbia University in 1983; and

WHEREAS, Assemblyman Munoz, a resident of Summit, New Jersey, served as Councilman-At-Large for the City of Summit from 1995 to 2001 and as chairman of the Summit City Republican Municipal Committee from 1998 to 2004; and

WHEREAS, Assemblyman Munoz was appointed to fill a vacancy in the General Assembly and was sworn into office on May 10, 2001 and was subsequently elected to the Assembly for four terms; and

WHEREAS, Assemblyman Munoz, a member of the Human Services and Health and Senior Services committees, was a member of the New Jersey Task Force on Child Abuse and Neglect, the Assembly Latino Caucus, and the Board of the National Puerto Rican Coalition, and, in the current legislative session, was in his second term as the Assembly Republican Deputy Conference Leader; and

WHEREAS, During his tenure in the Assembly, he was sponsor of a broad range of significant legislation increasing sentences for sex offenders (the "Jessica Lunsford Act"); forfeiting retirement benefits by elected officials convicted of a crime; tightening restrictions for operating an automobile for those convicted of driving under influence of alcohol ("Ricci's Law"); and banning smoking in most indoor public places, including bars and restaurants (the New Jersey Smoke-Free Air Act); and

WHEREAS, The Assemblyman also helped pass Danielle's Law, requiring facilities serving disabled individuals to call 911 in the event of a medical emergency; and

WHEREAS, The Assemblyman, in addition to accomplishments in public life, contributed to the well-being of New Jerseyans in myriad other ways, including his service as a trauma surgeon at the University of Medicine and Dentistry of New Jersey, where he had been on the surgical staff since 1988; his teaching, and his volunteer activities; and

WHEREAS, Since 1994, Assemblyman Munoz communicated his deep knowledge of science and his appreciation for the art and discipline of surgery to the next generation of surgeons as Professor of Surgery at UMDNJ New Jersey Medical School; and

WHEREAS, Assemblyman Munoz also served as the President of the Medical Staff at UMDNJ-University Hospital in Newark and, from 1990 to 2001 he served as Chairman of the Medical Practitioner Review Panel, appointed first by Governor Florio and again by Governor Whitman; and

WHEREAS, In 1992, Assemblyman Munoz was appointed by President George H. Bush to the 45th World Health Organization Assembly in Geneva, Switzerland; and

WHEREAS, In June 2006, Assemblyman Munoz completed his term of service on the National Institute of Health's Advisory Council on Minority Health and Health Disparities, a position he was appointed to by Secretary of Health and Human Services, Tommy G. Thompson; and

WHEREAS, Assemblyman Munoz remained committed to volunteering his time outside of his many political, professional, and educational commitments, and he, among other activities, served as a Trustee in Newark's North Ward Center, with a particular interest in the Center's charter schools; and

WHEREAS, It is rare in public life to encounter a man of such achievement, talent, and passion who is respected by all, regardless of partisan identity; and

WHEREAS, it is with deep sadness that we mourn the loss of Assemblyman Munoz and extend our sincere sympathy to his wife, his five children, his extended family, his many friends, and his colleagues; and

WHEREAS, it is fitting and appropriate to honor the memory and the passing of Assemblyman Munoz;

NOW, THEREFORE, I, JON S. CORZINE, 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, April 3, 2009, in recognition and mourning of the passing of Assemblyman Eric Munoz.

2. This Order shall take effect immediately.

Dated April 1, 2009.

EXECUTIVE ORDER NO. 137

WHEREAS, Supreme Court Justice Daniel J. O'Hern was, for many decades, an extraordinary figure in the public life of New Jersey, faithfully serving the people of this State as a respected member of the State's highest Court for just under two decades; a Commissioner in the executive branch; a chief counsel to the Governor; an elected councilman and mayor; an accomplished attorney; and a leader in civic affairs, and today New Jersey is a better place because of him and his exemplary service; and

WHEREAS, Justice O'Hern was a true son of New Jersey, born and raised in Red Bank, one of four children, who became interested in law at a young age, through his aunt's employment with Jack Quinn, a beloved Monmouth County lawyer; and

WHEREAS, Justice O'Hern won a scholarship to Regis High School, a highly selective Jesuit school in New York City and subsequently graduated from Fordham College, cum laude, with a major in mathematics in 1951; and

WHEREAS, Justice O'Hern then served in the United States Navy from 1951 to 1954, during a time when the United States was at war in Korea, and left the Navy with the rank of Lieutenant, J.G.; and

WHEREAS, He then was admitted to Harvard Law School and graduated, again cum laude, in 1957, and served as a judicial clerk to United States Supreme Court Justice William J. Brennan, Jr., another son of New Jersey, who became a mentor and close friend; and

WHEREAS, Justice O'Hern returned to New Jersey to practice law; and entered public life in 1962, when he was elected councilman in Red Bank and thereafter was elected mayor in 1969, serving in that position until 1978 when Governor Byrne appointed him commissioner of the Department of Environmental Protection; and

WHEREAS, Governor Byrne later appointed him as his chief counsel in 1979; and

WHEREAS, Justice O'Hern was nominated to the Supreme Court of New Jersey by Governor Byrne, confirmed by the Senate, and sworn in as associate Justice on August 6, 1981, and he was subsequently renominated to that position by Governor Kean in 1988; and

WHEREAS, During his tenure on the Supreme Court, Justice O'Hern wrote 231 majority opinions, was known for the precision of his analysis and the clarity of his prose, and was recognized as a consensus builder who believed that the Court should be unanimous on significant issues; and

WHEREAS, Justice O'Hearn also was a jurist of resolute conviction, unafraid of disagreement with his colleagues, and penned 142 dissents; and

WHEREAS, The many significant decisions Justice O'Hern is recognized for include: In Re Proportionality Review, dealing with the state's system of reviewing death sentences; Ford Motor v. Edison, on the valuation of industrial property; State in the Interest of T.L.O., which set a higher standard for school authorities to conduct searches of students' personal effects; Williams v. Dept. of Human Services, defining the state's obligation to provide adequate emergency housing assistance to prevent homelessness, as well as decisions that granted battered spouses the right to sue their ex-mates and that supported the right of the press to obtain public records; and

WHEREAS, During his tenure on the Court, Justice O'Hern was recognized for his passion for justice and his sense of balance and perspective, which helped his colleagues overcome their disagreements on numerous occasions; and

WHEREAS, Justice O'Hern, during his two decades on the Court, strengthened the administration of justice throughout the State, through his service in the positions as chair of the Judicial Salary and Pensions Committee, an advisor to the New Jersey Commission on Professionalism in the Law, and as chairman of the Family Court Reorganization Committee, which was charged with implementing the changes to the court system called for in the 1983 constitutional amendment that abolished the Juvenile and Domestic Relations Court and created the Family Part in the Chancery Division; and

WHEREAS, Justice O'Hern, upon reaching the mandatory retirement age in 2000, became of counsel to the Gibbons firm in Newark and subsequently of counsel to the Becker Meisel firm in Red Bank, a position he held until recently; and

WHEREAS, Since leaving the bench, Justice O'Hern became a leader in civic affairs and served on the Advisory Committee on Judicial Conduct, on the New Jersey Law Journal's editorial board, as president of the Harvard Law School Association of New Jersey, and as trustee of the Legal Aid Society of Monmouth County; and

WHEREAS, It is with deep sadness that we mourn the loss of Justice O'Hern and extend our sincere sympathy to his wife of 50 years, Barbara Ronan O'Hern, their five children and eight grandchildren, his two sisters and brother, his extended family, and his many friends and colleagues; and

WHEREAS, It is fitting and appropriate to honor the achievements, the character, the memory, and the passing of Justice O'Hern;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Wednesday, April 8, 2009, in recognition and mourning of the passing of Justice Daniel J. O'Hern.

2. This Order shall take effect immediately.

Dated April 4, 2009.

EXECUTIVE ORDER NO. 138

WHEREAS, Firefighter Manuel Rivera, Sr. was born in Trenton, New Jersey, and graduated from Trenton Central High School and the Mercer County Fire Academy; and

WHEREAS, Manuel Rivera, Sr. had been a Trenton Firefighter for 14 years and was assigned to Engine No. 3; and

WHEREAS, on February 9, 2009, in the city of Trenton, Firefighter Rivera, at the age of 42, suffered a massive heart attack while rescuing a man who was dangling from a window of a burning home; and

WHEREAS, Firefighter Rivera, almost two months after his heroic rescue, died of injuries sustained while saving another man's life, making the ultimate sacrifice; and

WHEREAS, Firefighter Rivera's selfless devotion to public service and the protection of others makes him a hero and a role model for all New Jerseyans and, therefore, it is appropriate and fitting for the State where he was born and raised to recognize his extraordinary bravery and commitment to the welfare of others, to mark his untimely passing, to remember his parents, his wife, his five children, his extended family, his friends, and his fellow firefighters as they mourn their tragic loss, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, 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 State of America and the flag of New Jersey will be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Monday, April 13, 2009, in recognition of the life and in mourning of the passing of Firefighter Manuel Rivera, Sr.

2. This Order shall take effect immediately.

Dated April 8, 2009.

EXECUTIVE ORDER NO. 139

WHEREAS, United States Army Sergeant Dougall H. Espey, Jr., of Mount Laurel, New Jersey, was raised in Elmira, New York; and

WHEREAS, Sergeant Espey, known to family and friends as Sonny, enlisted in the United States Army in 1948, and expected to make the Army his career; and

WHEREAS, Sergeant Espey was assigned to Company L, 3rd Battalion, 8th Cavalry Regiment, 1st Division; and

WHEREAS, Sergeant Espey was killed in action when his unit was surrounded while occupying a defensive position near Unsan, North Korea in an area known as "Camel's Head", on November 1, 1950; and

WHEREAS, Sergeant Espey was a courageous soldier who loved his family, friends, and fellow soldiers; and

WHEREAS, Sergeant Espey was, in turn, loved by his family, friends, and fellow soldiers, who take great pride in his commitment, heroism, and achievements; and

WHEREAS, United States Army Sergeant Espey made the ultimate sacrifice, giving his life in the line of duty, while fighting on behalf of his country; and

WHEREAS, it is appropriate and fitting to mark his passing, honor his memory, and remember his family as they mourn their loss;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Tuesday, April 14, 2009, in recognition of the life and in mourning of the passing of United States Army Sergeant Dougall H. Espey, Jr.

2. This Order shall take effect immediately.

Dated April 8, 2009.

EXECUTIVE ORDER NO. 140

WHEREAS, The State of New Jersey has been endowed by nature with extraordinary and diverse ecosystems; ranging from the Highlands to the Shore; from the Delaware and New York Bays to the Hudson, Delaware, Passaic, and Raritan rivers; from the dunes and grasslands on the Atlantic to the Pinelands; from flatlands and marshes to forests and mountains; from rich soils to pristine ponds, lakes, and aquifers; and

WHEREAS, Partially as a result of this diversity, the State is the most densely populated in the Nation, with its population able to enjoy natural settings of enormous beauty and ecosystems of great variety; and

WHEREAS, Since colonial times, the richness of the State's natural heritage has allowed the State to flourish and created abundant opportunities for agriculture, trade, and commerce, and the growth of business has attracted more residents and reinforced the development of business within the State, which in turn attracted more residents, and this dynamic, with the Nation's technological devel-

opment, eventually brought heavy industry as well as large numbers of manufacturing, chemical, and refining enterprises to the State; and

WHEREAS, For decades, these industries have contributed to the State's growth and prosperity, providing jobs and enriching living standards for all, yet many of these same enterprises have released pollution into the State's air, soil, surface and ground water, and these by-products of industrial production have damaged numerous natural resources, threatened human health and safety, and degraded our environment; and

WHEREAS, Our economic prosperity and, as science has shown, our existence as a species depend on responsible stewardship of our environment and protecting our varied ecosystems from pollution and other harmful by-products of industrial production; and

WHEREAS, For more than three decades, the State has made extraordinary efforts to reduce or eliminate the health and safety impact of pollution on humans, especially children and other sensitive populations, and halt the impact of pollution on the State's ecosystems, its natural resources, its soils, and waters, particularly through its Site Remediation Program that oversees the clean-up of sites where a hazardous substance has been discharged; and

WHEREAS, There are more than 19,000 sites in the Site Remediation Program with more being added daily, and given resource limitations, the Program has had difficulty in evaluating the sites, moving them quickly through the clean-up process, and verifying that the work was done appropriately; and

WHEREAS, Almost three years ago, the New Jersey Department of Environmental Protection (DEP) began to work with all interested entities, from members of the State Legislature to environmental advocacy groups to consultants and persons responsible for conducting site clean-ups to include more sites in the clean-up program, improve the speed of site clean-ups, reduce the chance that any site-based pollution would damage human health, compromise safety of workers or eventual residents, threaten natural resources, including bodies of water, drinking water, and aquifers; and the environment; and

WHEREAS, Participants in those same meetings also resolved to expand DEP's legal authority to address site-based pollution; and

WHEREAS, As the culmination of that inclusive process, both houses of the Legislature passed the Assembly Committee Substitute for Assembly Bill No. 2962, a lengthy and complex bill, which establishes a licensing program for site remediation professionals and makes various other changes to the statutes governing the remediation of polluted sites (the Legislation); and

WHEREAS, The Legislation moves the DEP from direct supervision of the clean-up of polluted sites to a compliance and enforcement and monitoring role of independent professionals conducting such work; and

WHEREAS, Among its other provisions, the Legislation establishes the Site Remediation Professional Licensing Board (the Board), requires the DEP to inspect all documents and information submitted by an LSRP, authorizes the DEP to review the performance of a clean-up under a broad range of circumstances,

and mandates that the DEP shall undertake direct oversight of a contaminated site under certain conditions and authorizes, but does not require the DEP to undertake that direct oversight under other conditions; and

WHEREAS, The DEP will promulgate rules to implement the Legislation, and given the complexity and range of issues, it would be helpful for those affected by the Legislation to have a sense of the direction of how the DEP and the Office of the Governor will work together to implement it;

NOW, THEREFORE, I, JON S. CORZINE, 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 sites where groundwater has been impacted by pollutants above remediation standards, or where the site may be used as residential housing, or for educational purposes, including use as a child care or day care center, a public, private, or charter school, or a playground or ball field, the DEP shall increase its auditing, monitoring, and review of conditions at the site, including the performance of on-site inspections, and its inspection of the LSRP's submissions to ensure that public health, safety, and the environment are protected as the Site Remediation Program transitions to a compliance and enforcement role.

2. Within 60 days of this Order, the DEP shall develop guidelines governing the circumstances in which it is authorized to undertake direct oversight of a remediation of a contaminated site, as set forth in section 27.b of the Legislation.

3. During the 24 months immediately following the effective date of the Legislation, the DEP's review of 10% of all documents submitted by LSRPs shall include at least one review of case documents submitted by every LSRP.

4. The DEP shall prepare annual reports on the implementation of the Legislation to the Governor, the Senate Environment Committee, and the Assembly Environment and Solid Waste Committee. The first report shall be due on or before December 31, 2010, and the remaining reports shall be due on or before December 31 of each following year.

5. The DEP shall issue technical assistance grants to a minimum of five local community environmental groups per year during the temporary phase of the LSRP program to evaluate remediation methods or interpret the work of temporary LSRPs.

6. To further the transparency of the operations of the Site Remediation Program, as soon as an internet site with document posting capability is established, the DEP shall post on such site every document submitted by an LSRP in connection with a contaminated site as well as all audit findings within 60 days of their being finalized.

7. The DEP shall work with the Governor's Appointments Office to locate persons of the highest professional caliber to serve as members of the Board. In addition to the qualifications set forth in the Legislation, the Appointments Office shall make every reasonable effort to ensure that one appointee to the Board shall have expertise in public health, and another appointee shall be a hydrologist, pro-

vided that nothing in this Order alters the number or functioning of Board. The Appointments Office shall not submit initial nominations to the Senate until each of the eleven nominees have been named; subsequent nominations shall not be subject to this process. As soon as the Board can begin work, it shall promulgate rules insulating an LSRP's professional judgment from economic pressures to the maximum extent practicable.

8. The DEP shall take steps to ensure that the appropriate provisions of this Executive Order are proposed as rules.

9. This Order shall take effect immediately.

Dated May 7, 2009.

EXECUTIVE ORDER NO. 141

WHEREAS, Transportation is essential to New Jersey's economy and it is critical to foster a collaborative approach to make the best use of transportation resources; and

WHEREAS, Institutional, jurisdictional, and regulatory requirements may impede the most efficient and effective use of transportation resources; and

WHEREAS, An integrated approach provides the best foundation for understanding the total State investment needed in roads, bridges, and public transit; and

WHEREAS, Active proposals for private investment and development, focused on the casino industry and valued in the range of $10 to $15 billion over the next five to 10 years, are in various stages of construction, design, and planning in the City of Atlantic City; and

WHEREAS, Such private investment is reasonably expected to generate approximately 40,000 new casino jobs and another 25,000 casino-related jobs and will attract millions of new visitors annually over the next 10 to 12 years, making the Atlantic City region one of the primary economic growth centers in the State; and

WHEREAS, The existing local and regional transportation systems and infrastructure serving Atlantic City frequently experience periods of congestion during weekends and the summer high tourism season and are inadequate to meet future regional demands given the expected economic expansion of the Atlantic City market; and

WHEREAS, The State must begin now to develop an implementation plan that addresses the foregoing expansion and the requisite transportation systems, infrastructure enhancements, and related workforce housing requirements; and

WHEREAS, The Casino Reinvestment Development Authority was established to effectuate local and regional economic growth, among other priorities, including the planning and implementation of transportation and affordable housing initiatives; and

WHEREAS, Since May 2007, the Casino Reinvestment Development Authority, in partnership with the New Jersey Department of Transportation and in coopera-

tion with more than twenty institutional stakeholders, has identified multimodal projects to improve local and regional transportation operations, infrastructure, and service to meet the near and long-term travel requirements of the Atlantic City region, and is in the process of preparing an implementation plan entitled the "Atlantic City Regional Transportation and Land Use Plan;" and

WHEREAS, No less than 15 State, county, and local agencies and governments have jurisdiction regarding the review, approval, and permitting of private development and related transportation improvement projects through the application of appropriate but often complex regulatory processes; and

WHEREAS, The timetable for governmental reviews and approvals can be unpredictable because of competing demands on staff resources and differing perspectives regarding priorities and interpretation and application of permit, design, and mitigation requirements; and

WHEREAS, Several of the casino developments and near-term transportation projects require prompt, focused attention to deliver needed benefits to municipalities, the region, and the State; and

WHEREAS, The scale, complexity, and accelerated timing of the economic development, and the associated transportation investment to enable that growth, require efficient and expedited action by the approving agencies to capture market opportunities; and

WHEREAS, Achieving the positive impact these developments may provide for the regional and State economies, in light of the current fiscal condition of the State, requires that the State take steps to provide for the timely development and implementation of private and public projects in the Atlantic City region; and

WHEREAS, The Commissioner of Transportation is uniquely qualified and ideally situated to centralize the strategic transportation infrastructure program as Commissioner of Transportation and Chairman of the New Jersey Transit Corporation, and as Chairman of the South Jersey Transportation Authority and the New Jersey Turnpike Authority;

NOW, THEREFORE, I, JON S. CORZINE, 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, pursuant to Article V, Section IV, paragraph 1 of the New Jersey Constitution, the Atlantic City Regional Implementation Group for Housing and Transportation "AC RIGHT". The mission of AC RIGHT shall be to coordinate and facilitate the implementation of near and long-term transportation infrastructure and systems and synergistic workforce housing projects primarily necessitated by casino resort development in Atlantic City.

2. The AC RIGHT shall be composed of: the Commissioner of the Department of Transportation; the Executive Director of the Casino Reinvestment Development Authority; the Commissioner of the Department of Community Affairs; the Commissioner of the Department of Environmental Protection; the Executive

Director of the New Jersey Pinelands Commission; the Executive Director of the New Jersey Turnpike Authority; the Executive Director of the New Jersey Transit Corporation; the Chief of the Office of Economic Growth; the Executive Director of the South Jersey Transportation Authority; a designee appointed by the Governor and serving at his pleasure; and such additional heads of appropriate State agencies and departments as the Chair of the AC RIGHT shall determine necessary and desirable in consultation with the Vice-Chair and the Office of the Governor. Vacancies on the AC RIGHT shall be filled in the same manner as the original appointment. Each of the members of the AC RIGHT may designate an officer or employee of their respective organizations to represent the member of the AC RIGHT and each designee may lawfully vote or otherwise act on behalf of the member for whom the designee serves.

3. The AC RIGHT is authorized to engage relevant stakeholders, including county, municipal, and planning constituencies, including but not limited to the City of Atlantic City, Atlantic County, the Cross County Transportation Management Association, and the South Jersey Transportation Planning Organization, as well as affected community, business, and industry groups.

4. The Commissioner of Transportation shall serve as Chair of the AC RIGHT, and the Executive Director of the Casino Reinvestment Development Authority shall serve as Vice-Chair. They shall manage the AC RIGHT and issue biannual progress reports to the Governor.

5. In furtherance of its mission, the AC RIGHT shall be authorized to:

a. Identify the multi-agency and governmental regulatory processes applicable to a particular project that falls within its mission;

b. Coordinate the expeditious multi-agency and governmental regulatory review of projects that fall within its mission;

c. Make recommendations to improve or streamline the regulatory review processes for projects that fall within its mission;

d. Conduct public meetings to increase public awareness of, and participation in, the mission and projects of the AC RIGHT; and

e. Work with business and community groups to advance the mission of the AC RIGHT and facilitate necessary and desirable communication with all affected stakeholders.

6. In addition to the member agencies and departments, the AC RIGHT is authorized to call upon any other department, office, division, or agency of this State to supply it with data and other information, personnel, or assistance available to such agency as the AC RIGHT deems necessary to discharge its duties under this Order. Each department, office, division, or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully with the AC RIGHT and to furnish the AC RIGHT such assistance on as timely a basis as is necessary to accomplish the purposes of this Order. The AC RIGHT may consult with experts or other knowledgeable individuals in the public or private sector on any aspect of its mission.

7. The AC RIGHT, in collaboration with the Office of Economic Growth, shall, as necessary or desirable, convene agency executives to brief them on progress and to work in collaboration with other agencies to resolve policy matters that may impede implementation of AC RIGHT initiatives.

8. The CRDA may provide staff in support of the AC RIGHT to assure experienced personnel and dedication of resources necessary and desirable to advance the elements of the Atlantic City Regional Transportation and Land Use Plan and the mission of the AC RIGHT.

9. This Order shall take effect immediately.

Dated May 14, 2009.

EXECUTIVE ORDER NO. 142

WHEREAS, United States Army Staff Sergeant Christian Bueno-Galdos was born in 1983 in Arrequipa, Peru, came to the United States with his parents and siblings in 1990, and settled in Paterson, New Jersey; and

WHEREAS, Staff Sergeant Bueno-Galdos graduated with honors from the Passaic County Technical Institute in 2001; and

WHEREAS, Staff Sergeant Bueno-Galdos had planned to study medicine and enlisted in the Army in 2002 to pursue his dream of a medical career; and

WHEREAS, Staff Sergeant Bueno-Galdos was an ambitious and courageous young man who loved his country and the military; and

WHEREAS, Staff Sergeant Bueno-Galdos was a soldier of unusual dedication, having already spent three months in a military hospital recovering from his wartime injuries, and serving in Iraq on his second tour of duty; and

WHEREAS, Staff Sergeant Bueno-Galdos died at Camp Liberty, Baghdad, in the service of his country, during a time of war, while a member of the United States Army's 3rd Battalion, 66th Armor Regiment, 172nd Infantry Brigade, based in Grafenwoehr, Germany; and

WHEREAS, Staff Sergeant Bueno-Galdos was a dedicated soldier as well as a loving son and brother, whose memory lives in the hearts of his family and fellow soldiers; and

WHEREAS, Staff Sergeant Bueno-Galdos's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Friday, May 22, 2009, in recognition and mourning of a brave and loyal American hero, United States Army Staff Sergeant Christian Bueno-Galdos.

2. This Order shall take effect immediately.

Dated May 20, 2009.

EXECUTIVE ORDER NO. 143

WHEREAS, Assemblyman Ernest Schuck served the people of the State of New Jersey with honor, commitment, and distinction in many important positions; and

WHEREAS, Assemblyman Schuck served his country in the United States Army artillery at the time of the Korean War; and

WHEREAS, Assemblyman Schuck, served as Mayor of Barrington, New Jersey from 1968 to 1973; and

WHEREAS, Assemblyman Schuck was elected to the Assembly in 1973, representing the former fifth district; and

WHEREAS, Assemblyman Schuck took the seat of New Jersey General Assembly Minority Leader John Horn, who was running for the Senate, and ran on a ticket with then Assemblyman Jim Florio; and

WHEREAS, Assemblyman Schuck served in the Assembly from 1974 to 1981, performing leadership roles a majority whip and assistant majority leader; and

WHEREAS, Assemblyman Schuck served our most vulnerable, working in key roles for Goodwill Industries and the United Way; and

WHEREAS, It is with deep sadness that we mourn the loss of Assemblyman Schuck and extend our sincere sympathy to his wife, his three children, his six grandchildren, and his many friends; and

WHEREAS, It is fitting and appropriate to honor the memory and the passing of Assemblyman Schuck;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Tuesday, May 26, 2009, in recognition and mourning of the passing of Assemblyman Ernest Schuck.

2. This Order shall take effect immediately.

Dated May 20, 2009.

EXECUTIVE ORDER NO. 144

WHEREAS, New Jersey draws strength from its ethnic and cultural diversity and ranks as one of the top five states with the highest concentrations of Americans of Hellenic ancestry; and

WHEREAS, Americans of Hellenic ancestry contribute to the economic, social, cultural, and civic vitality of the State and the Nation; and

WHEREAS, Dissemination of knowledge of the heritage, culture, and history of Hellenes and Americans of Hellenic ancestry is important to the State of New Jersey; and

WHEREAS, It is necessary and proper to educate the citizens of New Jersey about the heritage, culture, and history of Hellenes and Americans of Hellenic ancestry;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established, in the Department of State, the New Jersey Hellenic-American Heritage Commission ("Commission").

2. The Commission shall be composed of twenty-four (24) members.

3. The following officials, or their designees, shall serve on the Commission, ex officio, and with a vote: the Secretary of State; the Commissioner of the Department of Education; the Executive Director of the Commission on Higher Education; the Director of the Division on Civil Rights; the Chair of the Governor's Ethnic Advisory Council; the Chair of the New Jersey Human Relations Council; and the Chief Executive Officer of the New Jersey Economic Development Authority.

4. The Commission also shall consist of one public member appointed by the Governor upon the recommendation of the President of the Senate, one public member appointed by the Governor upon the recommendation of the Speaker of the General Assembly, one public member appointed by the Governor upon the recommendation of the Senate Minority Leader, one public member appointed by the Governor upon the recommendation of the Assembly Minority Leader, and an additional thirteen (13) public members appointed by the Governor. The Governor shall appoint a chair and the members shall elect annually from among their members a vice-chair.

5. The public members shall be residents of the State, chosen with due regard for geographic representation, educational background, knowledge, and experience related to the heritage, culture, and history of Hellenes and Americans of Hellenic ancestry.

6. The Governor shall appoint each public member for a term of three years, except that of the public members first appointed, one-third shall be appointed to a three-year term, one-third shall be appointed to a two-year term, and one-third shall be appointed to a one-year term. Public members shall serve until their successors

are appointed and qualified, and any vacancy in the membership of the committee shall be filled for the unexpired term in the manner provided for the original appointment. Public members of the Commission shall serve without compensation.

7. The Commission shall meet as soon as practical after the chair and a majority of the members have been appointed. The presence of a majority of the authorized membership of the Commission shall constitute a quorum and shall be required for the conduct of official business.

8. The responsibilities and duties of the Commission are as follows:

a. to recognize, study, and share information on Hellenic heritage, culture, and history;

b. to coordinate events observing the heritage, culture, and history of Americans of Hellenic ancestry, including an annual Hellenic Heritage Month Celebration in March;

c. to provide expertise to and to collaborate with the Department of Education to continue to develop content and curriculum guides on the heritage, culture, and history of Americans of Hellenic ancestry in the State's Core Curriculum Content Standards in Social Studies;

d. to coordinate events with the Department of State observing the heritage, culture, and history of Americans of Hellenic ancestry;

e. to assist the New Jersey Tourism Policy Council in promoting cultural exchanges between the citizens of the State of New Jersey and the nations of Greece and Cyprus;

f. to assist the Office of International Trade in promoting economic development and international trade between the citizens of the State of New Jersey and the nations of Greece and Cyprus.

9. The Department of Education shall assist the Commission in the dissemination to educators, administrators, and public school districts in the State educational information and other materials on Hellenic culture and the contributions of Americans of Hellenic ancestry to society. Such information and materials also shall be made available to non-public schools.

10. The Commission may, subject to such approvals as are required by law, expend such monies as may be donated to the State for the benefit of the work of the Commission.

11. The Commission is authorized to call on any department, office, division, 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, to the extent not inconsistent with law, is hereby 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. The Commission may consult with experts or other knowledgeable individuals in the public or private sector on any aspect of its mission.

12. The Commission shall establish a schedule of meetings and report periodically to the Governor on its activities and recommendations. An initial report to

the Governor shall be submitted within six months from the date of the first meeting and annually thereafter.

13. This Order shall take effect immediately and shall expire in five (5) years from the date of this order.

Dated June 11, 2009.

EXECUTIVE ORDER NO. 145

WHEREAS, Protecting the public safety and welfare is the most basic duty of government, and to this end, effective and reasonable measures must be implemented to keep citizens safe from violence; and

WHEREAS, New Jersey has taken a variety of steps to combat gun violence, including requiring prison terms for those who use firearms in crimes; regulating the sale and transfer of guns to ensure that firearms are being purchased only by law-abiding citizens; imposing restrictions on handgun purchases; and barring the sale of assault firearms; and

WHEREAS, Effective limitations regarding firearms, as well as other deterrent and enforcement measures, are essential to maintaining the public safety, but necessarily impact all residents of this State, including law-abiding collectors of firearms and competitive and recreational firearms users; and

WHEREAS, In 2007, New Jersey entered into a cooperative agreement, the first of its kind in the nation, forming a partnership with the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives to allow New Jersey State Police direct access to "E-TRACE" data, to trace illegal firearms back to their source as yet another measure to uncover gun crimes and deter illegal gun trafficking; and

WHEREAS, It is appropriate to maintain a dialogue with interested parties and experts regarding the effectiveness of our State's firearms laws in combating gun violence and the impact of these restrictions on law-abiding firearms owners;

NOW, THEREFORE, I, JON S. CORZINE, 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 Task Force to review, evaluate and make recommendations regarding New Jersey's statutory and regulatory schemes and programmatic initiatives to curb the illegal possession, use, and trafficking of firearms and, more specifically, the anticipated passage of "one-handgun-per-month" legislation, criminal penalties for illegal transfer of guns, programmatic measures to curb illegal transfers of firearms, and the firearm permitting and regulatory processes (collectively, "firearms regulation").

2. The Task Force recommendations shall address at a minimum the following issues: the permitting processes; the effectiveness of any statutory limitations

on the sale and transfer of firearms, including the anticipated passage of one-handgun-per-month legislation and the efficacy of any exceptions contained in that legislation; and measures to deter "straw purchases" and the illegal transport of guns into New Jersey for purposes of transfer. The recommendations shall include specific suggestions to improve the effectiveness of firearms regulation in these areas and shall include any appropriate recommendations for legislative changes.

3. The Task Force shall be composed of nine members. Membership shall include the Attorney General or designee, the Superintendent of State Police or designee, and a representative of the County Prosecutors' Association. Additionally, the Task Force shall include one member representing an association of pistol and rifle clubs operating in New Jersey and one member representing an organization that promotes gun violence prevention, which members are to be appointed by the Governor. Additionally, the Task Force shall include two member of the Senate, one of whom with experience with firearms and firearms restrictions, to be selected by the President of the Senate; and two members of the General Assembly, one of whom with experience with firearms and firearms restrictions, to be selected by the Speaker of the General Assembly. Vacancies on the Task Force shall be filled in the same manner as the original selections. The non-legislative members shall serve at the pleasure of the Governor and without compensation. The Governor shall appoint the Chair of the Task Force. The members shall select a Vice-Chair through a majority vote.

4. The Task Force members shall be appointed and convene within thirty days of the effective date of this Order. The Task Force shall complete an initial report within 90 days of its first meeting. The initial report shall be served on the Governor and Legislature so as to allow responsive action within the current legislative session. The initial report shall focus on the anticipated passage of "one-handgun-per-month" legislation in New Jersey, including its impact on firearms collectors and competitive and recreational firearms users. The initial report shall include recommendations for any appropriate legislative changes to ensure that lawful firearms collectors and competitive and recreational firearms users are not adversely affected by the legislation, including the exceptions to the one-handgun limitation contained in Section 2(i) of General Assembly Bill No. 339 (2008) (First Reprint) and Senate Bill No. 1774 (2008). The Task Force shall produce its final report no later than 18 months after delivery of its initial report. At a minimum, the report shall include an analysis of the impact of the one-handgun-per-month legislation on gun crime and the prevalence of illegal firearms in New Jersey.

5. In furtherance of its mission, the Task Force shall be authorized to call upon any department, office, division, or agency of this State to supply it with any available information, personnel, or assistance as it deems necessary to discharge its duties under this Order. Each department, office, division, or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully with the Task Force and to furnish it with such available information, personnel, or assistance on as timely a basis as is necessary to accomplish the purposes of this

Order. The Task Force may consult with experts or other knowledgeable individuals in the public or private sector on any aspect of its mission.

6. In order that the Task Force be informed of and consider a broad range of views and experiences in the course of its work, the Task Force shall convene at least one public hearing.

7. This Order shall take effect immediately.

Dated June 25, 2009.

EXECUTIVE ORDER NO. 146

WHEREAS, Police Detective Marc Anthony DiNardo was raised in the City of Jersey City, New Jersey, and graduated from School 17, Hudson Catholic High School, and St. Peters College, all in Jersey City; and

WHEREAS, Detective DiNardo, a loving husband and the devoted father of three young children, joined the Jersey City Police Department on March 17, 1999, following in the footsteps of his father, a retired Jersey City Police Lieutenant, and was assigned first to the East Precinct in the Patrol Division, and, two years ago, to the Emergency Services Squad, an elite unit trained to respond to crisis and emergency situations; and

WHEREAS, Detective DiNardo was the recipient of seven Excellent Police Service awards, two Commendations, and a World Trade Center award, and most recently on June 29, 2009, distinguished himself when he and members of his unit acted to rescue a distraught woman who jumped from the Wittpenn Bridge into the Hacksensack River, saving her life; and

WHEREAS, Detective DiNardo was known as a "cop's cop," and for his honesty and decency, his personality, and his love of Jersey City as well as his profession; and

WHEREAS, in the early morning hours of July 16, 2009, in the City of Jersey City, Police Detective DiNardo, at the age of thirty-seven, made the ultimate sacrifice, giving his life while attempting to apprehend armed and dangerous felons who had shot two fellow police officers on the street earlier that morning; and

WHEREAS, Detective DiNardo's selfless devotion to public service and the protection of others makes him a hero and a true role model for all New Jerseyans and, therefore, it is appropriate and fitting for the State where he was raised and where he served so proudly as a peace officer to recognize his remarkable commitment to the welfare and safety of others, to mark his untimely passing, to remember his family as they mourn their tragic loss, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during the appropriate hours on Friday, July 24, 2009 in recognition of the life and in mourning of the passing of Police Detective Marc Anthony DiNardo.

2. This Order shall take effect immediately.

Dated July 22, 2009.

EXECUTIVE ORDER NO. 147

WHEREAS, Economic growth and the creation of jobs is essential to the continued well-being and prosperity of the State of New Jersey; and

WHEREAS, Sustaining New Jersey's position as one of the nation's most prosperous states and most vital centers of innovation demands aggressive leadership, especially in increasingly competitive economic times; and

WHEREAS, International trade is an integral part of the State's economic development, job creation strategy, and prosperity; and

WHEREAS, The primary industries of our State such as chemicals, pharmaceuticals, and high technology manufacturing and service industries must increasingly rely on export markets for maintaining business and employment expansion; and

WHEREAS, World trade is vital to the future of our nation's economy, and New Jersey is at the crossroads of a new global economic order; and

WHEREAS, To achieve our full potential, it is necessary for the State of New Jersey to assess its performance as a trading partner and to constantly seek to improve its international business climate; and

WHEREAS, The Office of International Trade, in the Business Retention and Attraction Division of the New Jersey Economic Development Authority, was established to encourage and promote foreign investment in New Jersey with representatives of foreign governments and businesses; and

WHEREAS, A key foreign trading partner of our State is the nation of Italy to which our state exported $1.4 billion of industrial products in 2008; and

WHEREAS, Italy is New Jersey's sixth largest export partner, and New Jersey is the third largest exporter of goods to Italy among the 50 states; and

WHEREAS, Italy ranks second in importance as a source of import volume for New Jersey's ports and is the State's third leading trading partner for total volume of both imports and exports; and

WHEREAS, The State's exports to Italy have rapidly increased: from 2003 to 2008 New Jersey's exports to Italy increased 192% while the State's overall exports increased 111% and the United States' exports to Italy increased 46.5%; and

WHEREAS, Despite such impressive export figures, Italy's strong demand for imports, valued at $556 billion in 2008, includes many products and services of-

fered by New Jersey companies, thus presenting an opportunity to expand the already robust trading partnership between our State and Italy; and

WHEREAS, Pursuant to P.L.2001, c.343, the New Jersey Commission on Italian and Americans of Italian Heritage Cultural and Educational Programs (Commission) was created and established in the executive branch to survey, design, encourage, and promote the implementation of Italian and Americans of Italian heritage, cultural and educational programs in this State; and

WHEREAS, The Commission's heritage, cultural and educational programs can also serve an important role in efforts to promote trade as well as cultural exchange with Italy; and

WHEREAS, New Jersey business leaders have recently founded the New Jersey/Italy Trade Council (Trade Council), a non-profit organization, with the twin goals of promoting trade between New Jersey and Italy, and supporting programs fostering Italian and Italian-American culture, education, history, and heritage through periodic contributions of funds from the Trade Council; and

WHEREAS, The Trade Council's mission is to foster capital investment and joint business ventures between businesses based in the State of New Jersey and in Italy through reciprocal trade delegations and seminars, and to provide a solid business-to-business resource, primarily through the operation of a bilingual web site for companies in New Jersey and Italy that are interested in import and export transactions;

NOW, THEREFORE, I, JON S. CORZINE, 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 Office of Economic Growth (OEG) and the New Jersey Economic Development Authority (NJEDA) shall collaborate with the Trade Council and other stakeholders to further existing efforts to promote trade and economic exchanges between New Jersey and Italy and to pursue the following objectives, among other trade initiatives:

a) Promotion of the State's programs to attract and retain jobs and businesses;

b) Provision of New Jersey-Italy trade information and recommendations to the Governor, State agencies, and the Legislature, including the identification of current and long-term international trade issues which may require attention from the State;

c) Promotion of a long-term State trade strategy with Italy;

d) Utilization of programs to assist small and medium-size businesses that have the potential to develop trade with Italy;

e) Coordination of the State's current trade information resources in order to achieve the most effective State approach to international trade planning, academic research, and private sector international trade marketing policy with respect to

Italy, including best practices for collecting, computing, distributing, and reporting of trade data and statistical information concerning trade with Italy; and

f) Planning and implementation of reciprocal trade exchanges, missions and related projects and events.

2. To carry out these objectives, the OEG, NJEDA and the Secretary of State may establish advisory committees with the Trade Council and other stakeholders to advise and guide the Office of International Trade and the New Jersey Tourism Policy Council in the Department of State. In particular, such advisory committees may recommend plans for the promotion of educational, cultural, travel, and trade exchanges between the State of New Jersey and Italy. OEG, NJEDA and the Secretary of State may assist the Trade Council in planning and implementing reciprocal trade exchanges, missions, and related programs and events, and may co-sponsor any such programs and events. The advisory committees may also recommend how to create reciprocal links between web sites of the Trade Council and other stakeholders and web sites of various State departments and agencies. OEG, NJEDA and the Secretary of State may allow reciprocal links with the Trade Council's web site.

3. In furtherance of this Order, OEG and NJEDA may call on any department, office, division, or agency of State government to provide trade data and statistical information and such other information, resources, or assistance deemed necessary to carry out its purposes as described in this Order, and OEG and NJEDA may share with the Trade Council and other
stakeholders any such information that is not confidential or privileged. Each department, office, division, and agency of this State, to the extent not inconsistent with law, is hereby required to cooperate with the OEG and NJEDA and to furnish such information and assistance as is necessary and available to accomplish the purposes of this Order.

4. This Order shall take effect immediately and shall expire in 3 years.

Dated July 24, 2009.

EXECUTIVE ORDER NO. 148

WHEREAS, It has been a top priority of this administration to repair public trust and restore confidence in government; and

WHEREAS, It is imperative that public officials at all levels of government earn and maintain the confidence of the people they represent; and

WHEREAS, Those serving in State, county, municipal, and other local government units hold positions of public trust that require adherence to the highest ethical standards of honesty and integrity; and

WHEREAS, Public officials should not engage in any conduct that violates the public trust or creates an appearance of impropriety; and

WHEREAS, The residents of New Jersey are entitled to a government that is effective, efficient, and free from corruption, favoritism, and waste; and

WHEREAS, This administration has demonstrated a strong commitment to ensuring the highest ethical standards in government contracting and permitting processes, and to rooting out corruption, favoritism, and waste; and

WHEREAS, Recent public events revealed evidence of shocking acts of political corruption, including actions that may involve, directly or indirectly, State programs administered by departments and agencies of State government; and

WHEREAS, While some public officials charged with acts of corruption appropriately resigned from public office, others have seen fit to remain in office, despite overwhelming calls from all sectors for them to resign; and

WHEREAS, Because of the nature of the reported conduct on the part of these local officials charged with corruption, and particularly those who choose to remain in office, and in furtherance of this administration's commitment to ensuring the integrity of all State approval processes, it is appropriate to provide for additional scrutiny of applications for State approvals that involve jurisdictions headed by officials charged in the corruption probe who remain in office;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. All departments, divisions, offices, and agencies of State government, including but not limited to the Department of Environmental Protection, the Department of Community Affairs, the Department of Transportation, the New Jersey Economic Development Authority, and the New Jersey Meadowlands Commission, shall identify, as soon as possible following issuance of this Order, all applications or other requests for approvals with respect to any development project or other related undertaking located in a municipality where the sitting mayor has been charged with a public corruption crime.

2. Each department or other State entity shall take appropriate action to immediately suspend any approval or application for any development project or other related undertaking located in any municipality where a mayor charged with a public corruption crime remains in public office.

3. Each department or other State entity that identifies one or more applications as described in paragraph 1 of this Order shall undertake a thorough and comprehensive review process with respect to any such application, and shall enforce strict standards to ensure the absence of improper influence, or the appearance thereof, and full compliance with law. Each department or entity is hereby authorized to call upon any other department, office, division, or agency of this State, including the Office of the State Comptroller, the Office of the Inspector General, and the Office of the Attorney General, as may be necessary and appropriate, to supply it with information, personnel, or assistance available to such agency as the department or entity deems necessary to discharge its duties under

this Order. Each department, office, division, or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully with the department or entity and to supply such assistance on as timely a basis as is necessary to accomplish the purposes of this Order. An application or approval may proceed only after such review takes place and upon a departmental determination that the application has been lawfully submitted and is free from improper influence, or any wrongdoing, or the appearance thereof.

4. Each department or other State entity that identifies one or more applications as described in paragraph 1 of this Order shall report such finding to the Office of the Governor not later than seven days following the issuance of this Order, and shall provide periodic updates, as appropriate.

5. This Order shall take effect immediately.

Dated August 3, 2009.

EXECUTIVE ORDER NO. 149

WHEREAS, Supreme Court Justice Sidney M. Schreiber faithfully served the people of New Jersey as a respected member of the State's highest Court for nine years; and

WHEREAS, Justice Schreiber was a true son of New Jersey, born and raised in the City of Elizabeth, who was known for setting extremely high standards in writing opinions that provided clear direction to the bench, the bar, and the public in cases that touched virtually every area of the law; and

WHEREAS, Justice Schreiber graduated from Yale University and Yale Law School and served as attorney for the United States Railroad Retirement Board and the Securities and Exchange Commission before entering the United States Army in 1943; and

WHEREAS, While in the Army, Justice Schreiber directed the war crimes review section of the Judge Advocate General's Office; and

WHEREAS, Following his discharge from the Army, Justice Schreiber was an attorney in private practice, a delegate to the 1966 New Jersey Constitutional Convention, and a Commissioner for the Union County Parks Commission; and

WHEREAS, Governor William T. Cahill appointed Justice Schreiber to the Superior Court of New Jersey in October 1972; and

WHEREAS, Governor Brendan T. Byrne appointed Justice Schreiber to the New Jersey Supreme Court on January 8, 1975, the Senate confirmed this appointment on January 27, 1975, and Justice Schreiber was sworn in as an Associate Justice on February 28, 1975, following the retirement of Justice Nathan L. Jacobs; and

WHEREAS, During his tenure on the Supreme Court, Justice Schreiber authored many majority opinions as well as dissenting opinions, and was known for the depth of his analysis, excellent judgment, and scholarly approach to judicial decision-making; and

WHEREAS, Justice Schreiber was a respected jurist who worked tirelessly in forming his legal opinions, earning him the respect of his colleagues; and

WHEREAS, The many significant decisions for which Justice Schreiber is recognized include decisions expanding citizens access to public beaches, a groundbreaking product liability decision regarding drug side-effects, and several important decisions interpreting the State and federal Constitutions; and

WHEREAS, Justice Schreiber, during his near decade-long tenure on the Court, strengthened the administration of justice throughout the State, including through his service as Chairman of both the Supreme Court Committee on Civil Case Management and Procedures and the Committee on Budget and Procedure, as well as through his service on the Supreme Court Committees on the Tax Court and Civil Trial Court Support Systems;

WHEREAS, Justice Schreiber, upon reaching the mandatory retirement age in 1984, became counsel to the law firm Riker, Danzig, Scherer, Hyland, and Perretti in Morristown; and

WHEREAS, Since his retirement from the Supreme Court, Justice Schreiber continued his service to New Jersey as Chairman of the New Jersey Supreme Court Advisory Committee on Judicial Conduct, Vice-chairman of the Editorial Board of the New Jersey Law Journal, and as a mentor to many attorneys throughout the State; and

WHEREAS, It is with deep sadness that we mourn the loss of Justice Schreiber and extend our sincere sympathy to his wife, Ruth, his daughter, Florence Powers, his grandson, Jonathan Powers, and his many friends and colleagues; and

WHEREAS, it is fitting and appropriate to honor the achievements, the character, the memory, and the passing of Justice Schreiber;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Tuesday, August 18, 2009, in recognition and mourning of the passing of Justice Sidney M. Schreiber.

2. This Order shall take effect immediately.

Dated August 13, 2009.

EXECUTIVE ORDER NO. 150

WHEREAS, Pursuant to P.L. 2006, c. 44, the New Jersey State Sales and Use Tax rate was increased from 6% to 7% statewide; and

WHEREAS, In November 2006, the New Jersey voters approved an amendment to Article VIII, section I, paragraph 7 of the New Jersey State Constitution (the "Constitutional Amendment") providing relief for property taxpayers by dedicating an amount equal to the annual revenue derived from a tax rate of 0.5% imposed under the Sales and Use Tax to the Property Tax Reform Account (the "Dedicated Revenues"); and

WHEREAS, The Constitutional Amendment specifically provides that there shall be annually credited from the General Fund and placed in a special account in the perpetual Property Tax Relief Fund an amount equal to the Dedicated Revenues, which amount shall be appropriated annually by the Legislature exclusively for the purpose of property tax reform; and

WHEREAS, The New Jersey Urban Enterprise Zones Act, P.L. 1983, c.303, as amended (the "UEZ Act"), provides for the deposit of certain Sales and Use Tax revenues in the UEZ assistance fund (the "UEZ Fund") based on a prescribed schedule set forth in the UEZ Act, for the purpose of assisting qualifying municipalities in which UEZs are designated in undertaking public improvements, economic development projects, and in upgrading eligible municipal services within designated UEZs; and

WHEREAS, UEZs represent an important part of the overall job-creation and economic development plan for the State of New Jersey, and monies from the UEZ Fund help to offset pressure on property taxation in host municipalities; and

WHEREAS, The aforesaid constitutional dedication of an amount equal to the annual revenue derived from a Sales and Use Tax rate of 0.5% to the Property Tax Reform Account does not exempt Sales and Use Tax revenues collected in UEZs, but rather encompasses all revenues derived from the Sales and Use Tax Statewide; and

WHEREAS, Prior to Fiscal Year 2010, the full amount of the Sales and Use Tax revenues collected in the UEZs was credited to the UEZ Fund; and

WHEREAS, In June 2009, it was agreed that, with respect to the time period from 2006 through the end of Fiscal Year 2009, consistent with constitutional mandates and the overriding desire of this administration to provide and ensure property tax relief to the maximum extent possible, the required amount of the one cent increase in the Sales and Use Tax should be transferred from the UEZ Fund for deposit into the General Fund and an equal amount should be retained in the UEZ Fund, with the condition that these retained funds be used for projects that will result in property tax relief; and

WHEREAS, A supplemental appropriation for FY 2009 was enacted to effectuate that goal; and

WHEREAS, For Fiscal Year 2010, the Appropriations Act contains a language provision providing that the crediting of revenues to each account in the UEZ Fund is reduced by the amount of Sales and Use Tax revenues credited from the General Fund into the special account in the Property Tax Relief Fund established by the Constitutional Amendment; and

WHEREAS, It is appropriate, for Fiscal Year 2011 and thereafter, in the event that the crediting of revenues to each account in the UEZ Fund may contain all or a part of the half cent of Sales and Use Tax which is dedicated for property tax relief to provide for entry into an arrangement to provide that such revenues be used, consistent with the UEZ Act, for property tax relief while, at the same time, promoting essential economic development activities within the UEZs to the maximum extent possible; and

WHEREAS, With respect to such future fiscal years, it is appropriate to establish a more formal framework for addressing these issues;

NOW, THEREFORE, I, JON S. CORZINE, 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. Beginning in State Fiscal Year 2011, and for each and every fiscal year thereafter, the State Treasurer and the New Jersey Urban Enterprise Zone Authority ("UEZ Authority") shall work cooperatively to agree and enter into a memorandum of agreement ("MOA"), on an annual basis, with respect to the disposition and use of amounts equal to the Dedicated Revenues that are credited to the UEZ Fund in the affected UEZ municipalities. Each MOA shall be effective for a period of one year and shall govern, by its terms, the use or uses of the amount of one-half of the dedicated portion of such revenues.

2. An MOA pursuant to this Order shall include, but need not be limited to, a detailed description of any proposed use of such revenues and an explanation regarding the manner in which such proposed use will result in property tax relief.

3. For fiscal years beginning on and after July 1, 2010, it shall be the recommendation of the Executive Branch that an amount equal to one half of the Dedicated Revenues allocable to each UEZ zone in the UEZ Fund shall be available to each such enterprise zone, subject to the execution of an MOA as described in paragraphs 1 and 2 of this Order.

4. The Department of the Treasury shall provide to each UEZ municipality, on a monthly basis, the amount of Sales and Use Tax revenue collected, the amount deducted for property tax reform, and the amount credited to the UEZ fund.

5. This Order shall take effect immediately and shall remain in full force and effect unless it is rescinded or modified by the Governor, or superseded by statute.

Dated August 19, 2009.

EXECUTIVE ORDER NO. 151

WHEREAS, New Jersey is one of the most racially, culturally, and ethnically diverse states in the United States, and this diversity is reflected in the leaders and

owners of its businesses, in the leaders and members of the labor movement, and in the employees in every segment of the workforce; and

WHEREAS, the State's business community includes multi-national enterprises, industrial, commercial, and small business sectors; and

WHEREAS, the State's thousands of small businesses, each with fewer than 100 employees, together generate almost 40% of the jobs in the State; and

WHEREAS, small, minority, and women-owned business enterprises have historically been underrepresented in the receipt of State contract awards; and

WHEREAS, the State's workforce provides New Jersey's multinational enterprises, its industrial, commercial, and small business sectors, and its public and not-for-profit sectors with highly educated, highly skilled, and highly motivated employees, who contribute to the prosperity of the State while supporting their families; and

WHEREAS, in response to the current national recession, the United States Congress enacted the American Recovery and Reinvestment Act of 2009 (ARRA), which will increase federal spending at the State and local levels by approximately $10 billion, and will fully fund certain work in the State, and partially fund other State projects; and

WHEREAS, given the recession and unemployment levels in New Jersey, it is imperative that every sector of the economy be offered the opportunity to benefit from the federal economic recovery funds and the State's own spending; and

WHEREAS, many of the State's businesses have significant public construction contracts and other contracts to provide goods or services to government and many others would like the opportunity to compete for these contracts to expand their businesses while serving the public; and

WHEREAS, residents of the State of New Jersey deserve a government that provides equal opportunity for all contractors to compete to submit winning bids on public contracts; and

WHEREAS, residents of the State of New Jersey, especially during these difficult economic times, deserve a government that does everything it can to expand job opportunities, particularly for men and women who are entering the workforce, who have experienced difficulties entering the workforce, or who have recently become unemployed or underemployed; and

WHEREAS, the State created an internet site, http://www.recovery.nj.gov, which outlines the allocation of New Jersey's share of economic recovery funds under the ARRA; and

WHEREAS, to spend ARRA funds transparently and ensure that those seeking work have a fair chance to obtain ARRA-funded employment, State agencies and entities should be required to post all State and ARRA-funded jobs on the State Job Bank internet site, http://NJ.gov/JobCentralNJ, to allow New Jersey residents to identify these employment opportunities; and

WHEREAS, the State must procure its construction services, goods, and other services as efficiently as possible, with transparency in the processing, selection, and awarding of public contracts; and

WHEREAS, robust competition for public contracts ensures that the government of the State of New Jersey obtains the construction services, goods, and other services it needs to perform its vital functions with maximum cost effectiveness; and

WHEREAS, broad and sustained efforts to notify all potential bidders of opportunities to contract with government should be encouraged to promote competition for public contracts, thus benefiting the public fisc; and

WHEREAS, the State of New Jersey commissioned the State of New Jersey Construction Services Disparity Study 2000 – 2002 (October 2005) and the State of New Jersey Disparity Study of Procurement in Professional Services, Other Services, and Goods and Commodities (June 2005), and both studies documented significant disparities between the firms ready, willing, and able to do business with the State, and those firms actually awarded contracts by State departments, agencies, authorities, colleges, and universities, as a result of which this Administration created through Executive Order No. 34 (2006) the Division of Minority and Women Business Development ("Division of M/W Business Development"); and

WHEREAS, Executive Order No. 34 charged the Director of the Division of M/W Business Development with monitoring programs to increase the participation of minority and women-owned businesses in the State's purchasing and procurement processes; and

WHEREAS, since its inception, the Division of M/W Business Development, working with the Department of the Treasury's Office of Supplier Diversity ("OSD"), has identified strategies to increase the number of small and minority and women-owned businesses interested in and eligible to benefit from state procurement activity; and

WHEREAS, the Division of M/W Business Development and OSD have increased outreach to and expanded the ability of these businesses to fulfill bid requirements for state contracts; and

WHEREAS, the Division of Public Contracts Equal Employment Opportunity Compliance in the Department of the Treasury (Division of Contract Compliance) monitors the employment of women and minorities with businesses that contract with government in an effort to ensure that contractors and vendors make good faith efforts to hire minorities and women in accordance with targeted goals based on the United States Census' workforce availability statistics;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. All members of the public should be afforded the opportunity to benefit from the federal economic recovery funds and associated state spending, and in particular, this Administration re-affirms the State's commitment, expressed in statute and regulation, that every public contract, whether for construction services,

goods, or other services, shall provide equal employment opportunity for women and minorities.

2. The Commissioners of the Departments of Community Affairs, Education, Environmental Protection, and Transportation; the President of the Board of Public Utilities; and the executive directors of the Schools Development Authority and the Economic Development Authority are directed to meet with members of the Governor's office, the Department of the Treasury, and representatives of the United States Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) to ensure that those departments receiving the bulk of federal economic recovery funds will provide the OFCCP their complete cooperation in complying with its mandates.

3. The Division of Contract Compliance shall be the entity within the Executive Branch responsible for determining whether minorities and women have been offered a fair opportunity for employment on State contracts. Executive branch departments and agencies, independent authorities, and State colleges and universities are directed to cooperate fully with the Division of Contract Compliance's enforcement efforts, consistent with law, and to award public contracts only to those businesses that agree to comply with equal employment opportunity and affirmative action requirements.

4. The Division of Contract Compliance shall work cooperatively with the OFCCP, including sharing its workforce data to the maximum extent permitted by law, to assist the OFCCP in its enforcement efforts.

5. When not restricted by any other State or federal law, the Division of Contract Compliance shall determine whether each of the State entities whose performance it monitors (the "Reporting Agencies" listed in Appendix A to this Order) properly allocated and released to the Department of Labor and Workforce Development, as authorized by law, one-half of one percent of the total cost of a construction contract of $1,000,000 or more, to be used by the department for the New Jersey Builders Utilization Initiative for Labor Diversity program to train minorities and women for employment in construction trades. This provision shall apply to those construction contracts where the funding for the contract consists entirely of appropriated funds or a combination of funds from appropriated funds and other sources.

6. As a result of the aforementioned significant disparities in employment of minorities and women on construction sites and within the construction trades, all construction contracts entered into and funded, in whole or in part, by the State shall include mandatory EEO/AA contract language (in the form of Appendix B to this Order) that requires contractors to make a good faith effort to recruit and employ minorities and women as required by provisions of the Administrative Code, including but not limited to N.J.A.C. 17:27-3.6 to 3.8, and 17:27-7.3 and 7.4. In addition to the language set forth in Appendix B, such construction contracts shall contain the contractual language as required by N.J.A.C. 17-27-3.6, 3.7, and 3.8. As to the portion of each contract that is State funded, the language of the contract shall provide, consistent with Appendix B, that payment may be withheld for fail-

ure of the contractor to demonstrate to the satisfaction of the Reporting Agency that the required good faith effort was made. Failure of a contractor to satisfy the good faith effort requirement of its contract may also subject it to assessments imposed pursuant to findings of the Division of Contract Compliance in the Department of the Treasury, in accordance with N.J.A.C. 17:27-10.

7. Except as described in subparagraphs (a) and (b) of this paragraph, each Executive Branch agency that is a recipient of federal economic recovery funds pursuant to ARRA shall include in any contract, grant, or agreement funded in whole or in part with ARRA funds a clause requiring subrecipients, contractors, subcontractors, local education agencies, and vendors to post all job openings created pursuant to the contract, grant, or agreement on the State's Job Bank at least 14 days before hiring is to commence. The clause shall state: "Since the funds supporting this contract, grant, or agreement are provided through the American Recovery and Reinvestment Act of 2009 (ARRA), the subrecipient, contractor, subcontractor, local education agency, or vendor will post any jobs that it creates or seeks to fill as a result of this contract, grant, or agreement. The subrecipient, contractor, subcontractor, local education agency, or vendor will post jobs to the New Jersey State Job Bank by submitting a job order using the form available at http://NJ.gov/JobCentralNJ, notwithstanding any other posting the subrecipient, contractor, subcontractor, local education agency, or vendor might make. Any advertisements posted by the subrecipient, contractor, subcontractor, local education agency, or vendor for positions pursuant to this contract, grant, or agreement must indicate that the position is funded with ARRA funds."

a. Posting shall not be required where the employer intends to fill the job opening with a present employee, a laid-off former employee, or a job candidate from a previous recruitment, where pre-existing, legally binding collective bargaining agreements provide otherwise, or where an exception has been granted to the Reporting Agency by the Department of Labor and Workforce Development.

b. Nothing in this Order shall be interpreted to require the employment of apprentices if such employment may result in the displacement of journey workers employed by any employer, contractor or subcontractor.

8. All local government entities and local education agencies that have received or will receive directly from a federal agency federal economic recovery funds are strongly encouraged to require their contractors and subcontractors to post job openings on the State's Job Bank at least 14 days before hiring is to commence. Moreover, all New Jersey employers that enter into contracts funded with ARRA funds received by a local government entity or a local education agency directly from a federal agency are likewise strongly encouraged to post job openings created pursuant to the ARRA.

9. The Division of M/W Business Development shall send to the Reporting Agencies the contractual language set forth in Appendix C of this Order. Provisions of this contractual language have been shown to have a significant impact on (a) increasing the number of small and minority and women-owned businesses aware of contracting opportunities with the State and (b) increasing the number of

such businesses competing for contracts with the State or subcontracts with entities contracting with the State. The Division of M/W Business Development shall work with each Reporting Agency to ensure the reporting of and ensure compliance with contract-specific contracting and subcontracting goals for the Reporting Agency that are consistent with the availability percentages set forth in Appendix D. These goals should incorporate good faith effort requirements and should be adjusted annually, consistent with the availability of minority and women-owned businesses for which significant disparities in utilization have been demonstrated in each business category.

10. Each Reporting Agency shall:

a. Inform the Division of M/W Business Development of contracting opportunities at the same time that it advertises or otherwise posts public notices of such opportunities, via consistent and timely upload of all-inclusive information to the bid opportunities database services managed by the Division of M/W Business Development. All pre-bid requirements shall be prominently advertised at the time of uploading to the Division of M/W Business Development databases;

b. Actively and regularly use the databases and other on-line services managed and operated by the Division of M/W Business Development to identify additional potential bidders. Because these databases and on-line services identify minority and women-owned businesses known to and registered or certified with the Division of M/W Business Development, the ongoing use of these resources by buyers, procurement agents, and other purchasing staff shall be closely monitored by the Reporting Agency's senior management;

c. Contact the businesses identified in the Division of M/W Business Development's databases and on-line services to provide them with notice of the contracting opportunities available through the Reporting Agency; and

d. Report to the Division of M/W Business Development all payments and awards prime contractors have issued to subcontractors, identifying payments and awards to minority and women-owned businesses on at least a quarterly basis.

11. To the maximum extent practicable, and when not restricted by any other State or federal law, each Reporting Agency shall incorporate the substance of the contractual language set forth in Appendix C into its contracts, while continuing to follow the particular State and federal laws and regulations governing its contracting and procurement practices.

12. Each Reporting Agency shall, where substitution of subcontractors or subconsultants is permitted, promulgate policies governing the circumstances under which contractors or consultants may substitute subcontractors or sub-consultants named in bid proposals or otherwise identified as small or women or minority-owned business subcontractors, sub-consultants, or vendors ("Substitution Policies"). The Substitution Policies shall provide that:

a. The contractor or consultant must notify and obtain approval from a small or women or minority-owned business subcontractor, sub-consultant, or vendor ("SMWBE contractor") before including that contractor in a bid proposal or similar contract-related submission;

b. The contractor or consultant must notify and obtain authorization from the Reporting Agency before it substitutes a SMWBE contractor named in a bid proposal or other contract-related submission; and

c. If the substitution is approved, the contractor or consultant shall make a good faith effort to utilize another SMWBE contractor in place of the previous SMWBE contractor.

13. Each Reporting Agency shall report to the Division of M/W Business Development when it has incorporated the language set forth in Appendix C in its contracts. It shall also report to the Division of M/W Business Development when it has adopted its Substitution Policy, where such policy is permitted. The Division of M/W Business Development shall report on the number of Reporting Agencies that have modified their contracts and adopted a Substitution Policy at three month intervals until all of the Reporting Agencies have completed incorporation of the contractual language set forth in Appendix C and, where legally permitted, adoption of the Substitution Policy.

14. Nothing in this Order shall modify existing law, state or federal, or authorize a Reporting Agency to amend, modify, or otherwise alter pre-existing legal obligations. Further, this Order shall be interpreted consistently with the ARRA, and the federal regulations and guidelines governing its implementation, and in the event of a conflict between this Order and federal law governing ARRA, the Order shall be interpreted to comply with federal law.

15. Within 90 days of the date of this Order, the Division of M/W Business Development shall prepare a Contracting Guide identifying the management practices that have the greatest success in: (a) increasing the number of small and minority and women-owned businesses made aware of contracting opportunities with the State; and (b) increasing the number of such businesses competing for contracts with the state or subcontracts with entities contracting with the state. As soon as practicable thereafter, the Division of M/W Business Development shall distribute the Contracting Guide to the Reporting Agencies.

16. As soon as practicable after its receipt of the Contracting Guide, each Reporting Agency shall implement those provisions that it views as most likely to have the greatest impact in increasing contracting opportunities for small and minority and women-owned businesses.

17. Within one year and ninety days of the effective date of this Order, the Division of M/W Business Development and the Division of Contract Compliance shall each prepare a report describing the Reporting Agencies' implementation of this Order. The Division of M/W Business Development and the Division of Contract Compliance each shall prepare a second report within one year of issuing its first report.

18. The Department of Labor and Workforce Development shall work together with all other Reporting Agencies that will receive ARRA funding and with the representatives of the United States Environmental Protection Agency, the Federal Departments of Labor, Energy, Transportation, and Housing and Urban Development, and any other federal agencies distributing ARRA funds to:

a. Coordinate with labor unions that will aggressively recruit minorities and women for apprenticeships and training opportunities;

b. Increase outreach to and enrollment of minorities and women in apprenticeship, training, and related programs; and

c. Ensure that, to the greatest extent possible under the law, minorities and women apprentices and trainees are working on State and ARRA-funded work sites.

19. The Department of the Treasury and other departments, agencies, and independent authorities shall, consistent with law, take steps to increase their engagement of small, minority, or women-owned or controlled banks and credit unions to meet their financial services needs.

20. This Order shall take effect immediately.

Dated August 28, 2009.

APPENDIX A

LIST OF REPORTING AGENCIES

Board of Public Utility Commissioners
Casino Control Commission
Casino Reinvestment Development Authority
Commission on Higher Education
Commission on Science & Technology
Council on Affordable Housing
Department of Agriculture
Department of Military & Veterans' Affairs
Department of Banking & Insurance
Department of Children & Families
Department of Community Affairs
Department of Corrections
Department of Education
Department of Environmental Protection
Department of Health and Senior Services
Department of Human Services
Department of Labor and Workforce Development
Department of Law & Public Safety
Department of Public Advocate
Department of State
Department of Transportation
Department of the Treasury
Division of Property Management and Construction
Election Law Enforcement Commission
Fort Monmouth Economic Revitalization Planning Authority
Garden State Preservation Trust

Higher Education Student Assistance Authority
Kean University
Legalized Games of Chance Control Commission
Montclair State University
Motion Picture Commission
Motor Vehicle Commission
New Jersey City University
New Jersey Cultural Trust
New Jersey Institute of Technology
New Jersey Transit
NJ Building Authority
NJ Economic Development Authority
NJ Educational Facilities Authority
NJ Environmental Infrastructure Trust
NJ Health Care Facilities Financing Authority
NJ Highlands Council
NJ Housing & Mortgage Finance Agency
NJ Maritime Pilot and Docking Pilot Commission
NJ Meadowlands Commission
NJ Pinelands Commission
NJ Public Television & Radio (NJN)
NJ Racing Commission
NJ Redevelopment Authority
NJ Schools Development Authority
NJ Sports & Exposition Authority
NJ State Museum
NJ Turnpike Authority
NJ Water Supply Authority
North Jersey Transportation Planning Authority
North Jersey District Water Supply Commission
Office of Homeland Security
Office of Information Technology
Office of the Child Advocate
Office of the Inspector General
Office of the Public Defender
Ramapo College
Rowan University
Rutgers University
South Jersey Port Corporation
South Jersey Transportation Authority
South Jersey Transportation Planning Organization
State Agriculture Development Committee
State Economic Recovery Board For Camden
State Ethics Commission

State Employment & Training Commission
State Lottery Commission
Stockton College
The College of New Jersey
Thomas Edison State College
Transportation Trust Fund Authority
University of Medicine & Dentistry of New Jersey
William Paterson University

APPENDIX B

It is the policy of the [Reporting Agency] that its contracts should create a workforce that reflects the diversity of the State of New Jersey. Therefore, contractors engaged by the [Reporting Agency] to perform under a construction contract shall put forth a good faith effort to engage in recruitment and employment practices that further the goal of fostering equal opportunities to minorities and women.

The contractor must demonstrate to the [Reporting Agency]'s satisfaction that a good faith effort was made to ensure that minorities and women have been afforded equal opportunity to gain employment under the [Reporting Agency]'s contract with the contractor. Payment may be withheld from a contractor's contract for failure to comply with these provisions.

Evidence of a "good faith effort" includes, but is not limited to:

The Contractor shall recruit prospective employees through the State Job bank website, managed by the Department of Labor and Workforce Development, available online at http://NJ.gov/JobCentralNJ.

The Contractor shall keep specific records of its efforts, including records of all individuals interviewed and hired, including the specific numbers of minorities and women.

The Contractor shall actively solicit and shall provide the [Reporting Agency] with proof of solicitations for employment, including but not limited to advertisements in general circulation media, professional service publications and electronic media.

The Contractor shall provide evidence of efforts described at 2 above to the [Reporting Agency] no less frequently than once every 12 months.

The Contractor shall comply with the requirements set forth at N.J.A.C. 17:27.

APPENDIX C

It is the policy of the [Reporting Agency] that small businesses (each a "small business enterprise" or "SBE"), as determined and defined by the State of New Jersey, Division of Minority and Women Business Development ("Division") and the New Jersey Department of the Treasury ("Treasury") in N.J.A.C. 17:14 et seq. or other application regulation, should have the opportunity to participate in [Reporting Agency] Contracts.

To the extent the Firm engages subcontractors or sub-consultants to perform Services for the [Reporting Agency] pursuant to this Contract, the Firm must demonstrate to the [Reporting Agency]'s satisfaction that a good faith effort was made to utilize subcontractors and sub-consultants who are registered with the Division as SBEs. Furthermore, the Reporting Agency shall be evaluated quarterly by the Division, based on its attainment of the Participation Goals set forth in the State of New Jersey Construction Services Disparity Study (October 2005) and the State of New Jersey Disparity Study of Procurement in Professional Services, Other Services, and Goods and Commodities (June, 2005). (These participation goals are set forth below.)

Evidence of a "good faith effort" includes, but is not limited to:

The Firm shall request listings of SBEs from the Division (609) 292-2146 and/or the [Reporting Agency] and attempt to contact same.

The Firm shall keep specific records of its efforts, including records of all requests made to the Division, the names of SBEs contacted, and the means and results of such contacts, including without limitation receipts from certified mail and telephone records.

The Firm shall actively solicit and shall provide the [Reporting Agency] with proof of solicitations of SBEs for the provision of Services, including advertisements in general circulation media, professional service publications and small business, minority-owned business or women-owned business focus media.

The Firm shall provide evidence of efforts made to identify categories of Services capable of being performed by SBEs.

The Firm shall provide all potential subcontractors and sub-consultants that the Firm has contacted pursuant to 2 or 3 above with detailed information regarding the scope of work of the subject contract.

The Firm shall provide evidence of efforts made to use the goods and/or services of available community organizations, consultant groups, and local, State, and federal agencies that provide assistance in the recruitment and placement of SBEs.

Furthermore, the Firm shall submit proof of its subcontractors' and/or sub-consultants' SBE registrations on the form attached as Exhibit __, and shall complete such other forms as may be required by the [Reporting Agency] for State reporting as to participation.

Participation Goals

1. Construction Services Contracts/Subcontracts (including new construction and renovations, except routine building maintenance; residential and non-residential building construction; heavy construction, such as streets, roads and bridges; and special trade construction, such as fencing, HVAC, paving and electrical).

(a) State Agencies/Authorities/Commissions
African Americans -- 6.3%

Asian Americans -- 4.34%

(b) State Colleges and Universities

African Americans -- 6.3%

Asian Americans -- 4.34%

Caucasian Females -- 12.67%

2. Construction-Related Services Contracts/Subcontracts (including design services, such as architectural, engineering and construction management services, that are performed as part of a construction project).

State Colleges and Universities

African Americans -- 4.51%

Asian Americans -- 7.11%

Hispanics -- 4.09%

3. Professional Services (with the exception of those professional services deemed to be construction-related, all services that are of a professional nature and requiring special licensing, education degrees and/or very highly specialized expertise, including accounting and financial services, advertising services, laboratory testing services; legal services; management consulting services; technical services and training).

State Agencies/Authorities/Commissions/Colleges and Universities

African Americans -- 2.47%

Asian Americans -- 1.47%

Hispanics -- 1.1%

Native Americans -- 0.07%

Caucasian Females -- 3.74%

4. Other Services (any service that is labor-intensive and neither professional nor construction-related, including, but not limited to equipment rental; janitorial and maintenance services; landfill services; laundry and dry cleaning; maintenance and repairs; printing; real property services; security services; special department supplies; subsidy, care and support; telecommunications; and temporary help).

State Agencies/Authorities/Commissions/Colleges and Universities

African Americans -- 1.22%

Asian Americans -- 0.85%

Hispanics -- 0.67%

Native Americans -- 0.05%

Caucasian Females -- 1.96%

5. Goods and Commodities (equipment and consumable items purchased in bulk, or a deliverable product including, but not limited to automobiles and equipment; chemicals and laboratory supplies, construction materials and supplies; equipment parts and supplies; fuels and lubricants; janitorial and cleaning supplies; office equipment; office supplies; radio equipment; special department supplies; technical supplies; tires and tubes; traffic signals; and uniforms).

State Agencies/Authorities/Commissions/Colleges and Universities

African Americans -- 2.71%

Asian Americans -- 1.74%
Hispanics -- 1.32%
Native Americans -- 0.10%
Caucasian Females -- 4.45%

APPENDIX D

Consistent with the findings of the State of New Jersey Construction Services Disparity Study (October 2005) and the State of New Jersey Disparity Study of Procurement in Professional Services, Other Services, and Goods and Commodities (June 13, 2005), each Reporting Agency should aspire to allocate a portion of its total contracting dollars in accordance with the following goals.

1. Construction Services Contracts/Subcontracts (including new construction and renovations, except routine building maintenance; residential and non-residential building construction; heavy construction, such as streets, roads and bridges; and special trade construction, such as fencing, HVAC, paving and electrical).

State Agencies/Authorities/Commissions
African Americans -- 6.3%
Asian Americans -- 4.34%
State Colleges and Universities
African Americans -- 6.3%
Asian Americans -- 4.34%
Caucasian Females -- 12.67%

2. Construction-Related Services Contracts/Subcontracts (including design services, such as architectural, engineering and construction management services, that are performed as part of a construction project).

State Colleges and Universities
African Americans -- 4.51%
Asian Americans -- 7.11%
Hispanics -- 4.09%

3. Professional Services (with the exception of those professional services deemed to be construction-related, all services that are of a professional nature and requiring special licensing, education degrees and/or very highly specialized expertise, including accounting and financial services, advertising services, laboratory testing services; legal services; management consulting services; technical services and training).

State Agencies/Authorities/Commissions/Colleges and Universities
African Americans -- 2.47%
Asian Americans -- 1.47%
Hispanics -- 1.1%
Native Americans -- 0.07%
Caucasian Females -- 3.74%

4. Other Services (any service that is labor-intensive and neither professional nor construction-related, including, but not limited to equipment rental; janitorial and maintenance services; landfill services; laundry and dry cleaning; maintenance and repairs; printing; real property services; security services; special department supplies; subsidy, care and support; telecommunications; and temporary help).

State Agencies/Authorities/Commissions/Colleges and Universities

African Americans -- 1.22%
Asian Americans -- 0.85%
Hispanics -- 0.67%
Native Americans -- 0.05%
Caucasian Females -- 1.96%

5. Goods and Commodities (equipment and consumable items purchased in bulk, or a deliverable product including, but not limited to automobiles and equipment; chemicals and laboratory supplies, construction materials and supplies; equipment parts and supplies; fuels and lubricants; janitorial and cleaning supplies; office equipment; office supplies; radio equipment; special department supplies; technical supplies; tires and tubes; traffic signals; and uniforms).

State Agencies/Authorities/Commissions/Colleges and Universities

African Americans -- 2.71%
Asian Americans -- 1.74%
Hispanics -- 1.32%
Native Americans -- 0.10%
Caucasian Females -- 4.45%

EXECUTIVE ORDER NO. 152

WHEREAS, Edward M. "Teddy" Kennedy, "the Lion of the Senate," served as a United States Senator from the Commonwealth of Massachusetts for nearly half a century, making him the third longest-serving member of the United States Senate in American history; and

WHEREAS, Senator Kennedy all too soon became the patriarch of one of the most storied political families in the history of this country; and

WHEREAS, Senator Kennedy's remarkable career as a public servant was highlighted by his passion, idealism, optimism, faith, and compassion; and

WHEREAS, over the course of Senator Kennedy's nearly five decades in the Senate, he was a true champion for those who often had no voice in the public arena and a leader on a wide range of issues impacting American families; and

WHEREAS, Senator Kennedy, who will be remembered as one of the most effective lawmakers in the history of the United States Senate, sponsored or shepherded through historic legislation that included reforming health care, advancing civil rights, improving education, and transforming immigration laws; and

WHEREAS, through Senator Kennedy's legislative triumphs he has made this nation a better place; and

WHEREAS, in addition to Senator Kennedy's political accomplishments, he performed many quiet deeds of humanity that have made him beloved to so many New Jerseyans: rich, poor, old, and young;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Tuesday, September 1, 2009, in recognition and mourning of the passing of Senator Edward M. Kennedy.
2. This Order shall take effect immediately.

Dated August 28, 2009.

EXECUTIVE ORDER NO. 153

WHEREAS, United States Army Staff Sergeant Andrew T. Lobosco was a native of Somerville, New Jersey, and a graduate of Immaculata High School; and

WHEREAS, Staff Sergeant Lobosco enlisted in the United States Army in January 2004 as a Special Forces candidate and was assigned to Fort Bragg, North Carolina; and

WHEREAS, Staff Sergeant Lobosco completed the Special Forces Qualification Course in January 2007 and earned the distinguished Green Beret; and

WHEREAS, Staff Sergeant Lobosco's military education included the Warrior Leader's Course, Basic Non-Commissioned Officer Course, Basic Airborne Course, and Special Forces Qualification Course; and

WHEREAS, Staff Sergeant Lobosco served proudly in the United States Army's 2nd Battalion, 7th Special Forces Group (Airborne), as a Special Forces medical sergeant; and

WHEREAS, Staff Sergeant Lobosco was deployed for the second time in support of the Global War on Terror in July 2009 as a member of the Combined Joint Special Operations Task Force in Afghanistan; and

WHEREAS, on August 22, 2009, Staff Sergeant Lobosco was killed in action as a result of injuries suffered when his unit was attacked while on patrol near Yakhchal, Afghanistan, in support of combat operations; and

WHEREAS, Staff Sergeant Lobosco has received some of our nation's highest military honors, including the Bronze Star Medal, Purple Heart Medal, Army Good Conduct Medal, National Defense Service Medal, Global War on Terrorism Service Medal, non-commissioned officer professional development ribbon, Army Service Ribbon, NATO Medal, Combat Infantryman Badge, Parachutist Badge, and the Special Forces Tab; and

WHEREAS, Staff Sergeant Lobosco was a dedicated soldier as well as a loving son and brother, whose memory lives in the hearts of his family, friends, and fellow soldiers; and

WHEREAS, Staff Sergeant Lobosco's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on September, 2, 2009, in recognition and mourning of a brave and loyal American hero, United States Army Staff Sergeant Andrew T. Lobosco.

2. This Order shall take effect immediately.

Dated August 28, 2009.

EXECUTIVE ORDER NO. 154

WHEREAS, on September 11, 2001, unprecedented terrorist attacks were launched on New York, Washington, D.C., and Pennsylvania; and

WHEREAS, more than one quarter of the victims of the September 11, 2001 attacks were New Jerseyans, with nearly 700 of our residents killed in the attacks, and numerous others injured; and

WHEREAS, many New Jerseyans, including thousands of police, fire, military, emergency, and construction personnel, bravely responded to this tragedy; and

WHEREAS, hundreds of New Jersey families have been drastically affected by these events, through the loss of a parent, spouse, child, or other loved one; and

WHEREAS, this tragic event will be remembered by all New Jerseyans, both privately as well as in public remembrances and memorial ceremonies; and

WHEREAS, it is fitting that this day be observed with full solemnity, in tribute to the thousands of innocent victims who perished in the attacks;

NOW, THEREFORE, I, JON S. CORZINE, 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 September 11, 2009, in recognition

and mourning of all of those lost in the September 11th attacks and, particularly, those lost from our home State.

2. This Order shall take effect immediately.

Dated September 9, 2009.

EXECUTIVE ORDER NO. 155

WHEREAS, the Mass Transit Tunnel project is the largest transit public works project in the United States, and includes the construction of two single-track rail tunnels under the Hudson River to service existing NJ Transit passenger rail lines, an expanded New York Penn Station and other key elements to address the pressing regional transportation needs; and

WHEREAS, the Mass Transit Tunnel project will supplement the link between New Jersey and New York and benefit the regional economy with improved rail transportation and will provide significant environmental benefits; and

WHEREAS, the Mass Transit Tunnel project is expected to create and sustain 6,000 construction related jobs annually through completion of the project; and

WHEREAS, the Mass Transit Tunnel project is expected to create 44,000 permanent jobs and add nearly $10 billion to the Gross Regional Product after completion; and

WHEREAS, the Mass Transit Tunnel project is being constructed by NJ Transit, in partnership with the Port Authority of New York and New Jersey ("Port Authority"); and

WHEREAS, funding for the $8.7 billion cost of the Mass Transit Tunnel project will come from the State of New Jersey, NJ Transit, the New Jersey Turnpike Authority, the Port Authority, and the federal government; and

WHEREAS, under the General Project Agreement entered into by NJ Transit and the Port Authority, NJ Transit has been designated the lead agency and federal sponsor for the Mass Transit Tunnel and has primary responsibility for the design, construction and management of the project; and

WHEREAS, under the General Project Agreement, NJ Transit will be responsible during the life of the Mass Transit Tunnel project for procuring and administering the solicitation of bids, awards of construction contracts and equipment procurement contracts, and design and construction management contracts for the project, and various other contracts of all types; and

WHEREAS, under the General Project Agreement, NJ Transit will be responsible during the life of the Mass Transit Tunnel project for the acquisition of all real property located in the State of New Jersey, and the Port Authority will be responsible for the acquisition of all real property located in the State of New York needed to construct, maintain and operate the project; and

WHEREAS, transparency and accountability are paramount to ensuring the responsible expenditure of funds for the Mass Transit Tunnel project; and

WHEREAS, it is imperative that contracts for the Mass Transit Tunnel project, like all state contracts, be awarded to vendors in a manner that is fair, transparent, and designed to ensure that the project receives the benefit of quality services and products at the lowest price from responsible bidders; and

WHEREAS, it is imperative that construction on the Mass Transit Tunnel project be within budget and on schedule; and

WHEREAS, the Federal Transit Administration has agreed to provide $3,000,000,000 in New Starts funding, which will require NJ Transit to deliver the project on time and on budget and to fully cooperate with the Federal Transit Administration and its oversight consultants in their monitoring of the design and construction of the Mass Transit Tunnel and their enforcement of all applicable Federal statutes, regulations and program requirements, including project management practices, risk management strategies, real estate acquisition, environmental compliance, contract management, constructability reviews, and project schedule and budget validation; and

WHEREAS, a key governance reform initiative of this administration was the enactment of legislation creating the independent Office of the State Comptroller to provide integrity, increased accountability, and oversight regarding spending and contracting by State agencies, independent State authorities, and other entities; and

WHEREAS, the provisions of this Order regarding the Office of the State Comptroller have been developed in consultation with and with the concurrence of the State Comptroller;

NOW, THEREFORE, I, JON S. CORZINE, 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. Pursuant to its duties as set forth in N.J.S.A. 52:15C-1 et seq., the Office of the State Comptroller shall monitor the procurement of contracts by NJ Transit and any other State agencies and independent State authorities involved in the Mass Transit Tunnel project.

2. Pursuant to its duties set forth in N.J.S.A. 52:15C-1 et seq., the Office of the State Comptroller shall provide guidance to the entities involved in the Mass Transit Tunnel project concerning internal controls and accounting.

3. As part of its powers pursuant to N.J.S.A. 52:15C-8, the Office of the State Comptroller shall undertake analysis and review of all internal and external financial audits of the Mass Transit Tunnel project to ensure the adequacy of internal controls and determine whether additional oversight is needed to keep the project within budget.

4. The Office of the State Comptroller shall conduct its oversight of the Mass Transit Tunnel project in cooperation with the Auditor General of NJ Transit, the inspectors general or other appropriate officers of the Port Authority, the Fed-

eral Transit Administration, the United States Department of Transportation, and other appropriate State and federal officers responsible for oversight of this project.

5. NJ Transit shall provide to the Governor quarterly written reports that are consistent with the information it provides to the Federal Transit Administration on the status of the project. The reports shall include detailed information concerning the schedule and budget status of the project and, if necessary, action plans for meeting or returning to scheduling and budgetary benchmarks.

6. This Order shall take effect immediately.

Dated October 6, 2009.

EXECUTIVE ORDER NO. 156

WHEREAS, United States Army Sergeant Michael P. Scusa was a native of Villas, New Jersey, and a graduate of Lower Cape May Regional High School; and

WHEREAS, Sergeant Scusa enlisted in the United States Army after his graduation from high school and was assigned to the 3rd Squadron, 61st Cavalry Regiment, 4th Brigade Combat Team, 4th Infantry Division, Fort Carson, Colorado; and

WHEREAS, on October 3, 2009, Sergeant Scusa died in combat while defending his outpost and his fellow soldiers from enemy attack in Kamdesh, Afghanistan; and

WHEREAS, Sergeant Scusa was a dedicated soldier as well as a loving son, husband and father, whose memory lives in the hearts of his family, friends, and fellow soldiers; and

WHEREAS, Sergeant Scusa's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Tuesday, October 20, 2009, in recognition and mourning of a brave and loyal American hero, United States Army Sergeant Michael P. Scusa.

2. This Order shall take effect immediately.

Dated October 15, 2009.

EXECUTIVE ORDER NO. 157

WHEREAS, this administration has consistently demonstrated a strong commitment to ensuring the highest ethical standards in government contracting; and

WHEREAS, in furtherance of this commitment, this administration has successfully implemented a number of policies to improve the processes governing the awarding of State government contracts, including but not limited to contracts for legal services, to ensure that merit and cost-effectiveness drive the government contracting process; and

WHEREAS, with regard to contracts for legal services, N.J.S.A. 52:17A-13 authorizes the Attorney General, with the approval of the Governor, to designate Special Counsel to the State of New Jersey under appropriate circumstances; and

WHEREAS, the designation of special counsel for any type of legal matter is materially different than the procurement of other professional services and requires the Governor and Attorney General to exercise the utmost judgment to determine how the State's interests can best be represented; and

WHEREAS, as part of the administration's commitment to promoting transparency and accountability while, at the same time, balancing the need for exercise of judgment that the special counsel designation process requires, the Office of the Attorney General has implemented policies and procedures that serve as a model for other states; and

WHEREAS, prior to the award of a contract for legal services, it is appropriate to require a publicly advertised process involving Requests for Qualifications (RFQs) with respect to distinct legal practice areas, merit-based decision making in the selection of law firms responding to RFQs, and impartial review by an evaluation committee based upon clearly defined evaluation criteria, as well as well-defined procedures for retaining counsel for particular legal matters, absent unusual circumstances; and

WHEREAS, in some other states, the hiring of outside counsel is not a sufficiently open process and is unguided by proper policies and procedures, giving rise to claims of misconduct and improper politicization of the special counsel designation process; and

WHEREAS, it is appropriate to formalize the procedures to be used by the Attorney General;

NOW, THEREFORE, I, JON S. CORZINE, 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 generating the list of outside counsel designated to serve as Special Counsel to the State of New Jersey pursuant to N.J.S.A. 52:17A-13, the Attorney General shall adhere to the following requirements:

a. The Attorney General shall identify and periodically update the practice areas for which outside counsel are generally needed. Such areas may be grouped

into broader Requests for Qualifications based on similarity of the practice area, as appropriate.

b. RFQs for identified practice areas shall be issued periodically, but at least once every three years from the date of the previous designation list for that RFQ.

c. Advertisement and distribution of the RFQ shall be accomplished by:

(i) placing advertisement(s) in an appropriate legal periodical;

(ii) mailing a notice of the RFQ or the RFQ, as appropriate, to all firms currently on the outside counsel list and to all law firms that have requested to be on the RFQ mailing list for related topics;

(iii) mailing a notice of the RFQ or the RFQ, as appropriate, to specialty bar groups that represent minority and female attorneys;

(iv) posting the RFQ on the Division of Law's Internet website; and

(v) mailing a notice of the RFQ or the RFQ, as appropriate, to law firms possessing specialized expertise, where a matter requires specialized knowledge or experience.

d. Once the Division of Law receives responses to the RFQ, the responses shall be reviewed by an evaluation committee comprised of at least three members, including but not limited to supervisors from the Division of Law and representatives of appropriate client agencies, as appropriate. Evaluation committee members shall include attorneys with involvement in the relevant practice areas and client representatives, as appropriate.

e. The criteria to be employed for evaluating RFQ responses shall include but not be limited to the following: experience of the firm in the practice area; the firm's resources, including but not limited to the size of the firm (small or medium/large); the firm's approach to communication with the Division of Law; the past experience of the State with the firm and its named attorneys; and geographic location, where appropriate.

f. Responses to RFQs shall be ranked on the basis of technical merit and, where appropriate, the highest scoring small and medium/large firms, consistent with the number specified in the RFQ, in each practice area shall be submitted for designation.

2. After the list of qualified firms for a particular practice area is developed, firms from that list shall, as appropriate, be retained for particular matters as follows:

a. The Division of Law shall decide whether a small or medium/large firm should be retained.

b. From either the list of designated small firms or the list of designated medium/large firms, as appropriate, a firm shall be selected based on the following criteria: geographic location; magnitude or complexity of the matter; the firm and/or its attorneys' past success in handling similar matters; whether the firm's experience and knowledge coincide with the type of legal work to be performed; the firm's capacity to staff and perform the required work; and any current adversarial position or potential conflict of interest between the firm and/or its attorneys and the State, its agencies, or officials.

3. If a particular matter requires expertise in one or more practice area outside of those encompassed by existing lists, a separate RFQ shall be distributed, consistent with paragraph 1(c) above, for that retention; provided, however, that in these circumstances the Division may forego advertising under paragraph 1(c)(i).

4. In matters requiring strict confidentiality, timely retention decisions, or otherwise involving emergent or extraordinary circumstances, the Division of Law shall solicit proposals from at least three law firms, unless the Attorney General decides to use one particular firm to preserve confidentiality.

5. Nothing in this Order shall prohibit the awarding of a contract when the Attorney General decides emergent or extraordinary circumstances require the timely performance of legal services.

6. The selection of special counsel for designation pursuant to N.J.S.A. 52:17A-13 and any decisions whether to waive advertising requirements or the solicitation of proposals shall be in the sole discretion of the Attorney General.

7. Bond counsel shall continue to be retained as provided for in Executive Order No. 26 (1994).

8. This Order shall take effect immediately.

Dated October 19, 2009.

EXECUTIVE ORDER NO. 158

WHEREAS, the tragedy at the Fort Hood Texas Army Base, has shaken the nation and, in particular, has affected the citizens of the State of New Jersey because of the injury of a soldier from Bridgewater, New Jersey; and

WHEREAS, at this time of shock, sorrow, and grieving, it is important for the State to come together to mourn the military and civilian men and women who were killed and to remember their spouses, parents, families, and friends at a time of supreme loss; and

WHEREAS, it is appropriate and fitting for the State of New Jersey, a State with connections to these individuals, to mark their passing, remember their families as they mourn their losses, and honor their memories;

NOW, THEREFORE, I, RICHARD J. CODEY, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during the appropriate hours on Tuesday, November 10, 2009, in recognition of the lives and in mourning of the passing of the military and civilian personnel killed at the Fort Hood Army Base in Texas.

2. This Order shall take effect immediately.

Dated November 9, 2009.

EXECUTIVE ORDER NO. 159

WHEREAS, John V. Kelly served nine terms as an Assemblyman in the New Jersey General Assembly; and

WHEREAS, Assemblyman Kelly was born in Jersey City, New Jersey on July 11, 1926 and graduated from Saint Peter's Preparatory School; and

WHEREAS, Assemblyman Kelly served in the United States Army during World War II as a demolitions expert in the Philippines; and

WHEREAS, After completing his military service, Assemblyman Kelly earned a degree in accounting and finance from Saint Peter's College in 1951; and

WHEREAS, Assemblyman Kelly served as comptroller, board member, executive vice president, president, and chairman of Nutley Savings and Loan; and

WHEREAS, Assemblyman Kelly was first elected to the New Jersey General Assembly in 1981; and

WHEREAS, During Assemblyman Kelly's tenure in the Assembly he sponsored legislation that established the first law in the state requiring children under 14 to wear a helmet while riding a bicycle, scooter, or skateboard; and

WHEREAS, During Assemblyman Kelly's time in the Assembly he also sponsored legislation to require all state insurance companies to provide coverage for mammograms and pap smears and to set standards to license hospice programs; and

WHEREAS, In May 1988, Kelly was elected mayor of Nutley, New Jersey; and

WHEREAS, Assemblyman Kelly was a longtime fixture at Nutley's Saint Patrick Day festivities and he also played a pivotal role in creating its Columbus Day parade; and

WHEREAS, It is with deep sadness that we mourn the loss of Assemblyman Kelly and extend our sincere sympathy to his wife, his children, his grandchildren, his family, and friends; and

WHEREAS, It is fitting and appropriate to honor the memory and the passing of Assemblyman Kelly;

NOW, THEREFORE, I, JON S. CORZINE, 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, November 13, 2009, in recognition and mourning of the passing of Assemblyman John V. Kelly.

2. This Order shall take effect immediately.

Dated November 12, 2009.

EXECUTIVE ORDER NO. 160

WHEREAS, a major and severe weather storm, commonly referred to as a Nor'easter storm, including heavy rains and high winds, has battered New Jersey since Wednesday, November 11, 2009 causing significant tidal, back bay and coastal flooding conditions affecting the Atlantic coast and tidal Delaware River counties; and WHEREAS, local government and state agencies have made a laudable response to these conditions and implement state and emergency operations plans; and,

WHEREAS, these severe weather conditions have caused significant beach erosion, damage to dunes, and debris conditions in coastal communities which reduce protection from future storms; and

WHEREAS, the beach erosion, damage to dunes and other damage caused by the severe weather conditions constitute a disaster from a natural cause, which continues to threaten and endanger the health, safety and resources of the residents of one or more municipalities and counties of this State; and

WHEREAS, this situation has proven to be too large in scope to be handled by the normal county and municipal operating services in some parts of this State, and the aftermath of this situation may spread to other parts of the State; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1,and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, in order to protect the health, safety and welfare of the people of the State of New Jersey DO DECLARE AND PROCLAIM that a State of Emergency has existed and presently continues to exist in the counties of Cape May, Atlantic, Cumberland, Burlington, Ocean and Monmouth and I hereby ORDER AND DIRECT the following:

1. I authorize and empower the State Director of Emergency Management to implement the State Emergency Operations Plan and to direct the activation of county and municipal emergency operation plans as he deems necessary.

2. I authorize and empower the State Director of Emergency Management, who is the Superintendent of State Police, 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 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.

3. I authorize and empower the Attorney General, pursuant to the provisions of N.J.S.A. 39:4-213, acting through the Superintendent of the Division of State Police, to determine the control and direction of the flow of vehicular traffic on any State or Interstate highway and its access roads, 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 to which the declaration of emergency applies. I further authorize all law enforcement officers to enforce any such orders of the Attorney General and the Superintendent of State Police, within their respective municipalities.

4. I authorize and empower the State Director of Emergency Management to order the evacuation of all persons, except for those emergency and governmental personnel whose presence the State Director deems necessary, from any area where their continued presence would present a danger to their health, safety or welfare because of the conditions created by this emergency.

5. I authorize and empower the State Director of Emergency Management to utilize all facilities owned, rented, operated and maintained by the State of New Jersey to house and shelter persons who may need to be evacuated from a residence, dwelling, building, structure or vehicle during the course of this emergency.

6. I authorize and empower the executive head of any agency or instrumentality of the State government with authority to promulgate rules to waive, suspend or modify any existing rule, the enforcement of which would be detrimental to the public welfare during this emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary, for the duration of this Executive Order, and subject to my prior approval and in consultation with the State Director of Emergency Management. Any such waiver, modification or suspension shall be promulgated in accordance with N.J.S.A. App. A:9-45.

7. I authorize and empower the Adjutant General, in accordance with N.J.S.A. 38A:2-4 and N.J.S.A. 38A:3-6.1, to order to active duty such members of the New Jersey National Guard that, in the Adjutant General=s judgment, are necessary to provide aid to those localities where there is a threat or danger to the public health, safety and welfare and to authorize the employment of any supporting vehicles, equipment, communications or supplies as may be necessary to support the members so ordered.

8. In accordance with N.J.S.A. App. A:9-34 and N.J.S.A. App. A:9-51, as supplemented and amended, reserve the right to utilize and employ all available resources of the State government and of each and every political subdivision of the State, whether persons, properties or instrumentalities, and to commandeer and utilize any personal services and any privately owned property necessary to protect against this emergency.

9. In accordance with N.J.S.A. App. A:9-40, no municipality, county or any other agency or political subdivision of this State shall enact or enforce any order,

rule, regulation, ordinance or resolution that 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 or the orders of the State Director of Emergency Management.

10. It shall be the duty of the members of the governing body, and each and every officer, agent and employee of every political subdivision of this State and of each member of all other governmental bodies, agencies and authorities of any nature whatever, to fully cooperate with the State Director of Emergency Management in all matters during this emergency.

11. I authorize and empower the State Director of Emergency Management, pursuant to N.J.S.A. App. A:9-37 and N.J.S.A. App. A:9-48 and in accordance with N.J.S.A. App. A:9-36, to require any public official, citizen or resident of this State, or any firm, partnership, or corporation, incorporated or doing business in this State, to furnish any information deemed reasonably necessary by the Director to carry out the purposes of this Order.

12. The cooperation of every person or entity in this State or doing business in this State in all matters concerning this state of emergency is requested.

13. In accordance with N.J.S.A. App. A:9-34, N.J.S.A. App. A:9-40.6 and 40A:14-156.4, I direct that no municipality or public or semipublic agency send public works, fire, police, emergency medical or other personnel or equipment into any non-contiguous disaster-stricken municipality within this State, or to any disaster-stricken municipality outside this State, unless and until such aid has been directed by the county emergency management coordinator or his or her deputies, in consultation with the State Director of Emergency Management.

14. 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 November 15, 2009.

EXECUTIVE ORDER NO. 161

WHEREAS, the education of New Jersey's citizenry is critical to the continuing growth of this State; and

WHEREAS, the State of New Jersey has over 1,200 non-public schools, including both sectarian and non-sectarian primary and secondary schools that provide general educational services to thousands of New Jersey school children;

WHEREAS, the success of non-public schools in New Jersey is connected to the prosperity and progress of this State;

WHEREAS, the State and federal government provide some assistance to non-public schools, which must be accomplished in ways that are consistent with constitutional limitations and fairness concerns; and

WHEREAS, a study Commission on non-public schools in New Jersey could assist in considering the challenges non-public school children face, identifying their

educational needs, and making recommendations on how available resources, including but not limited to available public resources, could be best utilized to enhance educational opportunities in New Jersey;

NOW, THEREFORE, I, JON S. CORZINE, 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 Study Commission on New Jersey's Non-Public Schools. The Commission membership shall consist of individuals who are representative of the diverse backgrounds that exist among the various types of non-public schools in New Jersey, education experts who may assist the Commission in its efforts, and the appropriate public officials.

2. The Commission membership shall be comprised of no more than twenty-three members. The members of the Commission shall serve without compensation and at the pleasure of the Governor. The Governor shall appoint two members to co-chair the Commission.

3. The following officials, or their designees, shall serve on the Commission, ex officio:

a. the Commissioner of the New Jersey Department of Education;

b. the New Jersey State Treasurer; and

c. the New Jersey Attorney General.

4. The Commission also shall consist of the following public members:

a. nine members representing the various types of non-public schools, which appointments shall be made in a manner so that the various types of non-public schools will be reflected among committee membership to the maximum extent possible;

b. three representatives of local educational agencies;

c. two members of the New Jersey Legislature, with experience and background that will be helpful to the Commission's efforts, with one member to be appointed upon the recommendation of the Senate President and one upon the recommendation of the Speaker of the General Assembly;

d. one member with experience in non-profit administration, grant writing or processing, or corporate foundation administration; and

e. five members with an expertise in education, education and technology, or special education issues, or whose professional background otherwise will be relevant to the Commission's work, such that the members' participation will be of assistance to the Commission.

5. The Commission is hereby charged with identifying challenges non-public school children face; recommending how to best utilize available resources to further the educational mission of non-public schools; finding ways to enhance relations between non-public schools, public schools, and local and State agencies; and recommending how to maximize support for the educational efforts of these schools.

6. Specifically, the Commission shall consider the following issues and areas, among others:

a. how non-public schools can maximize grant funding award opportunities, through dissemination of information and assistance regarding federal and charitable grant opportunities;

b. whether there are appropriate ways to incentivize charitable giving to non-public schools, including whether statutory changes regarding giving would be appropriate and permissible;

c. what appropriate steps may be taken to assist in enriching the learning experiences of non-public school children, such as through programs to acquire learning equipment, including textbooks, furniture, and other equipment;

d. how non-public schools, including smaller institutions, can enhance technology resources and related educational programming, such as through donations of technology equipment and components, and by accessing other private giving programs;

e. identify issues affecting the non-public school community, such as special education and handicapped services, school security issues, transportation of students, and health care, including nursing personnel; and

f. consider and make recommendations on how to most effectively utilize state and federal funds within legal boundaries; and prioritize areas for such funding, as well as recommendations regarding criteria for funding.

7. The Commission shall issue a written report of its findings and recommendations no later than June 1, 2010, to the Governor, the Senate President, the Senate Minority Leader, the Assembly Speaker, and the Assembly Minority Leader.

8. The Commission is authorized to call upon any department, office, division, or agency of this State to supply it with data and any other information, personnel, or other assistance available to such agency as the Commission deems necessary to discharge its duties under this Order. Each department, office, division, or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully with the Commission within the limits of its statutory authority and to furnish it with such assistance on as timely a basis as is necessary to accomplish the purpose of this Order. The Commission is authorized to consult with experts or other knowledgeable or interested individuals in the public or private sector on any aspect of its mission.

9. This Order shall take effect immediately and expire on June 1, 2010.

Dated December 22, 2009.

EXECUTIVE ORDER NO. 162

WHEREAS, pursuant to the federal Omnibus Budget Reconciliation Act of 1981, as amended by the Head Start Act amendments of 2007 enacted on December

12, 2007, 42 U.S.C. § 9837b, P.L. 110-134 (hereinafter referred to as the "federal requirements"), the State of New Jersey is required to designate or establish a state entity to serve as New Jersey's advisory council on early childhood education and to care for children from birth to school entry; and

WHEREAS, the federal requirements provide that the advisory council is to be comprised of a diverse selection of individuals concerned with young children who represent a cross-section of the educational, child care, health, mental health, and disabled communities; and

WHEREAS, the federal requirements provide that the advisory council is to be charged with assuring collaboration and coordination among the various early childhood programs in the State; and

WHEREAS, in order to maintain compliance with the federal law, it is appropriate for the State of New Jersey to establish a New Jersey Council for Young Children to carry out the duties set forth in the federal requirements;

NOW, THEREFORE, I, JON S. CORZINE, 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 Council for Young Children (hereinafter referred to as "the Advisory Council"), which shall be established as a separate entity in, but not of, the New Jersey Department of Education.

2. The Advisory Council is hereby designated the State entity responsible for assuring collaboration and coordination among all the early childhood programs in the State of New Jersey.

3. The Advisory Council membership shall be comprised of no more than twenty-five members.

4. The following officials, or their designees, shall serve on the Advisory Council, ex officio, and with a vote:

a. the Commissioner of the New Jersey Department of Human Services;

b. the Commissioner of the New Jersey Department of Education;

c. the Commissioner of the New Jersey Department of Health and Senior Services;

d. the Commissioner of the New Jersey Department of Labor and Workforce Development; and

e. the Commissioner of the New Jersey Department of Children and Families.

5. The Council also shall consist of the following public members:

a. a representative of a local educational agency in the State;

b. a representative of an institution of higher education in the State;

c. a representative of a local provider of early childhood education and development services in the State or an organization representing such providers;

d. a representative from Head Start agencies located in the State, including migrant and seasonal Head Start programs and Indian Head Start programs;

e. the President of the New Jersey Head Start Association;

f. the State Director of Head Start Collaboration; and

g. at least six other members who either represent entities or interest groups or constituencies determined by the Governor to be relevant to the Advisory Council's work, such that their participation will be of assistance to the Advisory Council, or who have expertise or significant experience in early childhood education, pre-school education, Head Start programs, child development, child care, or the education and training of early childhood teachers, regardless of their organizational affiliation.

6. The public members of the advisory council shall serve for three year terms, except that of those first appointed, five members shall serve for a term of one year, ten shall serve for a term of two years, and the remainder shall serve for a term of three years. Council vacancies from among the members shall be filled by appointment by the Governor for the remainder of the unexpired term. Any vacancy occurring in the membership of the Council is to be filled in the same manner as an original appointment and the vacancy is not to affect the power of the remaining members to execute the duties of the Advisory Council. The Governor shall designate a member of the Advisory Council to serve as chair. The Advisory Council members shall serve without compensation.

7. The Advisory Council shall:

a. conduct a periodic statewide needs assessment concerning the quality and availability of early childhood education and development programs and services for children from birth to school entry, including an assessment of the availability of high-quality pre-kindergarten services for low-income children in the State;

b. identify opportunities for, and barriers to, collaboration and coordination among federally-funded and State-funded child development, child care, and early childhood education programs and services, including collaboration and coordination among state agencies responsible for administering such programs;

c. develop recommendations for increasing the overall participation of children in existing federal, state, and local child care, as well as early childhood education programs, including outreach to underrepresented and special populations;

d. develop recommendations regarding the establishment of a unified data collection system for public early childhood education and development programs and services throughout the State;

e. develop recommendations regarding statewide professional development and career advancement plans for early childhood educators in the State;

f. assess the capacity and effectiveness of two- and four-year public and private institutions of higher education in the State to support the development of early childhood educators, including the extent to which such institutions have in place articulation agreements, professional development and career advancement plans, and practice or internships for students to spend time in a Head Start or pre-kindergarten program;

g. make recommendations for improvements in State early learning standards and undertake efforts to develop high-quality comprehensive early learning standards, as appropriate; and

h. engage parents and develop improved communication strategies with families across New Jersey regarding the importance of their roles in quality programs for young children.

8. The Advisory Council shall submit a statewide strategic report addressing its assessments and recommendations set forth in Section 7 of this Order to the State Director of Head Start Collaboration and the Governor no later than 18 months from the release of federal grant funds.

9. After the submission of the statewide strategic report, described in the Section 8 of this Order, the Advisory Council shall convene at least four meetings each year to review the implementation of the recommendations in the strategic report and consider any changes to state and local needs.

10. After the submission of the statewide strategic report, described in Section 8 of this Order, the Advisory Council shall submit an annual report of its activities to the Governor each July.

11. The Advisory Council shall hold at least one public hearing per year and provide an opportunity for public comment regarding the issues set out in Section 7 of this Order.

12. This Order shall take effect immediately.

Date January 6, 2010.

EXECUTIVE ORDER NO. 163

WHEREAS, Executive Order No. 126 (2008) established the Interagency Council on Preventing and Reducing Homelessness (hereinafter referred to as "the Council"); and

WHEREAS, the Executive Order directed the Council to produce a preliminary report to the Governor containing findings and recommendations for preventing, reducing, and ending homelessness, and improving services to individuals and families who lose their housing; and

WHEREAS, the Council was also established to review, evaluate, and identify data, activities, funding, programs, statutory and regulatory impediments, service delivery models, and best practices that would help prevent, reduce, and end homelessness, and assist homeless families and individuals; and

WHEREAS, Executive Order No. 126 provides for a membership that includes a broad range of voices with experience in homelessness and related issues; and

WHEREAS, the Council's work would benefit from the designation of four additional members;

NOW, THEREFORE, I, JON S. CORZINE, 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 Interagency Council on Preventing and Reducing Homelessness ("the Council") shall continue in existence as provided in Executive Order No. 126.

2. The membership of the Council shall be modified to consist of thirty-three members of whom eighteen shall be public members appointed by the Governor, as follows: a representative of county government, a representative of municipal government, two persons who are or recently were homeless, three representatives of the private sector, seven representatives of non-profit agencies providing housing, social, behavioral health, or health-care services to homeless individuals or families, a representative of public housing authorities, an individual with academic expertise in homelessness issues, and two representatives from faith communities.

3. All other provisions of Executive Order No. 126 that are not inconsistent with this Order shall remain in full force and effect.

4. This Order shall take effect immediately.

Dated January 11, 2010.

EXECUTIVE ORDER NO. 164

WHEREAS, immigrants make up twenty percent of New Jersey's population and have made substantial contributions to the state's economic, social, cultural, political, and academic sectors; and

WHEREAS, New Jersey's population of foreign-born individuals is the sixth largest in the nation and ranks third nationally in the proportion of its immigrant population to its total population; and

WHEREAS, immigrants help power New Jersey's economy, making up twenty-eight percent of the workforce in New Jersey and bringing in twenty-three percent of all earnings statewide; and

WHEREAS, Executive Order No. 78 (2007) created the Blue Ribbon Advisory Panel on Immigrant Policy ("Panel"), which, among other things, was charged with developing recommendations for a comprehensive and strategic statewide approach to successfully integrate the rapidly growing immigrant population in New Jersey; and

WHEREAS, the Panel also was tasked with making a recommendation to the Governor as to whether a more permanent body is necessary for the continued implementation of immigrant policy in the State; and

WHEREAS, on March 30, 2009, the Panel publicly released its final report which, among other things, included the recommendation that the Governor establish a Commission on New Americans ("Commission"); and

WHEREAS, the Panel concluded that New Jersey would benefit from the creation of a permanent entity within state government such as the Commission that would lead the discussion in implementing a holistic statewide policy of immigrant integration and ensure that all state agencies provide services in an efficient and culturally and linguistically competent manner; and

WHEREAS, by providing efficient and culturally and linguistically competent services New Jersey will enhance the capacity of its immigrant workforce which contributes to the overall well-educated and well-trained workforce and promotion of economic growth opportunities for the State;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1 There is hereby established, in the Department of the Public Advocate, the Commission on New Americans.

2. The Commission shall be composed of twenty-three (23) members. The following officials, or their designees, shall serve on the Commission, ex officio, and with a vote: the Governor's Chief of Staff, the Public Advocate, the Commissioner of Human Services, the Commissioner of Health and Senior Services, the Commissioner of Labor, and the Director of the Division on Civil Rights is the department of law and Public Safety and Workforce Development.

3. There shall be seventeen (17) public members of the Commission, appointed by the Governor. The Governor shall appoint each public member for a term of three years, except that of the public members first appointed, six of whom shall be appointed to a three-year term, six of whom shall be appointed to a two-year term, and five of whom shall be appointed to a one-year term. Public members shall serve until their successors are appointed and qualified, and any vacancy in the membership of the Commission shall be filled for the unexpired term in the manner provided for the original appointment. Public members of the Commission shall serve without compensation.

4. The public members shall be residents of the State, chosen with due regard for geographic representation, diversity, education, knowledge, experience, and academic post-graduate level degrees related to the immigrant community in New Jersey. The public members may include representatives from immigrant and immigrant-serving community based organizations, philanthropic organizations, advocacy groups, businesses, including immigrant entrepreneurs, unions, academia, and faith-based organizations.

5. The Governor shall select a chair, and the members of the Commission shall elect annually from among their members a vice-chair.

6. Through the redirection of existing resources, the Commission shall be appropriately staffed by State employees may be available and as assigned by the Governor or Public Advocate and provided with the necessary resources that will allow it to accomplish its mandate as delineated within this Executive Order.

7. The Commission shall be authorized to call upon any department, office, division, or agency of this State to supply it with any information, personnel, or other assistance available to such agency as the Commission deems necessary to discharge its duties under this Order. Each department, office, division, or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate

fully with the Commission within the limits of its statutory authority and to furnish the Commission with such assistance on as timely a basis as is necessary to accomplish the purposes of this Order. The Commission may consult with experts or other knowledgeable individuals in the public or private sector on any aspect of its mission.

8. The Commission shall be the central coordination and oversight entity for the inter-departmental collaboration regarding immigrant integration policies. The Commission shall work for and on behalf of the Governor to oversee the implementation of a statewide policy for immigrant integration and work collaboratively with community organizations on ensuring that public input into the process is consistently maintained.

9. The Commission shall evaluate the structure and organization of government in New Jersey, including State agencies, instrumentalities, and independent authorities, local and county government, and school districts, and advise the Governor on how best to achieve immigrant integration in the delivery of services and programs, in a cost neutral manner.

10. In its evaluation and examination of any aspect of immigrant integration in New Jersey the Commission shall identify any measures that will bring enhanced economy, efficiency, and accountability to government operations.

11. The Commission is charged with developing a strategy for the implementation of those recommendations made by the Panel that will foster successful integration of the immigrant population in New Jersey.

12. The Commission shall develop a resource guide that will navigate and support the approximately 1.8 million immigrants through the maze of state and local resources that provide targeted services to immigrants, including referrals to nonprofit and faith-based organizations, English language acquisition, citizenship acquisition, accreditation and qualification services, and employment support.

13. The Commission shall be a repository of best practices models for effective immigrant integration at the local governmental level and may provide technical assistance to any municipal or governmental entity that requests such assistance.

14. The Commission is authorized to elicit input by conducting public hearings to take testimony from individuals, community groups, and other interested parties and by arranging for those who are not able to testify in person to forward their testimony by mail or by electronic communications.

15. The Commission shall establish a schedule of meetings and shall report periodically to the Governor on its activities and recommendations. An initial report to the Governor shall be submitted within six months from the date of the first meeting and an annual report shall be submitted six months from that date or as soon as practicable thereafter. Henceforth, the annual report shall be submitted on the one-year anniversary of the submission of the first annual report.

16. Any reports of the Commission shall be provided to the Legislature and shall be made available to the public.

17. The Commission's members shall be appointed within 30 days of the signing of this Executive Order. The Commission shall meet as soon as practical after the chair and a majority of the members have been appointed. The presence of a majority of the authorized membership of the Commission shall constitute a quorum and shall be required for the conduct of official business.

18. This Order shall take effect immediately.

Dated January 11, 2010.

EXECUTIVE ORDER NO. 165

WHEREAS, New Jersey draws strength from its ethnic and cultural diversity; and

WHEREAS, New Jersey is home to over one million Americans of Eastern European ancestry, including Americans of Polish, Hungarian, Ukrainian, Slovak, Czech, and Lithuanian ancestry; and

WHEREAS, Americans of Eastern European ancestry share a common geographic, historical, and cultural heritage; and

WHEREAS, Americans of Eastern European ancestry contribute to the economic, social, cultural, and civic vitality of the State and the Nation; and

WHEREAS, dissemination of knowledge of the heritage, culture, and history of Americans of Eastern European ancestry is important to the State of New Jersey; and

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established, in the Department of State, the New Jersey Eastern European-American Heritage Commission ("Commission").

2. The Commission shall be composed of twenty-one (21) members.

3. The following officials, or their designees, shall serve on the Commission, ex officio, and with a vote: the Secretary of State; the Public Advocate; the Commissioner of the Department of Education; the Chair of the Governor's Ethnic Advisory Council; the Chair of the New Jersey Human Relations Council; and the Chief Executive Officer of the New Jersey Economic Development Authority. In addition, the Governor shall appoint a State representative to the Commission.

4. The Commission also shall consist of one public member appointed by the Governor upon the recommendation of the President of the Senate, one public member appointed by the Governor upon the recommendation of the Speaker of the General Assembly, one public member appointed by the Governor upon the recommendation of the Senate Minority Leader, one public member appointed by the Governor upon the recommendation of the Assembly Minority Leader, and an additional ten (10) public members appointed by the Governor. The Governor

shall designate a chair from among the members, and the members shall elect annually from among their members a vice-chair.

5. The public members shall be residents of the State, chosen with due regard for representation by national origin, geographic representation, educational background, knowledge, and experience related to the heritage, culture, and history of Americans of Eastern European ancestry.

6. The State representative shall be appointed by the Governor for a term of three (3) years. The public members appointed by the Governor upon the recommendation of the President of the Senate, the Speaker of the General Assembly, the Senate Minority Leader, and the Assembly Minority Leader shall each be appointed for a term of three (3) years. Of the other ten (10) public members first appointed, four (4) shall be appointed to a three-year term, three (3) shall be appointed to a two-year term, and three (3) shall be appointed to a one-year term. Thereafter, after the initial term of office, all public members shall be appointed to a term of three (3) years. Public members shall serve until their successors are appointed and qualified, and any vacancy in the membership of the committee shall be filled for the unexpired term in the manner provided for the original appointment. Public members of the Commission shall serve without compensation.

7. The Commission shall meet as soon as practical after the chair and a majority of the members have been appointed. The presence of a majority of the authorized membership of the Commission shall constitute a quorum and shall be required for the conduct of official business.

8. The responsibilities and duties of the Commission are as follows:

to recognize, study, and share information on Eastern European heritage, culture, and history;

to coordinate events observing the heritage, culture, and history of Americans of Eastern European ancestry, including an annual Eastern European Month Celebration;

to provide expertise to and to collaborate with the Department of Education to continue to develop content and curriculum guides on the heritage, culture, and history of Americans of Eastern European ancestry;

to coordinate events with the Department of State observing the heritage, culture, and history of Americans of Eastern European ancestry;

to assist the New Jersey Tourism Policy Council in promoting cultural exchanges between the citizens of the State of New Jersey and the nations of Eastern Europe;

to assist the Office of International Trade in promoting economic development and international trade between the citizens of the State of New Jersey and the nations of Eastern Europe.

9. The Department of Education shall assist the Commission in the dissemination to educators, administrators, and public school districts in the State, educational information, and other materials on the history and cultural heritage, and the contributions to society of Americans of Eastern European ancestry. Such information and materials also shall be made available to non-public schools.

10. The Commission may, subject to such approvals as are required by law, expend such monies as may be donated to the State for the benefit of the work of the Commission.

11. The Commission is authorized to call on any department, office, division, or agency of State government to request such information, resources, or other assistance deemed necessary to discharge its responsibilities under this Order, and which such department, office, division or agency can reasonably provide. Each department, office, division, and agency of this State, to the extent not inconsistent with law, is hereby required to cooperate with the Commission and to furnish it with such information and assistance as is necessary and feasible to accomplish the purposes of this Order. The Commission may consult with experts or other knowledgeable individuals in the public or private sector on any aspect of its mission.

12. The Commission shall establish a schedule of meetings and report periodically to the Governor on its activities and recommendations. An initial report to the Governor shall be submitted within six months from the date of the first meeting and annually thereafter.

13. This Order shall take effect immediately and shall expire in five (5) years from the date of this order.

Dated January 11, 2010.

EXECUTIVE ORDER NO. 166

WHEREAS, Joseph "Joe" Kealey, a resident of Lindenwold, New Jersey, served the New Jersey Department of Transportation ("DOT") and the public at large since 2006 as a member of the DOT's Emergency Services Patrol, based in Cherry Hill, New Jersey; and

WHEREAS, Mr. Kealey was a loving husband and the devoted father of two daughters who performed his emergency patrol duties with honor and dedication, helping to keep the highways safe for the public throughout the State; and

WHEREAS, in the afternoon hours of January 11, 2010, on the shoulder of Route 76 in Bellmawr, New Jersey, Mr. Kealey made the ultimate sacrifice, tragically giving his life while stopped to assist the operator of a disabled vehicle; and

WHEREAS, Mr. Kealey's selfless devotion to public service and the protection of others makes him a hero and a true role model for all New Jerseyans and, therefore, it is appropriate and fitting for the State where he served to recognize his remarkable commitment to the welfare and safety of others, to mark his untimely passing, to remember his family as they mourn their tragic loss, and to honor his memory;

NOW, THEREFORE, I, STEPHEN M. SWEENEY, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during the appropriate hours on Saturday, January 16, 2010, in recognition of the life and in mourning of the passing of Joseph Kealey.

2. This Order shall take effect immediately.

Dated January 13, 2010.

EXECUTIVE ORDER NO. 167

WHEREAS, pursuant to the Tax Reform Act of 1986 (the "1986 Act"), there was an annual limitation placed on the amount of tax-exempt "private activity bonds" as defined under the Internal Revenue Code of 1986 (the "Code") issued after August 15, 1986; and

WHEREAS, the Legislature adopted P.L. 1987, c.393 (the "Volume Cap Law") to provide for the allocation of such annual limitation which act provided for the Governor to allocate the State volume cap limitation among the issuers in the State; and

WHEREAS, pursuant to Executive Order No. 147 issued October 20, 1986, Governor Kean provided for the procedure for the annual allocation; and

WHEREAS, pursuant to Executive Order No. 185 issued February 4, 1988, Governor Kean allocated the entire State volume cap for 1988 and for each year thereafter to the Department of the Treasury to be held by the State Treasurer and authorized the State Treasurer to allocate all or any portion of the State volume cap among State entities or local government units authorized to issue tax-exempt private activity bonds; and

WHEREAS, the federal American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 ("ARRA") amended the Code to provide for the issuance of certain tax-exempt, tax-credit and tax subsidy types of bonds, intended to finance programs to facilitate the economic recovery of the nation and which provisions contain limitations on the amount of such bonds which can be issued throughout the State; and

WHEREAS, as a result of ARRA, it is now necessary to provide for a process of allocating the State share of the volume cap provided to the State under the Code as amended by these provisions of ARRA; and

WHEREAS, to address such issue, the Legislature adopted P.L. 2009, c. 76 which amends the Original Cap Law (the "Cap Law Amendments") to provide for the allocation of the State's annual bond volume limits on certain bonds in accordance with ARRA and amending the title and body of P.L. 1987, c. 393; and

WHEREAS, the Cap Law Amendments provide that the Governor is authorized to establish a procedure for the allocation of State volume cap for tax credit bonds and tax subsidy bonds received under ARRA; and

WHEREAS, the procedures established by Executive Orders No. 145 and 187 have served the State well in assuring an efficient allocation of the private activity volume cap; and

WHEREAS, under ARRA, some of the allocations of the annual bond volume limits on certain bonds will be made directly to local issuers, including municipalities and counties, to assist these local issuers to deal with this economic downturn and stimulate economic development; and

WHEREAS, ARRA contains time limitations within which the local government units may use their allocations of the volume cap or waive their allocations and assign their allocations to the State; and

WHEREAS, to ensure the maximum use of the volume caps allocated under ARRA it is desirable to monitor the uses by local government units of their allocations under ARRA;

NOW, THEREFORE, I, JON S. CORZINE, 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. Definitions

For the purpose of this Executive Order, the following terms shall have the meanings set forth below:

a. "ARRA Tax-Credit Bond" is a bond the interest on which is included in gross income for federal income tax purposes, but in respect of which the holder receives a tax credit which tax credit is predicated on the Bond qualifying for such amounts under applicable provisions of ARRA as may be amended from time to time or any similar type of legislation. Examples of such an ARRA Tax-Credit Bond are the Qualified Energy Conservation Bond established under section 54D of the Code, the Qualified Zone Academy Bond established under section 54E of the Code, and the Qualified School Construction Bond established under section 54F of the Code.

b. "ARRA Tax Subsidy Bond" is a Bond the interest on which is included in gross income for federal income tax purposes, but in respect of which the Issuer receives interest subsidy payments, which interest subsidy payments are predicated on the Bond qualifying for such amounts under applicable provisions of the ARRA. An example of such an ARRA Tax Subsidy Bond is the Recovery Zone Economic Development Bond established under section 1400U-2 of the Code.

c. "ARRA Tax-Exempt Private Activity Bond" means a Bond or portion thereof, other than a governmental bond, the interest on which is not includible in federal gross income pursuant to Section 103 of the Code and the issuance of which is subject to an allocation of volume limitation as prescribed under the Code. An example of such an ARRA Tax-Exempt Private Activity Bond is the Recovery Zone Facility Bond established under section 1400U-3 of the Code.

d. "ARRA Volume Cap" means the annual dollar limitation on the issuance of ARRA Tax-Credit Bonds or ARRA Tax Subsidy Bonds under the Code.

e. "Bond" means a revenue obligation, security, bond, note, debenture, certificate or other evidence of indebtedness of an issuer.

f. "Carryforward" means that portion of the ARRA Volume Cap for any calendar year which is unused during that calendar year and which is available to be carried forward to be used in later years pursuant to the Code.

g. "Code" means the Internal Revenue Code of 1986, 26 U.S.C. § 146 et seq., as amended or any successor statute thereto and any regulations promulgated thereunder.

h. "District" means any area of the State which has been delineated for the purpose of providing a governmental service or services.

i. "Issuer" means the State or any political subdivision of the State or any entity issuing Bonds on behalf of the State or any political subdivision of the State.

j. "Local Government Unit" means any county; or municipality; or 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 for the purpose of providing a governmental service or governmental services.

k. "Local Government Unit ARRA Volume Cap" means the portion of ARRA Volume Cap that has been given by the federal government directly to Local Government Units.

2. Allocation of the ARRA Volume Cap to the Department of the Treasury

The State receives an allocation of the ARRA Volume Cap directly from the federal government.

a. To the extent permitted by law, this ARRA Volume Cap is allocated to the Department of the Treasury to be held by the State Treasurer.

b. The State Treasurer may allocate all or any part of the ARRA Volume Cap among State Entities as that term is defined in Executive Order No. 147, or Local Government Units authorized to issue ARRA Tax-Credit Bonds or ARRA Tax Subsidy Bonds.

c. The State Treasurer shall set forth the terms and conditions for receiving an allocation of the ARRA Volume Cap. Further, the State Treasurer may set forth the terms and conditions under which the State Entities and Local Government Units may reallocate their allocation received pursuant to the Treasurer's order. The State Treasurer may also set forth the terms and conditions under which State Entities may carry forward their allocations, if permitted by law.

3. Re-Allocation of Local Government Unit ARRA Volume Cap

a. A Local Government Unit may be required to issue Bonds subject to an allocation of Local Government Unit ARRA Volume Cap within a certain period of time; the Code allows a Local Government Unit that is unable to issue Bonds subject to an allocation of the Local Government Unit ARRA Volume Cap within the requisite time period to reallocate any unused Local Government Unit ARRA Volume Cap to the State, at the option of such Local Government Unit.

b. In the event that a Local Government Unit elects to re-allocate its Local Government Unit ARRA Volume Cap to the State, such Local Government Unit

ARRA Volume Cap is allocated to the Department of the Treasury to be held by the State Treasurer.

c. The State Treasurer may allocate all or any part of the Local Government Unit ARRA Volume Cap re-allocated to the State by a Local Government Unit pursuant to the preceding paragraph to any State Entity or any other Local Government Unit which is authorized to issue the type of Bonds which are subject to such Local Government Unit ARRA Volume Cap.

4. Financial Monitoring

a. The monitoring provisions of Part I of Executive Order No. 147 are hereby extended to include the ARRA Tax-Credit Bonds, the ARRA-Tax Subsidy Bonds and the ARRA Tax-Exempt Private Activity Bonds authorized under ARRA and the Bonds subject to the Local Government Unit ARRA Volume Cap which is re-allocated to the State by a Local Government Unit.

b. In order to provide for the efficient use of the Local Government Unit ARRA Volume Cap, the State Treasurer is hereby authorized to develop, in consultation with the Division of Local Government Services, guidelines for monitoring the use and reporting of the Local Government Unit ARRA Volume Cap by the Local Government Units. Such guidelines shall be in addition to the provisions concerning Local Government Finance Review set forth in subpart 5 of Part I of Executive Order No. 147.

5. Delegation to State Treasurer of Certifications

I hereby designate the State Treasurer as my delegate for the purpose of certifying compliance by Issuers with any volume cap requirement.

6. Prior Executive Orders

The provisions of Executive Orders No. 147 and No. 185 shall remain in full force and effect and shall not be deemed to be limited by the provisions of this Executive Order.

7. This Order shall take effect immediately.

Dated January 18, 2010.

REORGANIZATION PLANS

(2587)

REORGANIZATION PLAN NO.001-2009

NOTICE OF A PLAN FOR THE TRANSFER OF THE STATE PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS COORDINATING COUNCIL; REORGANIZATION AND MERGER OF THE STATE PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS COORDINATING COUNCIL AND THE 9-1-1 COMMISSION INTO THE PUBLIC SAFETY COMMUNICATIONS COMMISSION

PLEASE TAKE NOTICE that on February 26 2009, Governor Jon S. Corzine hereby issues the following Reorganization Plan (No. 001-2009) to reorganize the State Public Safety Interoperable Communications Coordinating Council by transferring the agency and all related functions, powers and duties from the Department of Law and Public Safety to the Office of Information Technology (OIT), Department of the Treasury and combining the State Public Safety Interoperable Communications Coordinating Council with the 9-1-1 Commission, which is already in the Office of Information Technology, as the renamed Public Safety Communications Commission.

GENERAL STATEMENT OF PURPOSE

The State Public Safety Interoperable Communications Coordinating Council (hereinafter the Council) in the Department of Law and Public Safety was created to develop a Statewide Wireless Public Safety Interoperable Communications Strategic Plan to address interoperability and the use of digital technology in public safety communications. (See The Public Safety Interoperable Communications Act, P.L.2003, c.235 codified at N.J.S.A. 52:17E-3). The Council consists of sixteen members as detailed in the statute and was initially chaired by the Attorney General. Pursuant to Attorney General Administrative Directive No. 2006-2, dated October 17, 2006, the Attorney General designated the Director of the New Jersey Office of Homeland Security and Preparedness (OHSP) as the Attorney General's designee to the Council and directed that OHSP perform all of the functions assigned to the Department of Law and Public Safety pursuant to the Act, including the role of Chairperson.

The Council is tasked with developing a Statewide strategic plan to most effectively provide interoperability and coordination of public safety communications between and among State, county and municipal public safety agencies. The Council is required to submit the plan to the Governor and the Legislature and must submit recommendations and proposals, as

appropriate, to the Regional Planning Committees to which the State is assigned by the Federal Communications Commission (FCC). The Council is permitted to engage a full-time professional spectrum manager, who is responsible for approving all applications for public safety spectrum allocations in the State to ensure that the State fully complies with FCC rules that impact the frequency allocation for public safety use.

The 9-1-1 Commission was created in the Office of Information Technology to oversee the planning, design and implementation of the Statewide emergency enhanced 9-1-1 telephone system. (See the 9-1-1 Commission statute, P.L.1989, c.3, as amended, codified at N.J.S.A. 52:17C-1, et. seq.). The 9-1-1 Commission is a 30-member body tasked with oversight/review and approval of a Statewide Emergency Enhanced 9-1-1 System Plan created by the Office of Emergency Telecommunications Services, in the Office of Information Technology.

In order to more efficiently manage and administer the State's public safety telecommunications and wireless interoperability plans and programs, this plan provides for the transfer of the Public Safety Interoperable Communications Coordinating Council and all of the Council's functions and duties to the Office of Information Technology. The plan further calls for the combining of the Council with the 9-1-1 Commission, already in the Office of Information Technology, and the renaming of this combined entity as the Public Safety Communications Commission. This plan also provides for the merger of the memberships of the Council and 9-1-1 Commission and the designation of the Chief Technology Officer as the Chairperson of the Public Safety Communications Commission. This transfer and merger will increase the ability of the State to coordinate, integrate and improve the public safety communications and wireless interoperability work of the State, by aligning and assigning similar functions within one agency, thereby promoting overall efficiency and effectiveness.

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 and transfers included in this Plan that each aspect 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 by consolidating and integrating public safety communications and wireless interoperability and related functions within one department;

2. Promote better and more efficient execution of the laws and expeditious administration of the public business by consolidating and integrating within one department similar regulatory functions;

3. Group, coordinate and streamline functions in a more consistent and practical way;

4. Reduce expenditures and 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; and

6. Eliminate overlapping and duplication of effort by consolidating certain functions, which should result in a savings of State funds.

The provisions of this Reorganization Plan are as follows:

I. The State Public Safety Interoperable Communication Coordinating Council in the Department of Law and Public Safety, including the functions, powers and duties assigned to it by P.L.2003, c.235 (N.J.S.A. 52:17E-23 et. seq.), is hereby continued and transferred to the Office of Information Technology.

II. The 9-1-1 Commission in the Office of Information Technology, including the functions, powers and duties assigned to it by P.L.1989, c.3, as amended (N.J.S.A. 52:17C-1, et. seq.), is hereby continued and combined with the State Public Safety Interoperable Communications Coordinating Council to form the Public Safety Communications Commission. All functions, powers and duties assigned to both the State Public Safety Interoperable Communications Coordinating Council and the 9-1-1 Commission are hereby continued and transferred to the Public Safety Communications Commission.

III. The members of both the State Public Safety Interoperable Communications Coordinating Council and the 9-1-1 Commission are hereby transferred to the Public Safety Communications Commission.

IV. The functions, duties and powers (including those of appointment) of the Chairperson of the State Public Safety Interoperable Communications Coordinating Council (currently performed by the Director of the Office of Homeland Security as designated by the Attorney General) are transferred to the Chief Technology Officer of the Office of Information Technology. The Chief Technology Officer of the Office of Information Technology shall be the Chairperson of the Public Safety Communications Commission.

V. All records, property, appropriations, and unexpended balance of funds appropriated or otherwise available to the State Public Safety Inter-

operable Communications Coordinating Council shall be transferred to the Office of Information Technology pursuant to the State Agency Transfer Act, P.L.1971, c.375 (C. et seq.).

GENERAL PROVISIONS

1. All acts and parts of acts inconsistent with any of the provisions of this Reorganization Plan are superseded to the extent of such inconsistencies.

2. Unless otherwise specified in this Reorganization Plan, all transfers directed by this Reorganization Plan shall be effected pursuant to the State Agency Transfer Act, P.L.1971, c.375 (C.52:14D-1 et. seq.)

3. If any previsions of this Reorganization Plan or the application thereto to any persons, or circumstances, 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, or affect other exercises of power or authority under said provisions not contrary to law. To this end, the provisions of this Reorganization Plan are declared to be severable.

A copy of this Reorganization Plan was filed on February 26, 2009 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 April 27, 2009 unless disapproved by each House of the Legislature by passage of a Concurrent Resolution stating in substance that the Legislature does not favor this Reorganization Plan, or at a later date 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 Reorganization 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 a heading of Reorganization Plans.

Filed February 26, 2009.
Effective April 27, 2009.

REORGANIZATION PLAN NO.002-2009

IN THE INTEREST OF EXPEDITIOUSLY ESTABLISHING A NEW FOUR-YEAR ALLOPATHIC MEDICAL SCHOOL IN SOUTHERN NEW JERSEY, A PLAN FOR THE TRANSFER OF CERTAIN SPECIFIED FUNCTIONS, POWERS AND DUTIES OF THE UNIVERSITY OF

MEDICINE AND DENTISTRY OF NEW JERSEY IN THE CITY OF CAMDEN TO ROWAN UNIVERSITY

PLEASE TAKE NOTICE that on June 25, 2009, Governor Jon S. Corzine hereby issues this Reorganization Plan No. 002-2009 (the Plan) transferring certain specified functions, powers and duties of the University of Medicine and Dentistry of New Jersey as are necessary to establish, operate and maintain a four-year allopathic medical school in Camden, New Jersey to Rowan University.

GENERAL STATEMENT OF PURPOSE

The University of Medicine and Dentistry of New Jersey (UMDNJ) is a body corporate and politic that operates programs of medical, dental, nursing, public health and health related professions and health sciences education in the State of New Jersey, operating pursuant to the authority granted to it by the Medical and Dental Education Act of 1970 (P.L.1970, c.102, as amended, (C.18A:64G-1 et seq.)) and the University of Medicine and Dentistry of New Jersey Flexibility Act of 1992 (P.L.1992, c.84, as amended (C.18A:64G-3.8 et seq.)). UMDNJ was established to serve the interests of the State by establishing programs of medical, dental, nursing, public health, health sciences and health related professions. It was charged with providing a greater number of trained medical personnel to assist in staffing hospitals and public institutions and agencies and to prepare a greater number of students for the general practice of health related professions in New Jersey. The goal was to create a premiere academic health center to provide a full range of state-of-the-art patient care services to the people of this State. To that end UMDNJ was provided authority to form relationships with health care organizations, research institutions and private individuals, firms and corporations. Such public-private relationships would supplement the resources available from the State, thereby providing an economic and efficient means for developing and offering a full range of health care services. N.J.S.A. 18A:64G-2.

Currently, UMDNJ operates two allopathic medical schools in the State of New Jersey: one located in Newark (New Jersey Medical School) and the other located in New Brunswick/Piscataway with certain activities also located in Camden (Robert Wood Johnson Medical School (RWJMS)). There are no other four-year allopathic medical schools located in the State. In addition, UMDNJ operates an osteopathic medical school at Stratford, New Jersey. UMDNJ currently has eight schools located on campuses in

Stratford, Camden, Newark, New Brunswick/Piscataway, and Scotch Plains.

UMDNJ is the largest freestanding public health sciences university in the nation. UMDNJ offers 41 graduate degrees or certificates and 21 undergraduate degrees or certificates in 43 fields of study. It offers 26 dual degree programs with a variety of institutional partners and offers eight online programs. Total student enrollment at UMDNJ is approximately 5,700. External grant funding from the National Institutes of Health (NIH) and other sources exceeds $ 317 million.

Rowan University (Rowan) is a State University located in Glassboro, New Jersey, with a campus in Camden, New Jersey, operating pursuant to the authority granted to State colleges by P.L.1967, c.271 (C.18A:64-1 et seq., and P.L.1994, c.48, as amended, (C.18A:3B-1 et seq.). Rowan, a major regional higher education institution with seven academic colleges: Business, Communication, Education, Engineering, Fine & Performing Arts, Liberal Arts & Sciences, and the College of Professional and Continuing Education and a Graduate School. Rowan's nearly 10,000 students may pursue degrees in 36 undergraduate majors, seven teacher certification programs, 26 master's degree programs and a doctorate in educational leadership. Rowan, located only 20 miles from Cooper University Hospital and with an existing Camden campus, has a reputation as a top regional university and is home to a newly-constructed, state-of-the-art Science building that provides training in science and technology and already is capable of serving the needs of first and second-year medical students in basic sciences. Rowan has the desire and means to continue its present expansion into the provision of allopathic medical education and training. In doing so, it expects that it will coordinate these activities with UMDNJ.

There is a shortage of trained physicians in the workforce both nationally and within the State of New Jersey. It has been long-recognized that the State and the nation suffer from a growing shortage of trained medical professionals, including doctors. It is in the public interest that an additional medical school be opened in the State of New Jersey. Although New Jersey ranks ninth among the 50 states in physicians per 100,000 residents, it is first nationally in the percentage of active physicians who are graduates of international medical schools and third nationally in the percentage of active physicians who are 60 years of age or older. The State, overall, and South Jersey, in particular, would benefit from the opening of a four-year allopathic medical school in South Jersey. As the State's designated health sciences university, UMDNJ normally would be the parent institution of a new medical school. However, the State's goal to create this school in an

expedited manner is inconsistent with UMDNJ's current financial status which does not allow it to issue bonded debt sufficient for the facilities necessary to launch a new school at this time.

Rowan University, working with medical providers such as Cooper University Hospital in Camden, an affiliate of UMDNJ, provides the best opportunity financially for the State to achieve the goal of creating a four-year allopathic medical school that can be accredited by the Liaison Committee of Medical Education ("LCME") and other accrediting bodies, if any, within the State's expedited time frame. This Plan will further the goal of providing more medical students and doctors located within the southern portion of the State of New Jersey and will help address the pending lack of physicians caused by a higher than average retirement rate by current New Jersey physicians. The transfer provided in this Plan provides a means for addressing the problem of the increasing shortfall of physicians in southern New Jersey.

Therefore it is in the public interest that a new four-year allopathic medical school be opened in the southern region of the State. Medical facilities generally are economic anchors for cities. For example, Cooper University Hospital is the largest employer in both the City of Camden and in Camden County. Thus, the opening of a new four-year allopathic medical school in Camden will further support the economy of the southern region of the State and will stimulate the City of Camden's economy by providing access to additional job opportunities for residents of South Jersey.

The expansion of the current two-year program to an accredited four-year allopathic medical school in Camden will allow greater opportunity for South Jersey residents to seek advanced medical care within the State rather than to seek such services in neighboring states. It is estimated that approximately 30,000 residents in South Jersey are treated annually by Pennsylvania hospitals, thereby diverting some $ 2 billion in health care services per year from South Jersey to Pennsylvania. The creation of the four-year allopathic medical school in Camden will positively impact the economy of South Jersey, and assist in the revitalization of the City of Camden.

This Reorganization Plan will provide Rowan with certain additional powers to operate a four-year allopathic medical school in Camden as provided by the Medical and Dental Education Act of 1970 and The University of Medicine and Dentistry of New Jersey Flexibility Act of 1992, in addition to the powers it enjoys pursuant to the provisions of N.J.S.A. 18A:64-1 et seq. under which it is organized. By entering into appropriate affiliation agreements, Rowan will be able to operate a four-year allopathic medical school in an expedited manner. Such affiliation agreements will enable

Rowan to begin to accept students for its four-year allopathic medical school for its first incoming class for the 2012-2013 academic year, or sooner if practicable and accredited. This Reorganization Plan also provides that UMDNJ shall transfer certain assets to Rowan for its new medical school, as set forth herein.

NOW THEREFORE, pursuant to 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, reorganization and consolidation provided for in this Plan that it is necessary to accomplish the purposes set forth in Section 2 of the Act and will:

1. Promote the better execution of the law, the more effective management of the Executive Branch and 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 agencies and functions of the Executive Branch, as nearly as may be practical, according to major purposes; and
5. Eliminate overlapping and duplication of effort within the Executive Branch by reallocation of certain functions and responsibilities and thereby better utilizing the resources of the Executive Branch.

PROVISIONS OF THE REORGANIZATION PLAN

THEREFORE, I hereby order the following reorganization:

1. The functions, powers and duties of UMDNJ under section 6 of P.L.1970, c.102, as amended (C.18A:64G-6) and P.L.1992, c.84, as amended (C.18A:64G-3.8 et seq.), related, directly or indirectly, to the establishment, maintenance or operation of a four-year allopathic medical school in the City of Camden, including but not limited to the power to confer medical degrees to those students who successfully complete the medical programs offered by Rowan as provided in Section 7 of P.L.1992, c.84 (C.18A:64G-3.9), as amended, are transferred and assigned to the Governing Board of Rowan.

2. The following appropriations and property for RWJMS-Camden that are available to UMDNJ for use in connection with its operations related to the administration of its regional clinical third and fourth year medical school related programs at RWJMS-Camden (N.J.S.A. 18A:64G-3.3a and 3.3b), including but not limited to the following, are to be transferred to the Governing Board of Rowan:

a. Upon the effective date of this Plan:

i. The rights to a sum of $ 9 million allocation available to UMDNJ through the New Jersey Economic Development Authority ("NJEDA") pursuant to the Higher Education and Regional Health Care Development Fund, P.L.2002, c.43 (C.52:27BBB-51, 52.a(3)), for which a grant has not been approved and/or awarded;

ii. The amount provided and received in the FY2010 Appropriations Act for debt service for the RWJMS-Camden Medical School Building and all available unexpended balances of appropriations of all prior fiscal years for such purposes; for all budget years subsequent to FY2010 such funds in the amount of $ 7.8 million will be allocated to Rowan;

iii. All rights, title, interests and obligations of UMDNJ related to real property located within Block 190 on the Tax Map of the City of Camden and all buildings and structures located thereon, and provided in the September 20, 2006 Development Agreement ("Development Agreement") between the City of Camden, The University of Medicine and Dentistry of New Jersey and The Cooper University Health System ("Development Rights"); UMDNJ shall cease to have any further rights, interests or obligations under the Development Agreement.

iv. All rights, title or interests that UMDNJ may have already secured as a result of the operation of the Development Agreement, including but not limited to rights, title or interests in any fixed tangible assets; real property, and all buildings and structures located thereon ("Existing Development Rights") (Rowan shall reimburse UMDNJ for its expenses incurred in the process of acquiring the property for those rights and interests). All architectural plans, drawings, studies and renderings related to the newly planned Education and Research Building; and any survey or environmental reports related to Block 190 in Camden shall be transferred to Rowan University.

v. UMDNJ and Rowan shall cause to be prepared and filed all necessary documents in order to effectuate the foregoing transfer and assignment of all Development Rights and the transfer of all Existing Development Rights forthwith.

vi. All grants, appropriations, budgeted amounts and any other funding of any type whatsoever from any source whatsoever which has been designated for use in connection with the subject matter of the Development Agreement or which has been designated for use in connection with the establishment, construction and operation of a four-year allopathic medical school in Camden.

vii. For FY2010, grant funds in the amount of $ 10.6 million for affiliate hospital (Cooper University Hospital) support including program and capital support that benefits patients from Camden and the region will be allocated to UMDNJ for distribution upon receipt according to the terms of the FY2010 Appropriations Act after review and implementation by the Department of Health and Senior Services. For all budget years subsequent to FY2010, such funds in the amount of $ 10.6 million will be allocated to Rowan for purposes consistent with the grant referred to above. The unexpended balance of grant funds for FY2009 will be paid in accordance with the terms of the grant.

b. Upon the completion of the phase-out of UMDNJ operations at RWJMS-Camden and thereafter:

i. Of the amounts appropriated for UMDNJ, all monies related to support RWJMS-Camden; including all monies for the purposes of faculty support and affiliate hospital (Cooper University Hospital) support in the amount of $5.69 million; all amounts for campus administration expenses in the amount of $3.25 million and for security expenses in the amount of $500,000.

ii. All of UMDNJ's right, title, and interest in all: (i) fixed tangible assets; (ii) real property, and all buildings and structures not otherwise provided for in this Plan; and (iii) all furniture, fixtures, equipment and personal property contained therein to the extent it is legally permissible for UMDNJ to do so (e.g. NIH grant purchased equipment); which are located in the City of Camden associated with third and fourth year clinical medical program of RWJMS-Camden; and which are in any way designated for direct use by RWJMS-Camden. This transfer for consideration at fair market value includes, but is not limited to, the real property located at Block 1433, Lot 1 on the Tax Map of the City of Camden, more commonly known as 401 Haddon Avenue, Camden, New Jersey, also known as "the Education and Research Building." On or about March 1, 2013, or earlier by mutual agreement of UMDNJ and Rowan, each will exchange an MAI real estate appraisal performed on the property. If good faith efforts do not result in an agreed sales price within thirty days of the exchange of the appraisals,

the State Treasurer shall establish the price. Unless an earlier date is agreed to the sale will occur on or about September 1, 2013.

3. Rowan University shall not be responsible for any actions or claims, civil or criminal, brought by or against UMDNJ if those actions or claims involve activities of RWJMS-Camden prior to the effective date of the Plan. UMDNJ shall continue to be responsible for all such actions and claims. UMDNJ shall not be responsible for any actions or claims, civil or criminal, brought by or against Rowan University if those actions or claims involve activities of those parties following the complete phase-out. Rowan University shall be responsible for all such actions and claims.

4. In addition to those powers transferred to the Governing Board of Rowan University pursuant to Section 1 of the Plan, the Governing Board shall be authorized to exercise those other powers granted to the Board of Trustees of UMDNJ to the extent necessary to establish, maintain and operate a four-year allopathic medical school in the City of Camden pursuant to any other applicable provision of P.L.1970, c.102, as [page=2825] amended (C.18A:64G-1 et seq.), which powers are necessary or desirable for Rowan to establish, maintain and operate a four-year allopathic medical school in Camden.

5. The functions, powers and duties of UMDNJ to participate as the general partner or as a limited partner, either directly or through a subsidiary corporation created by the university, in limited partnerships, general partnerships, or joint ventures engaged in the development, manufacture or marketing of products, technology, scientific information or health care services and create or form for-profit or not-for-profit corporations to engage in such activities as provided in Section 6(v)(1) of P.L. 1970, c.102, as amended (C.18:64G-6(v)(1)), are continued and, as regards the establishment, operations and maintenance of a four-year allopathic medical school in the City of Camden, are transferred to the Governing Board of Rowan.

6. The functions, powers and duties of UMDNJ under Section 16 of P.L. 1970, c.102, as amended (C18A:64G-16), to acquire sites for its medical school operations, incur debt for such acquisitions, issue bonds related to such acquisitions and enter into agreements with municipalities in which such sites are located are continued and, as regards the establishment, operation and maintenance of a four-year allopathic medical school in the City of Camden, are transferred to the Governing Board of Rowan.

7. Steps shall be taken immediately by UMDNJ and Rowan to implement this Plan so as to permit Rowan to commence the operations of its four-year allopathic medical school in Camden for its first incoming class for the 2012-2013 academic year, or sooner if practicable. UMDNJ will

continue to provide for the clinical training of students of RWJMS in Camden until the complete phase-out of the third and fourth year clinical training program.

8. The transfer of functions and powers to Rowan University shall not operate to diminish or abrogate any authority or responsibilities of UMDNJ related to RWJMS-Camden not otherwise specified under this Plan. This Plan shall not otherwise operate to adversely affect any of the schools or programs of UMDNJ.

9. All acts and parts of acts inconsistent with any of the provisions of this Plan are superseded to the extent of such inconsistencies.

10. Unless otherwise specified in this Plan, all transfers directed by this Plan shall be affected pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

11. If any provisions of the Plan or the application thereof to any person or circumstance or the exercise of any power or authority hereunder are held invalid or contrary to the law, such holding or finding shall not impact or 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 the law. To this end, the provisions of this Plan are severable.

12. This Plan recognizes that all future appropriations are subject to legislative approval.

13. This Plan is intended to protect and promote the public health, safety and welfare and shall therefore be liberally construed to obtain the objectives and effect of the purposes thereof.

14. UMDNJ and Rowan shall simultaneously execute a Memorandum of Understanding attached in the form herewith unless subsequently modified by mutual agreement of the parties thereto.

A copy of this Reorganization Plan was filed on June 25, 2009 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 August 24, 2009, 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 Plan, or at a date later than August 24, 2009, 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 edi-

tion of the Public Laws and in the New Jersey Register under the heading of "Reorganization Plans."

Filed June 25, 2009.
Effective August 24, 2009.

REORGANIZATION PLAN NO.003-2009

Implied Consent Statute Standard Statements - Transfer to Attorney General

NOTICE OF A PLAN FOR THE REORGANIZATION TO TRANSFER RESPONSIBILITY FOR THE PROMULGATION OF STANDARD STATEMENTS REGARDING IMPLIED CONSENT TO CHEMICAL BREATH TEST STATUTES FROM THE CHIEF ADMINISTRATOR OF THE MOTOR VEHICLE COMMISSION TO THE ATTORNEY GENERAL

Take notice that on June 25, 2009, Governor Jon S. Corzine hereby issues the following Reorganization Plan No. 003-2009 to transfer the responsibility for the promulgation of standard statements regarding implied consent to chemical breath test statutes from the Chief Administrator of the Motor Vehicle Commission to the Attorney General.

GENERAL STATEMENT OF PURPOSE

The State's driving while intoxicated and implied consent laws require that police officers read to all persons arrested for driving while intoxicated, operating a commercial motor vehicle while intoxicated and operating a vessel while intoxicated a standard statement before administering a chemical breath test in order to inform the person arrested of the consequences of refusing to submit to such a test. P.L.1966, c.42 (C.39:4-50.2); P.L.1990, c.103 (C.39:3-10.24); P.L.1986, c.39 (C.12:7-55). Current law also requires that the standard statements regarding these offenses be prepared by the Chief Administrator of the Motor Vehicle Commission (formerly the Director of the Division of Motor Vehicles).

The requirement that the Chief Administrator prepare the standard statements dates back to 1977 when the then Division of Motor Vehicles was a division within the Department of Law and Public Safety and operations of the Division, including the promulgation of the standard statements, were under the direction of the Attorney General who heads the De-

partment of Law and Public Safety and is the chief law enforcement officer of the State. Since that time, the Division of Motor Vehicles was transferred to the Department of Transportation and then established as an independent Commission. The Chief Administrator has consulted with the Attorney General regarding preparation of the standard statements. Once the Chief Administrator approves a standard statement, the Division of Criminal Justice in the Department of Law and Public Safety distributes the statement to all law enforcement agencies throughout the State.

The Attorney General as the chief law enforcement officer of the State provides guidance on the enforcement of law. The Legislature recognized this function with regard to enforcing the driving while intoxicated and refusal statutes in P.L. 2004, c.8, which required the Attorney General to promulgate guidelines to promote the uniform enforcement of the driving while intoxicated and refusal statutes. Transfer of the responsibility for the preparation of the standard statements regarding refusal to submit to a chemical breath test will consolidate the preparation of guidance regarding driving while intoxicated and implied consent laws.

In order to more efficiently provide for the preparation of the standard statements, this Reorganization Plan (Plan) provides for the transfer of responsibility for the preparation of the standard statements to the Attorney General.

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 and transfers included in the Plan that each aspect 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 by grouping law enforcement functions within one department;

2. Promote better and more efficient execution of the laws and expeditious administration of the public business by consolidating and integrating within one department similar regulatory functions, particularly the provision of guidance to law enforcement regarding driving while intoxicated and implied consent laws;

3. Group and coordinate these functions in a more consistent and practical way;

4. Reduce expenditures and promote economy to the fullest extent consistent with the efficient operations of the Executive Branch;

5. Increase efficiency of the operations of the Executive Branch to the fullest extent practicable; and

6. Eliminate duplication of efforts by consolidating certain functions which will result in savings to the State.

PROVISIONS OF THE REORGANIZATION PLAN

THEREFORE, I hereby order the following reorganization:

1. The functions, powers and duties relating to the preparation of the standard statements regarding the consequences of refusal to submit to chemical breath test prepared pursuant to section 2 of P.L.1966, c.42 (C.39:4-50.2); section 16 of P.L.1990, c.103 (C.39:3-10.24); P.L.1986, c.39 (C.12:7-55); and section 9 of P.L.1986, c.39 (C.12:7-55) are continued and are transferred to the Attorney General.

2. Whenever in section 2 of P.L.1966, c.42 (C.39:4-50.2); section 16 of P.L.1990, c.103 (C.39:3-10.24); and section 9 of P.L.1986, c.39 (C.12:7-55) or in any law, rule, regulation, order, contract document, judicial or administrative proceeding or otherwise reference is made to the Chief Administrator of the Motor Vehicle Commission or the Motor Vehicle Commission or a standard statement prepared pursuant thereto, the same shall mean and refer to the Attorney General or the standard statement prepared by the Attorney General a pursuant to this Plan, as the case may be.

3. The standard statements promulgated by the Chief Administrator of the Motor Vehicle Commission pursuant to section 2 of P.L.1966, c.42 (C.39:4-50.2); section 16 of P.L.1990, c.103 (C.39:3-10.24); P.L.1986, c.39 (C.12:7-55) and section 9 of P.L.1986, c.39 (C.12:7-55) shall remain in effect as if promulgated by the Attorney General until such time as they may be amended or reissued by the Attorney General. Whenever reference in a standard statement is made to the Chief Administrator of the Motor Vehicle Commission or the Motor Vehicle Commission, the same shall mean and refer to the Attorney General.

GENERAL PROVISIONS

1. All acts and parts of acts inconsistent with any of the provisions of this Reorganization Plan are superseded to the extent of such inconsistencies.

2. Unless otherwise specified in this Reorganization Plan, all transfers directed by this Reorganization Plan shall be effected pursuant to the State Agency Transfer Act, P.L.1971, c.375 (C.52:14D-1 et seq.).

3. If any provisions of this Reorganization Plan or the application thereto to any persons, or circumstances, 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, or affect other exercises of power or authority under said provisions not contrary to law. To this end, the provisions of this Reorganization Plan are declared to be severable.

A copy of this Reorganization Plan was filed on June 25, 2009, 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 August 24, 2009, unless disapproved by each House of the Legislature by passage of a Concurrent Resolution stating in substance that the Legislature does not favor this Reorganization Plan, or at a later date 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 Reorganization 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 a heading of "Reorganization Plans."

Filed June 25, 2009.
Effective August 24, 2009.

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Executive's plan to offset shortfalls in State revenues, various, Ch.22.
Farmland preservation, from various funds, $27.75 million, Ch.93.
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From "2007 Farmland Preservation Fund," to nonprofit organizations for various farmland preservation purposes, $6.45 million, Ch.95.
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From Green Acres funds, various for grants to nonprofit entities to acquire, develop lands for recreation, conservation purposes, $19,919,700, Ch.100.
From Green Acres funds, various, to local governments for open space acquisition and park development projects, $120,123,420, Ch.98.
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APPROPRIATIONS (Continued)
From various funds for State acquisition of lands for recreation and conservation projects, $66 million, Ch.97.
"Green Acres, Water Supply and Floodplain Protection and Farmland and Historic Preservation Bond Act of 2009," issuance of bonds for funding, Ch.117.
Health Care Subsidy Fund, from New Jersey Surplus Lines Insurance Guaranty Fund, additional amounts, Ch.75.
New Jersey Economic Development Authority:
From "1996 Economic Development Site Fund," for projects in Camden City on economic development sites, Ch.65.
New Jersey Environmental Infrastructure Trust, expenditure of sums for loans for projects, various; authorized, Ch.101.
New Jersey Housing and Mortgage Finance Agency, transfer of unencumbered reserve to State General Fund for rental assistance program, Ch.73.
"New Jersey Economic Stimulus Act of 2009," to "New Jersey Affordable Housing Trust Fund," $15,000,000, Ch.90.
Retail Margin Fund, for funding grants to support development of combined heat and power facilities, Ch.34.
Supplemental, various departments, $20,768,000, Ch.67.
Taxation, Division of:
Tax amnesty program, from proceeds collected, not to exceed $10,000,000, Ch.21.

BANKING
"New Jersey Residential Mortgage Lending Act," C.17:11C-51 et seq., amends C.17:11C-1 et al., repeals C.17:11C-4 et al., Ch.53.
Public funds, certain, deposited in public depository, laws regarding; changed, C.17:9-43.1, amends C.17:9-41 et al., Ch.326.

BOATING
Boat safety course, taken by June 1, 2009; required, amends C.12:7-61 et al., Ch.1.
Personal watercraft, laws concerning operation, police enforcement; laws changed, amends C.12:7-63 et al., Ch.108.
Sunset Lake Hydrofest designed as the New Jersey Governor's Cup Hydrofest Series, C.34:1A-52.1 et seq., J.R.4.

BONDS
State's annual bond volume limits, certain, conformity with American Recovery and Reinvestment Act of 2009; provided, amends C.49:2A-1 et seq., Ch.76.

BRIDGES
"Cape May County Veterans Memorial Bridge"; designated, Ch.126.
"Chaplain Charles J. Watters Memorial Bridge"; designated, Ch.215.
"Corporal Philip A. Reynolds Memorial Bridge"; designated, Ch.127.

CEMETERIES
Brigadier General William C. Doyle Veterans' Memorial Cemetery, exemption from certain reforestation plans; provided, amends C.13:1L-14.3, Ch.191.
Consumer prepayments, holding in trust accounts by cemeteries; required, amends C.2A:102-13, Ch.155.

CHILDREN
Blood donation, age 16 with parental consent; permitted, amends C.9:17A-6, Ch.58.
Expungement of criminal, juvenile delinquency records, eligibility requirements; changed, amends N.J.S.2C:52-2 et al., Ch.188.
New Jersey Task Force on Child Abuse and Neglect, membership; revised, amends C.9:6-8.76, Ch.29.
Persons working with children, certain, permanent disqualification; provided, amends C.30:4-3.5 et al., Ch.254.
Safe Haven information, provision to various entities; required, amends C.30:4C-15.9, Ch.255.
"Women and Families Strengthening Act," C.30:4-8.6 et seq., amends C.44:10-48 et al., repeals C.44:10-48.1, Ch.328.

CIVIL ACTIONS
Computer trespasser, interception of wire, electronic communications, certain circumstances; authorized, C.2A:156A-4.1, Ch.142.
Mortgage foreclosures, residential, statute of limitations; provided, C.2A:50-56.1, Ch.105.
"Survivor's Act," statute of limitations relative to certain cases; eliminated, amends N.J.S.2A:15-3, Ch.266.

CIVIL DEFENSE
Office of Emergency Management, maintenance of directory of emergency supplies; required, C.58:16A-102, Ch.137.

CIVIL RIGHTS
"Law Against Discrimination" provisions relative to persons with autism spectrum disorder; clarified, amends C.10:5-5, Ch.205.

COLLEGES AND UNIVERSITIES
Credit cards, solicitation on college campuses; regulated, C.18A:3C-1 et seq., Ch.148.
Higher education, structure, fiscal management, laws concerning; revised, C.18A:3B-46 et seq., amends C.18A:3B-13 et al., Ch.308.
Independent colleges, grant cap for underground storage tank remediation; increased, amends C.58:10A-37.5, Ch.42.

COLLEGES AND UNIVERSITIES (Continued)
New Jersey Collaborating Center for Nursing, term of office for board members; extended, dedication of nurse licensing fee for support; provided, C.18A:65-92.1 et al., amends C.18A:65-90 et seq., Ch.47.
"New Jersey College Student and Parent Consumer Information Act," C.18A:3B-43 et seq., Ch.197.
New Jersey National Guard member, application procedure for tuition-free enrollment at certain public institutions of higher education; revised, amends N.J.S.18A:62-24 et seq., Ch.208.
New Jersey Presidents' Council, representation on executive board; revised, amends C.18A:3B-7 et al., Ch.246.
NJ PLACE program; established, C.34:15D-24, amends C.18A:62-46 et seq., Ch.200.
NJ STARS program, notification of eligibility provided to certain students; required, C.18A:71B-85.5, Ch.280.
"Nursing Faculty Loan Redemption Program Act," C.18A:71C-50 et seq., Ch.236.
Primary Care Practitioner Loan Redemption Program, program; changed, C.18A:71C-36.1 et al., amends N.J.S.18A:71C-32 et seq., repeals N.J.S.18A:71C-45, Ch.145.
Task Force on Underage Drinking in Higher Education; established, Ch.219.
"Troops to College Act," C.18A:3B-41 et seq., Ch.125.

COMMISSIONS
"Criminal Sentencing and Disposition Commission"; created, C.2C:48A-1 et seq., repeals N.J.S.2C:48-1 et al., Ch.81.
Dismal Swamp Preservation Commission; established, C.40:55D-88.1 et seq., Ch.132.
Greenwood Lake Commission, charging fees, certain; authorized, C.32:20A-5.1, Ch.310.

COMMUNICATIONS
"Computer Crime Prevention Fund"; created, penalties for offenders, certain; imposed, C.2C:43-3.8, amends C.2C:46-4 et al., Ch.143.
Computer trespasser, interception of wire, electronic communications, certain circumstances; authorized, C.2A:156A-4.1, Ch.142.
Telecommunications companies, provision of certain information to law enforcement officials in emergency situations; required, amends C.2A:156A-2 et al., Ch.184.

CONSUMER AFFAIRS
Apparel containing fur, sale, certain disclosure; required, C.56:14-1 et seq., Ch.156.

CONSUMER AFFAIRS (Continued)
Counseling agencies, certain, exemption from requirements of debt adjuster act; provided, criminal practice of acting as debt adjuster; revised, amends C.17:16G-1 et al., Ch.173.
Credit cards, solicitation on college campuses; regulated, C.18A:3C-1 et seq., Ch.148.
Emergency vehicles, new motor vehicle warranties, protection provided, amends C.56:12-29 et al., Ch.324.
"Lemon Law," consumer protections; expanded, amends C.56:12-31 et al., Ch.128.
"New Jersey College Student and Parent Consumer Information Act," C.18A:3B-43 et seq., Ch.197.
"New Jersey Residential Mortgage Lending Act," C.17:11C-51 et seq., amends C.17:11C-1 et al., repeals C.17:11C-4 et al., Ch.53.
Towing, towing operators, laws concerning; amended, amends C.56:13-9 et al., repeals C.56:13-10 et al., Ch.39.

CORPORATIONS
Corporate notices, certain, provision by electronic transmission; permitted, C.14A:1-8.1, amends N.J.S.14A:1-8, Ch.176.
Corporate service requests, certain, expedited service; provided, amends C.52:16A-38 et al., Ch.177.
Directors:
Election, elimination of plurality voting; permitted, amends N.J.S.14A:5-24, Ch.10.
Resignation contingent upon occurrence of certain circumstances; permitted, amends N.J.S.14A:6-3, Ch.9.
Equity awards, procedures for award, types permitted, amends N.J.S.14A:8-1, Ch.159.
Franchisor assignment of interest relative to retail sale of motor fuel, violations; clarified, C.56:10-6.1 et seq., Ch.63.
Merger, consolidation of unincorporated entities with domestic corporations, permission; expanded, amends N.J.S.14A:1-2.1 et al., Ch.158.
"Uniform Prudent Management of Institutional Funds Act," C.15:18-25 et seq., repeals C.15:18-15 et seq., Ch.64.

CORRECTIONS
"Fair Release and Reentry Act of 2009," C.30:1B-6.1 et al., amends C.30:4-91.4, Ch.329.
Parole eligibility, prison visitation, training and education standards for incarcerated persons, C.30:4-92.1 et al., amends R.S.30:4-127 et al., Ch.330.
"Women and Families Strengthening Act," C.30:4-8.6 et seq., amends C.44:10-48 et al., repeals C.44:10-48.1, Ch.328.

COUNTIES

Acquisition of property, resale, lease with agricultural deed restrictions for farmland preservation purposes; permitted, C.4:1C-37.1, amends C.40A:12-4, Ch.147.

Attorney ID Card Program trust fund, creation by counties; authorized, C.40A:4-22.2, amends N.J.S.40A:4-39, Ch.11.

Board of Fire Commissioners, petition filing date for election; changed, amends N.J.S.40A:14-71, Ch.286.

"County Homelessness Trust Fund Act," C.52:27D-287a et seq., Ch.123.

County political party committees, laws concerning; revised, C.19:5-3.2, amends R.S.19:5-2 et al., Ch.135.

Grants to local governments for redevelopment of contaminated property for renewable energy projects; increased, amends C.58:10B-5 et seq., Ch.302.

Health insurance funds, certain, three-year payoff; permitted, C.40A:4-54.1 et seq., Ch.231.

Hispanic advisory commission, additional members, certain circumstances; permitted, amends C.40:10C-1, Ch.301.

"Property Tax Assessment Reform Act," C.54:1-86 et seq., amends C.52:27D-505, Ch.118.

Speed limits, criteria considered by municipalities, counties in establishing, amends R.S.39:4-98, Ch.258.

COURTS

Assistant prosecutors, part-time employment, certain, conditions; provided, C.2A:158-15.1b, repeals C.2A:158-15.1 et al., Ch. 285.

Court Appointed Special Advocate (CASA) program; established, C.2A:4A-92, amends C.2A:4A-60, Ch.217.

Jury tampering, penalties; increased, amends N.J.S.2C:29-8, Ch.169.

Municipal court fines, certain, alternative for individuals who default; authorized, C.2B:12-23.1, Ch.317.

Special Civil Part fees, certain; made permanent, amends C.22A:2-37.1, Ch.32.

CRIMES AND OFFENSES

Actions, certain, in or on utility company property; criminalized, amends N.J.S.2C:18-1 et seq., Ch.283.

Acupuncture, statutes concerning practice; revised, unauthorized practice; criminalized, C.45:2C-19 et al., amends C.45:2C-2 et al., repeals C.45:2C-12 et seq., Ch.56.

"Computer Crime Prevention Fund"; created, penalties for offenders, certain; imposed, C.2C:43-3.8, amends C.2C:46-4 et al., Ch.143.

"Criminal Sentencing and Disposition Commission"; created, C.2C:48A-1 et seq., repeals N.J.S.2C:48-1 et al., Ch.81.

CRIMES AND OFFENSES (Continued)

Drug-free school zone violations, waiving, reducing parole eligibility, granting probation, authority of court; provided, C.2C:35-7a, amends C.2C:35-7, Ch.192.

Drunk driving offenders with suspended driver's license, certain; fourth degree crime, C.2C:40-26, Ch.333.

Expungement of criminal, juvenile delinquency records, eligibility requirements; changed, amends N.J.S.2C:52-2 et al., Ch.188.

Handgun sales, purchases, certain transfers exempt from 30-day restriction, amends N.J.S.2C:58-2 et seq., Ch.168.

Handguns, purchase of more than one by individual per calendar month; prohibited, amends N.J.S.2C:58-2 et al., Ch.104.

Jewelry, used, records maintained concerning sale; required, C.2C:21-36 et seq., Ch.214.

Jury tampering, penalties; increased, amends N.J.S.2C:29-8, Ch.169.

Loaning motor vehicle to person with suspended driver's licenses, certain circumstances, additional penalties; imposed, amends R.S.39:3-40, Ch.332.

Machine gun, assault firearms, unlawful possession, degree of crime; upgraded, amends N.J.S.2C:39-5, Ch.13.

Novelty lighters, sale, distribution; prohibited, C.2A:65C-1 et seq., Ch.163.

Principal, informing by law enforcement agency relative to certain crimes committed by students; required, C.2C:43-5.1, amends C.18A:36-19a et al., Ch.157.

"Ricci's Law," ignition interlock device for certain drunk driving offenders, requirements; revised, C.39:4-50.17a, amends R.S.39:4-50 et al., Ch.201.

Sex offenders, certain, positions in youth serving organizations; prohibited, C.2C:7-22 et seq., amends C.15A:3A-3, Ch.139.

Stalkers, contact via electronic device; prohibited, amends C.2C:12-10.1, Ch.232.

Stalking victims, protection; broadened, amends C.2C:12-10, Ch.28.

State psychiatric hospitals, report of physical assaults, deaths; required, C.30:4-3.23 et seq., Ch.161.

Underage persons, immunity for possession, consumption of alcoholic beverages, certain circumstances; granted, C.40:48-1.2a, amends C.2C:33-15, Ch.133.

CRIMINAL PROCEDURE

New Jersey False Claims Act, compliance with federal statutes, reporting requirement for Attorney General; provided, C.2A:32C-18, amends C.2A:32C-5 et al., Ch.265.

DOMESTIC RELATIONS

Alimony, inheritance rights, certain circumstances; prohibited, C.3B:5-14.1, amends N.J.S.2A:34-23 et al., Ch.43.

Human remains, disposition by surviving spouse, certain circumstances, permission; denied, amends C.45:27-22, Ch.290.

DOMESTIC RELATIONS (Continued)
New Jersey Task Force on Child Abuse and Neglect, membership; revised, amends C.9:6-8.76, Ch.29.
Palimony, only written agreements enforceable, amends R.S.25:1-5, Ch.311.
"Women and Families Strengthening Act," C.30:4-8.6 et seq., amends C.44:10-48 et al., repeals C.44:10-48.1, Ch.328.

DRUGS
Drug-free school zone violations, waiving, reducing parole eligibility, granting probation, authority of court; provided, C.2C:35-7a, amends C.2C:35-7, Ch.192.
"New Jersey Compassionate Use Medical Marijuana Act," C.24:6I-1 et al., amends N.J.S.2C:35-18, Ch.307.
New Jersey Prescription Blanks, use of electronic health record program to print; permitted, amends C.45:14-57 Ch.297.
Pharmacy, payment for dispensing forged, fraudulent prescriptions; provided, C.30:4D-7.9 et al., Ch.309.
Prescription drug label, name of brand name drug and generic drug when generic drug dispensed; required, amends C.24:6E-9, Ch.91.
Schedule II drugs, multiple prescriptions, certain circumstances; permitted, amends C.45:9-22.19, Ch.165.

ELECTIONS
Absentee ballots, disqualification, replacement due to withdrawal of candidate; prohibited, amends C.19:57-27, Ch.190.
Board of Fire Commissioners, petition filing date for election; changed, amends N.J.S.40A:14-71, Ch.286.
County political party committees, laws concerning; revised, C.19:5-3.2, amends R.S.19:5-2 et al., Ch.135.
Lieutenant Governor candidates, electoral, campaign finance requirements; established, C.19:3-2.1 et al., amends R.S.19:12-1 et al., Ch.66.
Nonpartisan municipal elections, holding on same day as general elections; permitted, C.40:45-7.1 et seq., amends C.40:45-6 et al., Ch.196.
Public questions in municipalities, certain, permissible length of time between votes; revised, amends R.S.40:74-18 et al., Ch.339.
Sample ballots, required mailing to inactive voters; eliminated, amends R.S.19:14-21 et al., Ch.110.
"The Vote By Mail Law," C.19:63-1 et seq., amends C.19:12-7.1 et al., repeals C.19:57-1 et al., Ch.79.
Voter registration applications, addition of e-mail address; permitted, amends C.19:31-6.4 et al., Ch.287.
Voter registration material, provision to eligible high school students; required, amends C.18A:36-27, Ch.281.

ELECTIONS (Continued)
Voting machines, production of voter-verified paper record; requirement delayed, amends R.S.19:48-1 et al., Ch.17.

ENVIRONMENT
Brigadier General William C. Doyle Veterans' Memorial Cemetery, exemption from certain reforestation plans; provided, amends C.13:1L-14.3, Ch.191.
Contaminated soil found on school property; prompt notification to parents, staff; required, C.58:10B-24.6 et seq., Ch.175.
Covenant not to sue relative to site remediation, certain circumstances; provided, amends C.58:10B-13.1, Ch.300.
DEP Commissioner, establishment of list, recognition program for environmentally responsible entities; required, C.13:1D-148, Ch.316.
DEP, notification to coastal municipalities relative to certain settlement agreement discussions; required, C.13:19-45, Ch.171.
Dismal Swamp Preservation Commission; established, C.40:55D-88.1 et seq., Ch.132.
Energy efficiency in buildings; promoted, assistance, certain; provided, C.52:27D-122.2, amends C.52:27D-123, Ch.106.
Energy savings improvement programs, implementation by public entities, certain; authorized, C.18A:65A-1 et al., amends C.18A:18A-4.1 et al., Ch.4.
Engine coolants, antifreeze, addition of bittering agent; required, C.13:1D-64 et seq., Ch.277.
Environmental Infrastructure Financing Program, laws concerning; changed, C.58:11B-9.2 et al., amends C.58:11B-9 et al., Ch.59.
Forest stewardship, certification programs in DEP; established, C.13:1L-29 et al., amends C.13:20-28 et al., Ch.256.
Grants to local governments for redevelopment of contaminated property for renewable energy projects; increased, amends C.58:10B-5 et seq., Ch.302.
"Hazardous Discharge Site Remediation Fund," applicants for innocent party grants, ownership of subject property; required, amends C.58:10B-6, Ch.303.
Licensing of solid, hazardous waste operations, disclosure statements, other requirements, C.13:1E-128.2, amends C.13:1E-127 et seq., Ch.253.
Medical waste, ocean pollution, certain, civil penalties; increased, C.58:10A-48.1 et al., amends C.13:1E-48.20, Ch.282.
New Jersey Environmental Infrastructure Trust Financing Program, regulations concerning; changed, C.58:11B-9.3, amends C.58:11B-3 et al., Ch.103.
New Jersey Marine Sciences Consortium, statutory authorization; repealed, repeals C.52:18C-1 et seq., Ch.262.
Permits, certain, expiration date; extended, amends C.40:55D-136.3, Ch.336.
Petroleum underground storage tanks, closure, replacement, financial assistance, confirmation required, eligibility; expanded, C.58:10A-37.5b, amends C.58:10A-37.2 et al., Ch.134.

ENVIRONMENT (Continued)
"Residential Development Solar Energy Systems Act," C.52:27D-141.1 et seq., Ch.33.
Riparian lands, grant, lease processes; changed, amends R.S.12:3-5 et al., Ch.40.
"Site Remediation Reform Act," licensing program for site remediation professionals; established, C.58:10C-1 et al., amends C.13:1K-8 et al., Ch.60.
Solar and Wind Energy Commission; created, Ch.239.
Wind, solar facilities, certain, permitted in industrial zones, C.40:55D-66.11, Ch.35.

ESTATES
Alimony, inheritance rights, certain circumstances; prohibited, C.3B:5-14.1, amends N.J.S.2A:34-23 et al., Ch.43.
Fiduciaries, certain, posting bond, provision for accounting to court, certain circumstances; required, amends N.J.S.3B:15-1 et al., Ch.140.

EXECUTIVE ORDERS
Army Sergeant Dougall H. Espey, Jr.; death commemorated, No.139.
Army Sergeant Michael P. Scusa; death commemorated, No.156.
Army Specialist Brian M. Connelly; death commemorated, No.134.
Army Staff Sergeant Andrew T. Lobosco; death commemorated, No.154.
Army Staff Sergeant Christian Bueno-Galdos; death commemorated, No.142.
Assemblyman Eric Munoz; death commemorated, No.136.
Assemblyman Ernest Schuck; death commemorated, No.143.
Assemblyman John V. Kelly; death commemorated, No.159.
Atlantic City Regional Implementation Group for Housing and Transportation "AC RIGHT"; created, No.141.
Commission on New Americans in the Department of the Public Advocate; established, No.164.
DEP to increase auditing, monitoring, review of conditions at sites impacted by polluted groundwater used for residential housing or educational purposes; required, No.140.
Edward M. "Teddy" Kennedy; death commemorated, No.152.
Federal economic recovery fund, use to benefit public; required, No.151.
Firefighter Manuel Rivera, Sr.; death commemorated, No.138.
Fort Hood Texas Army base, death of military and civilian personnel; commemorated, No.158.
Governor's Commission on the Horse Racing Industry; created, No.133.
Interagency Council on Preventing and Reducing Homelessness; continued, membership modified, No.163.
Joseph Kealey; death commemorated, No.166.
Justice Daniel J. O'Hern; death commemorated, No.137.

EXECUTIVE ORDERS (Continued)
Mass Transit Tunnel project, monitoring of procurement of contracts by Office of the State Comptroller; required, No.155.
Mayors charged with public corruption crime, identification by State Government entity relative to requests for development projects, other undertakings, certain; required, No.148.
Police Detective Marc Anthony DiNardo; death commemorated, No.146.
Provisions of Executive Order No. 103 (2008); temporarily suspended, No.135.
New Jersey Council for Young Children; established, No.162.
New Jersey Eastern European-American Heritage Commission; established, No.165.
New Jersey Hellenic-American Heritage Commission in the Department of State; established, No.144.
New Jersey Urban Enterprise Zone Authority, annual memorandum of agreement relative to the disposition, use of certain amounts; required, No.150.
School districts, accepting of filings due March 3, 2009 on March 4, 2009 due to severe weather conditions; required, No.132.
September 11, 2001, attacks; commemorated, No.154.
Special Counsel to the State of New Jersey, requirements for generating list of those designated, No.157.
State of emergency due to severe weather conditions; declared, No.160.
State's Executive Branch, provision of opportunities for all persons to participate in decisions affecting environmental quality, public health; required, No.131.
State share of volume cap under the federal American Recovery and Reinvestment Act of 2009; provided, No.167.
Study Commission on New Jersey's Non-Public Schools; established, No.161.
Supreme Court Justice Sidney M. Schreiber; death commemorated, No.149.
Task Force to review, evaluated, make recommendations regarding methods of curbing the illegal possession, use, trafficking of firearms; established, No.145.
Trade between New Jersey and Italy, promotion; required, No.147.

FEES AND COSTS
Special Civil Part fees, certain; made permanent, amends C.22A:2-37.1, Ch.32.

FIRE SAFETY
Accidental death benefit, certain circumstances, payment; extended, amends C.43:16A-10 et al., Ch.23.
"Firefighter Recognition Day," October 2; designated, C.36:2-139 et seq., J.R.9.
Firefighters, paid, certain districts, criminal history background check; required, amends C.40A:14-81.2, Ch.18.
Law enforcement officers, firefighters, certain, suspension, appeals of termination, regaining of pay status, certain circumstances; permitted, C.40A:14-200 et seq., amends N.J.S.40A:14-150 et al., Ch.16.

FIRST AID AND RESCUE SQUADS
Emergency medical technician, certification valid for five years, C.26:2K-63 et seq., Ch.174.
"Emergency Responders Employment Protection Act," C.40A:14-213 et seq., Ch.202.
Volunteer fire company, emergency response squad members, holding of municipal elective office; permitted, amends N.J.S.40A:9-4 et al., Ch.206.

FISH AND GAME
Deer hunting with bow and arrow on Sundays, certain; authorized, amends R.S.23:4-24, Ch.48.

FOOD AND BEVERAGES
Restaurants, certain, calorie information for food, beverages offered for sale; required, C.26:3E-16 et seq., Ch.306.

FRAUD
New Jersey False Claims Act, compliance with federal statutes, reporting requirement for Attorney General; provided, C.2A:32C-18, amends C.2A:32C-5 et al., Ch.265.

GAMES AND GAMBLING
Casino employees, service on governing body of Atlantic City, certain circumstances; permitted, C.52:13D-17.3, amends C.52:13D-17.2 et al., Ch.26.
Casinos, service industries, simulcasting, laws concerning; amended, C.5:12-141.2, amends C.5:12-12 et al., Ch.36.

HANDICAPPED PERSONS
Personal assistance services program, provisions; revised, C.30:4G-22, amends C.30:4G-14 et al., Ch.160.
"The Senior Citizen and Disabled Resident Transportation Assistance Program," funding; increased, amends C.27:25-28 et al., Ch.261.
"Silver Alert System"; established, C.52:17B-194.4 et seq., Ch.167.

HEALTH
Ambulatory surgical centers, uniform billing, reporting of infection rates to DHSS; required, C.26:2H-5.1c et seq., Ch.263.
Assisted living facilities, defibrillator on site, employees trained in use; required, amends C.26:2H-12.26, Ch.46.
Autism, certain developmental disabilities, health benefits coverage for therapies, certain; required, C.17:48-6ii et al., Ch.115.
Autism spectrum disorder, adult registration with State registry of reported diagnoses; permitted, C.26:2-186.1, amends C.26:2-185 et seq., Ch.204.

HEALTH (Continued)
Blood donation, age 16 with parental consent; permitted, amends C.9:17A-6, Ch.58.
Chiropractic practice, statutes regarding scope; amended, C.45:9-41.28 et seq., amends R.S.45:9-14.5 et al., Ch.322.
Diabetic students, individualized health care plan, emergency administration of glucagon; authorized, C.18A:40-12.11 et seq., Ch.131.
Electronic smoking devices, use in indoor public places, sale to minors; prohibited, amends C.26:3D-56 et al., Ch.182.
Health care facilities providing ambulatory surgery, related procedures, standardized requirements; established, C.45:9-22.5a et seq., amends C.26:2H-12 et al., Ch.24.
Health care service firms, annual report to DHS as condition for Medicaid reimbursement; required, C.30:4D-7j, Ch.181.
Health club swimming pools, safety measures; implemented, amends C.26:4A-4 et seq., Ch.31.
"Hypertrophic Cardiomyopathy Awareness Week," last week in May; designated, C.36:2-137 et seq., J.R.8.
Interpretation of evoked potentials, nerve conduction studies, eligibility to perform, interpret; changed, amends C.45:9-5.2, Ch.212.
Involuntary commitment to treatment, procedure; established, C.30:4-27.8a et al., amends C.30:4-27.1 et al., Ch.112.
"Law Against Discrimination" provisions relative to persons with autism spectrum disorder; clarified, amends C.10:5-5, Ch.205.
Maternity services, installment payments by health benefits plans, certain; required, C.17:48-6hh et al., Ch.113.
Medicaid eligibility information, provision to nursing home, assisted living residents, certain; required, C.26:2H-12.56 et seq., Ch.61.
Medicaid reimbursement rate for family planning services, certain; increased, C.30:4D-7k et seq., Ch.268.
Medical examiner, provision of next-of-kin information by facility where patient died; required, C.52:17B-88a, Ch.151.
New Jersey Chronic Kidney Disease Task Force; established, Ch.230.
"New Jersey Compassionate Use Medical Marijuana Act," C.24:6I-1 et al., amends N.J.S.2C:35-18, Ch.307.
New Jersey Prescription Blanks, use of electronic health record program to print; permitted, amends C.45:14-57 Ch.297.
New Jersey Special Education and Traumatic Brain Injury Task Force; established, Ch.250.
New Jersey Student Athlete Cardiac Screening Task Force; established, Ch.260.
Nurse midwives, certification of medical condition of individuals under "Temporary Disability Benefits Law," "Work First New Jersey Act"; permitted, amends C.43:21-39 et al., Ch.114.

HEALTH (Continued)
"Ovarian Cancer Awareness Month," February; designated, C.36:2-134 et seq., Ch.130.
Patient safety indicators, reporting of data; required, charging by hospitals for certain medical errors; prohibited, C.26:2H-12.25b et seq., Ch.122.
Primary Care Practitioner Loan Redemption Program, program; changed, C.18A:71C-36.1 et al., amends N.J.S.18A:71C-32 et seq., repeals N.J.S.18A:71C-45, Ch.145.
Pressure redistribution mattresses, use by nursing homes; required, C.26:2H-12.54 et seq., Ch.44.
Restaurants, certain, calorie information for food, beverages offered for sale; required, C.26:3E-16 et seq., Ch.306.
Seaside Bathing Establishments Law; repealed, repeals R.S.5:1-1 et seq., Ch.27.

HIGHWAYS
"Chaplain Charles J. Watters Memorial Bridge"; designated, Ch.215.
"New Jersey Scenic and Historic Highways Program"; established, C.27:5K-1 et seq., Ch.245.
N.J. Historical Commission, establishment of program for roadside markers to designate historic sites; authorized, C.18A:73-25.5 et seq., Ch.264.

HISTORICAL AFFAIRS
Historic New Bridge Landing State Park, jurisdiction of commission; revised, administration; transferred, C.13:15B-5, amends C.13:15B-1 et al., Ch.45.
New Jersey Historic Trust, laws regarding; changed, amends C.13:1B-15.115 et seq., Ch.288.
"New Jersey Scenic and Historic Highways Program"; established, C.27:5K-1 et seq., Ch.245.
N.J. Historical Commission, establishment of program for roadside markers to designate historic sites; authorized, C.18A:73-25.5 et seq., Ch.264.

HOLIDAYS AND OBSERVANCES
"Brain Tumor Awareness Month," May; designated, C.36:2-126 et seq., J.R.3.
"Childhood Obesity Prevention Month," March; designated, C.36:2-153 et seq., J.R.16.
"Denim Day," April 28; designated, C.36:2-151 et seq., J.R.15.
"Eating Disorders Awareness Month," February; designated, C.36:2-132 et seq., J.R.7.
"Firefighter Recognition Day," October 2; designated, C.36:2-139 et seq., J.R.9.
Freedom Walk Day, Sunday preceding September 11 annually; designated, C.36:2-130 et seq., J.R.6.
Gold Star Mother's Day, last Sunday in September; designated, C.36:2-149 et seq., J.R.14.

HOLIDAYS AND OBSERVANCES (Continued)
"Hypertrophic Cardiomyopathy Awareness Week," last week in May; designated, C.36:2-137 et seq., J.R.8.
Italian-American Heritage Month, October; designated, C.36:2-141 et seq., repeals C.36:2-39, J.R.10.
"New Jersey Wine Month," November; designated, C.36:2-128 et seq., J.R.5.
"Ovarian Cancer Awareness Month," February; designated, C.36:2-134 et seq., Ch.130.
"Prescription Drug Abuse Awareness Month," March; designated, C.36:2-124 et seq., J.R.2.
"Postpartum Depression Awareness Day," October 20; designated, C.36:145 et seq., J.R.12.
"Salute to Hospitalized Veterans Week," week of February 14; designated, C.36:2-122 et seq., J.R.1.
"Technology Innovation Week," first week in March; designated, C.36:2-147 et seq., J.R.13.

HOSPITALS
Development of procedures by DHS to enable hospitals to transfer emergency department patients with mental illness to appropriate facility; required, C.30:4-177.60, Ch.241.
Health care facilities providing ambulatory surgery, related procedures, standardized requirements; established, C.45:9-22.5a et seq., amends C.26:2H-12 et al., Ch.24.
Hospital asset transformation program, provisions concerning; changed, amends C.26:2I-7, Ch.2.
Medical examiner, provision of next-of-kin information by facility where patient died; required, C.52:17B-88a, Ch.151.
Patient safety indicators, reporting of data; required, charging by hospitals for certain medical errors; prohibited, C.26:2H-12.25b et seq., Ch.122.

HOUSING
Age-restricted units, conversion; permitted, affordable housing, laws regarding; changed, C.45:22A-46.3 et seq., Ch.82.
Mortgage foreclosure forbearance period; regulated, exchange of information between lenders and creditors relative to delinquent borrowers; authorized, amends C.46:10B-50, repeals C.46:10B-52, Ch.84.
Mortgage foreclosures, residential, statute of limitations; provided, C.2A:50-56.1, Ch.105.
"Mortgage Stabilization and Relief Act," (2009), redirects appropriations for more effective foreclosure relief to homeowners, C.55:14K-86.1 et seq., amends C.55:14K-84 et seq., Ch.334.

HOUSING (Continued)
"New Jersey Residential Mortgage Lending Act," C.17:11C-51 et seq., amends C.17:11C-1 et al., repeals C.17:11C-4 et al., Ch.53.

HUMAN SERVICES
Admission protocols, medical clearance criteria for admission to behavioral health facilities, establishment; required, C.30:4-177.61 et al., Ch.242.
Allocation of certain revenues for utility assistance grants for qualified households; provided, Ch.207.
Autism, certain developmental disabilities, health benefits coverage for therapies, certain; required, C.17:48-6ii et al., Ch.115.
Community care residential providers, negotiations with a bargaining representative; authorized, C.30:6D-32.1 et seq., Ch.270.
"County Homelessness Trust Fund Act," C.52:27D-287a et seq., Ch.123.
Court Appointed Special Advocate (CASA) program; established, C.2A:4A-92, amends C.2A:4A-60, Ch.217.
Development of procedures by DHS to enable hospitals to transfer emergency department patients with mental illness to appropriate facility; required, C.30:4-177.60, Ch.241.
Drug testing for employees of State facilities, certain; provided, C.30:4-3.27 et al., Ch.220.
Health care service firms, annual report to DHS as condition for Medicaid reimbursement; required, C.30:4D-7j, Ch.181.
Involuntary commitment to treatment, procedure; established, C.30:4-27.8a et al., amends C.30:4-27.1 et al., Ch.112.
Medicaid recipients, certain, asset disregard under certain circumstances; provided, amends C.30:4D-7.2a, Ch.321.
Medicaid reimbursement rate for family planning services, certain; increased, C.30:4D-7k et seq., Ch.268.
Mental health information, sharing relative to purchase, possession of firearms, conformity with federal law; provided, amend C.30:4-80.8 et al., Ch.183.
Mental health services, identification, needs assessment; required, C.30:4-177.63, Ch.243.
New Jersey Task Force on Child Abuse and Neglect, membership; revised, amends C.9:6-8.76, Ch.29.
PAAD, Senior Gold programs, automatic enrollment, certain circumstances; provided, C.30:4D-21.5, Ch.272.
Personal assistance services program, provisions; revised, C.30:4G-22, amends C.30:4G-14 et al., Ch.160.
Persons working with children, certain, permanent disqualification; provided, amends C.30:4-3.5 et al., Ch.254.
Psychiatric liens, extinguished, public access; prohibited, C.30:4-80.6b, Ch.154.

HUMAN SERVICES (Continued)
Safe Haven information, provision to various entities; required, amends C.30:4C-15.9, Ch.255.
State psychiatric hospitals, report of physical assaults, deaths; required, C.30:4-3.23 et seq., Ch.161.
"The Senior Citizen and Disabled Resident Transportation Assistance Program," funding; increased, amends C.27:25-28 et al., Ch.261.
Vulnerable adults, report of suspected abuse, neglect, exploitation by certain persons; required, amends C.52:27D-407 et al., Ch.276.

INSURANCE
Autism, certain developmental disabilities, health benefits coverage for therapies, certain; required, C.17:48-6ii et al., Ch.115.
Health insurance, certain, definition of "creditable coverage"; changed, amends C.17B:27A-2 et al., Ch.293.
Insurance producers, disciplinary action, certain, notification to Commissioner; required, C.17:22A-47.1, amends C.17:22A-40 et al., Ch.278.
Managed care plans, payment of health care claims based on assignment of benefits; required, amends C.26:2S-6.1, Ch.209.
Maternity services, installment payments by health benefits plans, certain; required, C.17:48-6hh et al., Ch.113.
Medicaid recipients, certain, asset disregard under certain circumstances; provided, amends C.30:4D-7.2a, Ch.321.
Medical malpractice liability insurance, approval process for rate changes; revised, C.17:29AA-5.1, amends C.17:29AA-3 et al., Ch.248.
Prepaid funeral agreements, licensure as insurance producer required for sale, certain, financing, certain; prohibited, amends C.17:44B-32 et al., Ch.218.
Taxation of certain lines of insurance, additional revenues dedicated to Health Care Subsidy Fund, C.26:2H-18.58i, amends C.54:18A-2 et al., Ch.75.

INTERSTATE RELATIONS
Delaware River Port Authority employees, rights; clarified, deemed public employees, C.32:3-5.1 et seq., amends C.34:13A-3, Ch.210.
"Interstate Compact on Educational Opportunity for Military Children," C.18A:75A-1 et seq., Ch.279.

JOINT RESOLUTIONS
"Brain Tumor Awareness Month," May; designated, C.36:2-126 et seq., J.R.3.
"Childhood Obesity Prevention Month," March; designated, C.36:2-153 et seq., J.R.16.
"Denim Day," April 28; designated, C.36:2-151 et seq., J.R.15.
"Eating Disorders Awareness Month," February; designated, C.36:2-132 et seq., J.R.7.

JOINT RESOLUTIONS (Continued)
"Firefighter Recognition Day," October 2; designated, C.36:2-139 et seq., J.R.9.
Freedom Walk Day, Sunday preceding September 11 annually; designated, C.36:2-130 et seq., J.R.6.
Gold Star Mother's Day, last Sunday in September; designated, C.36:2-149 et seq., J.R.14.
"Hypertrophic Cardiomyopathy Awareness Week," last week in May; designated, C.36:2-137 et seq., J.R.8.
Italian-American Heritage Month, October; designated, C.36:2-141 et seq., repeals C.36:2-39, J.R.10.
"New Jersey Wine Month," November; designated, C.36:2-128 et seq., J.R.5.
"Prescription Drug Abuse Awareness Month," March; designated, C.36:2-124 et seq., J.R.2.
"Postpartum Depression Awareness Day," October 20; designated, C.36:145 et seq., J.R.12.
"Salute to Hospitalized Veterans Week," week of February 14; designated, C.36:2-122 et seq., J.R.1.
Sunset Lake Hydrofest designed as the New Jersey Governor's Cup Hydrofest Series, C.34:1A-52.1 et seq., J.R.4.
"Technology Innovation Week," first week in March; designated, C.36:2-147 et seq., J.R.13.

LABOR
Apparel, acquisition by State, standards; established, C.34:6-158 et seq., Ch.247.
Community care residential providers, negotiations with a bargaining representative; authorized, C.30:6D-32.1 et seq., Ch.270.
Construction projects, certain, receiving assistance from BPU, prevailing wage requirements; regulated, C.48:2-29.47, Ch.89.
Construction projects undertaken with BPU financial assistance, certain, payment of prevailing wage, amends C.48:2-29.47 , Ch.203.
Contracts for collection, transportation of solid waste, certain, reporting of wage records; required, C.34:11-68, Ch.88.
Employee identification costs, certain, wage withholding; permitted, amends C.34:11-4.4, Ch.226.
Equity awards, procedures for award, types permitted, amends N.J.S.14A:8-1, Ch.159.
Family child care providers, negotiations with State representatives, certain; permitted, C.30:5B-22.1 et seq., Ch.299.
Family temporary disability leave, annual; provided, contribution rates, refunds; adjusted, amends R.S.43:21-7, Ch.195.
International labor matching, matchmaking organizations, background checks for owners, employees, provision of information about domestic violence; required, C.56:8-185 et seq., Ch.152.

LABOR (Continued)
License suspension, revocation for violations of employment laws, certain; revised, C.34:1A-1.11 et seq., Ch.194.
"New Jersey Basic Skills Training Program for Economic Growth Act," C.34:15D-21.1 et seq., amends C.34:15D-21 et al., Ch.199.
NJ PLACE program; established, C.34:15D-24, amends C.18A:62-46 et seq., Ch.200.
Parole eligibility, prison visitation, training and education standards for incarcerated persons, C.30:4-92.1 et al., amends R.S.30:4-127 et al., Ch.330.
Prevailing wage, applicability to maintenance-related projects, certain; provided, amends C.34:11-56.26, Ch.249.
Public employees, certain, labor negotiations; permitted, confidential status, definition of employees, certain; changed, amends C.34:13A-3 et al., Ch.314.
Uninsured employers for non-payment of workers' compensation, court actions, certain circumstances; required, amends C.34:15-120.3, Ch.291.

LANDLORD AND TENANT
Bond required from landlords, certain circumstances, municipal adoption of ordinance; permitted, amends C.40:48-2.12n et seq., Ch.170.
"New Jersey Foreclosure Fairness Act," C.2A:50-69 et seq., amends C.46:10B-49 et al., Ch.296.

MILITARY AND VETERANS
Brigadier General William C. Doyle Veterans' Memorial Cemetery, exemption from certain reforestation plans; provided, amends C.13:1L-14.3, Ch.191.
"Cape May County Veterans Memorial Bridge"; designated, Ch.126.
"Corporal Philip A. Reynolds Memorial Bridge"; designated, Ch.127.
"Interstate Compact on Educational Opportunity for Military Children," C.18A:75A-1 et seq., Ch.279.
"Patriots Corner" tribute in State House; provided, C.38A:2-7 et seq., Ch.274.
"Troops to College Act," C.18A:3B-41 et seq., Ch.125.
Veterans' Oral History Foundation; established, Ch.116.

MOTOR VEHICLES
Commercial driver licenses, laws concerning; changed, amends C.39:3-10.11 et al., Ch.271.
Curb extension, bulbout, construction on local roadway without DOT approval; permitted, C.39:4-8.21, amends R.S.39:1-1 et al., Ch.107.
Drivers approaching certain stopped emergency vehicles displaying flashing lights, requirements; changed, C.39:4-92.2, Ch.5.
Drunk driving offenders with suspended driver's license, certain; fourth degree crime, C.2C:40-26, Ch.333.

MOTOR VEHICLES (Continued)
Ice, snow, removal from motor vehicle; required, fine; created, C.39:4-77.2 et al., amends C.39:4-77.1, Ch.138.
"Kyleigh's Law," holders of special learner's permits, examination permits, provisional driver's licenses, display of decals, certain; required, amends C.39:3-13.2a et al., Ch.37.
"Lemon Law," consumer protections; expanded, amends C.56:12-31 et al., Ch.128.
Limousines, laws regarding; revised, C.39:5G-2, amends C.39:5G-1 et al., repeals C.48:16-22.3a, Ch.325.
Loaning motor vehicle to person with suspended driver's licenses, certain circumstances, additional penalties; imposed, amends R.S.39:3-40, Ch.332.
Motor vehicle equipment, inspections, laws regarding; changed, C.39:8-90, amends C.39:3-70 et al., repeals C.39:8-55, Ch.331.
New Jersey Motor Vehicle Commission, laws affecting organization, function; changed, amends C.39:2A-10 et al., repeals R.S.39:11-3, Ch.298.
New Jersey National Guard member, application procedure for tuition-free enrollment at certain public institutions of higher education; revised, amends N.J.S.18A:62-24 et seq., Ch.208.
Omnibuses, certain, permitted axle weights; increased, amends R.S.39:3-84, Ch.3.
Parking distances, certain, establishment by municipality; permitted, C.39:4-138.6, amends R.S.39:4-138, Ch.257.
Pedestrian, failure to yield by motorist, penalties, certain circumstances; increased, amends R.S.39:4-36, Ch.312.
Pedestrians, laws concerning safety, certain; revised, amends R.S.39:4-32 et al., repeals R.S.39:4-35, Ch.319.
Permit holders, restrictions concerning; revised, provisional license renamed "probationary," C.39:3-13.9, amends R.S.39:3-10 et al., Ch.38.
"Ricci's Law," ignition interlock device for certain drunk driving offenders, requirements; revised, C.39:4-50.17a, amends R.S.39:4-50 et al., Ch.201.
Seat belts, wearing by all automobile passengers; required, C.39:3-76.2n, amends C.39:3-76.2f et seq., Ch.318.
Snowmobiles, all-terrain vehicles, dirt bikes, other vehicles, certain, operation; regulated, sites where use permitted; designated, C.39:3C-3.1 et al., amends C.39:3C-1 et seq., Ch.275.
Speed limits, criteria considered by municipalities, counties in establishing, amends R.S.39:4-98, Ch.258.
Surcharges, certain, establishment of promotional payment incentives; required, C.39:2A-42, amends R.S.39:3-40, Ch.224.
Towing, towing operators, laws concerning; amended, amends C.56:13-9 et al., repeals C.56:13-10 et al., Ch.39.
Traffic control signal monitoring systems, laws concerning; revised, C.39:4-8.20, amends R.S.39:5-3 et al., Ch.52.

MUNICIPALITIES

Absentee policies for service on authorities, boards, commissions; required, C.40A:9-9.1 et seq., amends C.40A:9-12.1, Ch.141.

Acquisition of property, resale, lease with agricultural deed restrictions for farmland preservation purposes; permitted, C.4:1C-37.1, amends C.40A:12-4, Ch.147.

Beverly, city of, common council membership; decreased, terms of office, certain; increased, Ch.198.

Board of Fire Commissioners, petition filing date for election; changed, amends N.J.S.40A:14-71, Ch.286.

Bond required from landlords, certain circumstances, municipal adoption of ordinance; permitted, amends C.40:48-2.12n et seq., Ch.170.

Emergency vehicles, new motor vehicle warranties, protection provided, amends C.56:12-29 et al., Ch.324.

Financial agreements between municipality and urban renewal entity, certain; extended, repeals C.40:55C-40 et al., Ch.180.

Grants to local governments for redevelopment of contaminated property for renewable energy projects; increased, amends C.58:10B-5 et seq., Ch.302.

Health insurance funds, certain, three-year payoff; permitted, C.40A:4-54.1 et seq., Ch.231.

Hispanic advisory commission, additional members, certain circumstances; permitted, amends C.40:10C-1, Ch.301.

Investment of monies in certain funds, range; extended, amends C.52:18A-90.4, Ch.150.

"Mortgage Stabilization and Relief Act," (2009), redirects appropriations for more effective foreclosure relief to homeowners, C.55:14K-86.1 et seq., amends C.55:14K-84 et seq., Ch.334.

Municipal court fines, certain, alternative for individuals who default; authorized, C.2B:12-23.1, Ch.317.

"Municipal Rehabilitation and Economic Recovery Act," provisions relative to economic recovery term; revised, C.52:27BBB-63.1, amends C.52:27BBB-5 et al., Ch.337.

Neighborhood Revitalization Tax Credit Program, program eligibility; extended, amends C.52:27D-491, Ch.120.

Nonpartisan municipal elections, holding on same day as general elections; permitted, C.40:45-7.1 et seq., amends C.40:45-6 et al., Ch.196.

Notice of discontinuance of certain bus, train service to municipality, 45 days' notice; required, C.48:4-7.1, amends C.27:25-8, Ch.259.

Parking distances, certain, establishment by municipality; permitted, C.39:4-138.6, amends R.S.39:4-138, Ch.257.

Parking structures, use of photovoltaic equipment, permitted, Economic Development Authority to finance, develop, certain; authorized, amends C.34:1B-3 et al., Ch.57.

MUNICIPALITIES (Continued)
Permits, certain, expiration date; extended, amends C.40:55D-136.3, Ch.336.
"Property Tax Assessment Reform Act," C.54:1-86 et seq., amends C.52:27D-505, Ch.118.
Public questions in municipalities, certain, permissible length of time between votes; revised, amends R.S.40:74-18 et al., Ch.339.
Recycling coordinators, deadline for certification requirements; extended, amends C.13:1E-99.16, Ch.164.
Revenue received in lieu of taxes, increase of cap base; permitted, amends C.40A:4-45.2, Ch.149.
Small wind energy systems, regulation by municipalities; provided, C.40:55D-66.12 et seq., Ch.244.
Speed limits, criteria considered by municipalities, counties in establishing, amends R.S.39:4-98, Ch.258.
Urban enterprise zones, homeland security expenses, certain, eligibility for funding; provided, amends C.52:27H-88, Ch.25.
Volunteer fire company, emergency response squad members, holding of municipal elective office; permitted, amends N.J.S.40A:9-4 et al., Ch.206.

NURSING HOMES, ROOMING AND BOARDING HOMES
Assisted living facility residents, security deposit refundable, certain circumstances; provided, C.26:2H-127, Ch.55.
Assisted living facilities, defibrillator on site, employees trained in use; required, amends C.26:2H-12.26, Ch.46.
Medicaid eligibility information, provision to nursing home, assisted living residents, certain; required, C.26:2H-12.56 et seq., Ch.61.
Medical examiner, provision of next-of-kin information by facility where patient died; required, C.52:17B-88a, Ch.151.
Pressure redistribution mattresses, use by nursing homes; required, C.26:2H-12.54 et seq., Ch.44.

PARKS
Historic New Bridge Landing State Park, jurisdiction of commission; revised, administration; transferred, C.13:15B-5, amends C.13:15B-1 et al., Ch.45.

PENSIONS AND RETIREMENT
Accidental death benefit, certain circumstances, payment; extended, amends C.43:16A-10 et al., Ch.23.
Contractual salaries applicable to PERS members, certain, applicability to certain employees; extended, amends C.43:15A-6, Ch.338.
PERS, PFRS, local employer contributions for State fiscal year 2009; adjusted, C.40A:4-45.43a, amends C.43:15A-24 et al., Ch.19.

PENSIONS AND RETIREMENT (Continued)
PERS, TPAF members, certain, definition of contractual salary; changed, amends C.43:15A-6 et al., Ch.85.
School district pension fund, investment in stocks, securities issued by foreign countries, certain percentage; authorized, amends N.J.S.18A:66-109, Ch.7.

PLANNING AND ZONING
Variances for facilities, structures supplying electrical energy from alternative sources; permitted, amends C.40:55D-4 et al., Ch.146.
Wind, solar facilities, certain, permitted in industrial zones, C.40:55D-66.11, Ch.35.

POLICE
Accidental death benefit, certain circumstances, payment; extended, amends C.43:16A-10 et al., Ch.23.
Law enforcement officers, firefighters, certain, suspension, appeals of termination, regaining of pay status, certain circumstances; permitted, C.40A:14-200 et seq., amends N.J.S.40A:14-150 et al., Ch.16.
"Law Enforcement Professional Standards Act of 2009," C.52:17B-222 et seq., Ch.121.
Police Training Commission; established, amends C.52:17B-70, Ch.30.
Telecommunications companies, provision of certain information to law enforcement officials in emergency situations; required, amends C.2A:156A-2 et al., Ch.184.
Training schools, urban, certain, operation continued, certain circumstances, C.52:17B-17.10, Ch.222.

PROFESSIONS AND OCCUPATIONS
Acupuncture, statutes concerning practice; revised, unauthorized practice; criminalized, C.45:2C-19 et al., amends C.45:2C-2 et al., repeals C.45:2C-12 et seq., Ch.56.
Chiropractic practice, statutes regarding scope; amended, C.45:9-41.28 et seq., amends R.S.45:9-14.5 et al., Ch.322.
Cosmetology, hairstyling, licensing requirements; changed, amends C.45:5B-3 et al., repeals C.45:5B-18 et al., Ch.162.
Counseling agencies, certain, exemption from requirements of debt adjuster act; provided, criminal practice of acting as debt adjuster; revised, amends C.17:16G-1 et al., Ch.173.
Dentists, continuing education; required, regulated, C.45:6-10.10, amends C.45:6-10.1 et seq., Ch.221.
Electrical contracting permit requirement exemptions, certain; revised, amends C.45:5A-18, Ch.284.

PROFESSIONS AND OCCUPATIONS (Continued)
Emergency medical technician, certification valid for five years, C.26:2K-63 et seq., Ch.174.
Engaging in unauthorized practice of professions and occupations, additional investigative, enforcement powers to Division of Consumer Affairs; provided, C.45:1-18.1 et seq., Ch.267.
Engineers, professional, continuing education for licensure; required, C.45:8-35.11 et seq., amends C.45:3A-15, Ch.294.
"Genetic Counselor's Licensing Act," C.45:9-37.111 et seq., amends C.45:1-2.1 et al., Ch.41.
Health care facilities providing ambulatory surgery, related procedures, standardized requirements; established, C.45:9-22.5a et seq., amends C.26:2H-12 et al., Ch.24.
Interpretation of evoked potentials, nerve conduction studies, eligibility to perform, interpret; changed, amends C.45:9-5.2, Ch.212.
Landscape irrigation contractors, certification requirements; changed, C.45:5AA-7.1, amends C.45:5AA-2 et seq., Ch.229.
Licensing of solid, hazardous waste operations, disclosure statements, other requirements, C.13:1E-128.2, amends C.13:1E-127 et seq., Ch.253.
Mover's services, owner-operators providing, registration, insurance coverage, consumer notice; required, amends C.45:14D-11.1 et al., Ch.295.
New Jersey Collaborating Center for Nursing, term of office for board members; extended, dedication of nurse licensing fee for support; provided, C.18A:65-92.1 et al., amends C.18A:65-90 et seq., Ch.47.
Real estate brokers, broker-salespersons, salespersons, continuing education requirement; provided, category of referral agents; established, C.45:15-16.2a et seq., amends R.S.45:15-1 et al., Ch.238.
Real estate promotions, certain; permitted, C.45:15-16a et seq., amends R.S.45:15-17, Ch.273.
Scrap metal businesses, regulations; created, C.45:28-1 et al., Ch.8.
"Site Remediation Reform Act," licensing program for site remediation professionals; established, C.58:10C-1 et al., amends C.13:1K-8 et al., Ch.60.
State Board of Medical Examiners, inclusion of practicing podiatric physician; required, amends R.S.45:9-1, Ch.234.
Technical assistants to construction code officials, recognition of position, training program; required, amends C.52:27D-126, Ch.119.
"Tree Experts and Tree Care Operators Licensing Act," C.45:15C-11 et seq., repeals C.45:15C-1 et al., Ch.237.

PUBLIC CONTRACTS
Alternative proposals, base specifications for certain contracts, basis for determination of lowest bid; required, amends C.40A:11-23.1, Ch.292.

PUBLIC CONTRACTS (Continued)
Asphalt cement, fuel, price adjustments in local public contracts; permitted, amends C.40A:11-16, Ch.187.
Bidding requirements, certain; changed, amends C.40A:11-23.2 et al., Ch.315.
Contracts with private firms, certain, requirements; established, C.52:18-42 et al., Ch.136.
Funds for outreach, training programs for minority group members, women, relative to certain construction contracts; required, C.52:38-7, Ch.313.
Prevailing wage, applicability to maintenance-related projects, certain; provided, amends C.34:11-56.26, Ch.249.
Private collection fees for debts, certain, owed to courts, counties, municipalities, surcharge; permitted, amends C.2B:19-6 et al., Ch.233.
Purchasing agent, role, qualifications relative to "Local Public Contracts Law"; redefined, C.40A:11-9a, amends C.40A:11-2 et al., Ch.166.

PUBLIC EMPLOYEES
Contractual salaries applicable to PERS members, certain, applicability to certain employees; extended, amends C.43:15A-6, Ch.338.
Delaware River Port Authority employees, rights; clarified, deemed public employees, C.32:3-5.1 et seq., amends C.34:13A-3, Ch.210.
Drug testing for employees of State facilities, certain; provided, C.30:4-3.27 et al., Ch.220.
Electrical contracting permit requirement exemptions, certain; revised, amends C.45:5A-18, Ch.284.
Firefighters, paid, certain districts, criminal history background check; required, amends C.40A:14-81.2, Ch.18.
Law enforcement officers, firefighters, certain, suspension, appeals of termination, regaining of pay status, certain circumstances; permitted, C.40A:14-200 et seq., amends N.J.S.40A:14-150 et al., Ch.16.
Post-employment restrictions, certain; exemptions; expanded, amends C.52:13D-17.2, Ch.193.
Public employees, certain, labor negotiations; permitted, confidential status, definition of employees, certain; changed, amends C.34:13A-3 et al., Ch.314.
School facilities projects, competition restrictions on certain firms; prohibited, C.18A:7G-41.1, Ch.225.

PUBLIC UTILITIES
Actions, certain, in or on utility company property; criminalized, amends N.J.S.2C:18-1 et seq., Ch.283.
Allocation of certain revenues for utility assistance grants for qualified households; provided, Ch.207.
Construction projects, certain, receiving assistance from BPU, prevailing wage requirements; regulated, C.48:2-29.47, Ch.89.

PUBLIC UTILITIES (Continued)
Construction projects undertaken with BPU financial assistance, certain, payment of prevailing wage, amends C.48:2-29.47 , Ch.203.
On-site generation facilities, regulated, tax exemption, certain; provided, C.48:3-77.1, amends C.48:3-51 et al., Ch.240.
Retail margin fund, use of revenue for projects promoting energy efficiency, renewable energy, certain; authorized, amends C.48:3-51 et al., Ch.34.
Solar and Wind Energy Commission; created, Ch.239.
"The Solar Energy Advancement and Fair Competition Act," amends C.48:3-51 et al., Ch.289.

RACING
Annual number of race dates, certain tracks, decrease; permitted, amends C.5:5-156 et al., Ch.92.
Casinos, service industries, simulcasting, laws concerning; amended, C.5:12-141.2, amends C.5:12-12 et al., Ch.36.

RAILROADS
Notice of discontinuance of certain bus, train service to municipality, 45 days' notice; required, C.48:4-7.1, amends C.27:25-8, Ch.259.
Rights of way, certain, negotiation by railroad company; required, amends C.48:12-125.1, Ch.323.

REAL PROPERTY
"Mortgage Stabilization and Relief Act," (2009), redirects appropriations for more effective foreclosure relief to homeowners, C.55:14K-86.1 et seq., amends C.55:14K-84 et seq., Ch.334.
"New Jersey Foreclosure Fairness Act," C.2A:50-69 et seq., amends C.46:10B-49 et al., Ch.296.
Reassessment procedures, certain, appeal by taxpayers, certain; revised, amends R.S.54:3-21 et al., Ch.251.
Sale of municipal tax liens, other liens, statutes concerning; revised, C.54:5-20.1 et al., amends R.S.54:5-19 et al., Ch.320.

RECREATION
Health club swimming pools, safety measures; implemented, amends C.26:4A-4 et seq., Ch.31.
Seaside Bathing Establishments Law; repealed, repeals R.S.5:1-1 et seq., Ch.27.

REORGANIZATION PLANS
Promulgation of standard statements regarding implied consent to chemical breath test statutes, transferred from the Chief Administrator of the New Jersey Motor Vehicle Commission to the Attorney General, No.003-2009.

REORGANIZATION PLANS (Continued)
State Public Safety Interoperable Communications Coordinating Council, transfer from Department of Law and Public Safety to the Office of Information Technology in the Department of the Treasury, No.001-2009.
University of Medicine and Dentistry in Camden, transfer to Rowan University to establish, operate, maintain a four-year allopathic medical school, No.002-2009.

SCHOOLS
Adapted athletic programs, establishment by New Jersey State Interscholastic Athletic Association; directed, C.18A:11-3.2 et seq., Ch.109.
After school activities, development of program by certain districts; required, C.18A:6-114, Ch.80.
Community Service Phase Two Pilot Enhancement Program in the Department of Education; established, Ch.223.
Contaminated soil found on school property; prompt notification to parents, staff; required, C.58:10B-24.6 et seq., Ch.175.
County vocational school districts, State share calculation for debt service aid; revised, amends C.18A:7G-5 et al., Ch.185.
Diabetic students, individualized health care plan, emergency administration of glucagon; authorized, C.18A:40-12.11 et seq., Ch.131.
Drug-free school zone violations, waiving, reducing parole eligibility, granting probation, authority of court; provided, C.2C:35-7a, amends C.2C:35-7, Ch.192.
"Interstate Compact on Educational Opportunity for Military Children," C.18A:75A-1 et seq., Ch.279.
Mathematics, science teachers, shortage, pilot program in DOE to ameliorate; established, Ch.51.
New Jersey Reading Disabilities Task Force; established, Ch.228.
New Jersey Special Education and Traumatic Brain Injury Task Force; established, Ch.250.
New Jersey Student Athlete Cardiac Screening Task Force; established, Ch.260.
NJ STARS program, notification of eligibility provided to certain students; required, C.18A:71B-85.5, Ch.280.
Non-operating school districts, procedure for elimination; clarified, C.18A:8-43 et seq., amends N.J.S.18A:7-8, Ch.78.
Personal financial literacy course, pilot program for high school seniors; established, C.18A:6-115, Ch.153.
Pilot program addressing shortage of mathematics and science teachers; extended, Ch.305.
Principal, informing by law enforcement agency relative to certain crimes committed by students; required, C.2C:43-5.1, amends C.18A:36-19a et al., Ch.157.

SCHOOLS (Continued)
Public school districts, borrowing between June 8 and June 30 of school budget year, certain circumstances; permitted, amends C.18A:22-44.2, Ch.62.
School security drills; required, C.18A:41-6 et al., Ch.178.
Substance abuse programs in public schools, reference from "substance awareness coordinator" to "student assistance coordinator"; changed, amends C.18A:40A-12 et al., Ch.54.
Teaching paraprofessionals, employment stability in certain districts; established, C.18A:277-10.1 et seq., Ch.227.
Voter registration material, provision to eligible high school students; required, amends C.18A:36-27, Ch.281.

SENIOR CITIZENS
PAAD, Senior Gold programs, automatic enrollment, certain circumstances; provided, C.30:4D-21.5, Ch.272.
"Silver Alert System"; established, C.52:17B-194.4 et seq., Ch.167.
"The Senior Citizen and Disabled Resident Transportation Assistance Program," funding; increased, amends C.27:25-28 et al., Ch.261.

SOLID WASTE
Contracts for collection, transportation of solid waste, certain, reporting of wage records; required, C.34:11-68, Ch.88.

STATE GOVERNMENT
American Recovery and Reinvestment Act of 2009, use of funds provided, standards, requirements; required, C.52:40-1 et seq., Ch.335.
Apparel, acquisition by State, standards; established, C.34:6-158 et seq., Ch.247.
Capital City Redevelopment Corporation, organization, powers; revised, C.52:9Q-13.1, amends C.52:9Q-10 et al., repeals C.52:9Q-23, Ch.252.
Casino employees, service on governing body of Atlantic City, certain circumstances; permitted, C.52:13D-17.3, amends C.52:13D-17.2 et al., Ch.26.
Debt report, annual, additional information relative to State's long-term liabilities; required, amends C.52:9S-3, Ch.304.
Energy efficiency in buildings; promoted, assistance, certain; provided, C.52:27D-122.2, amends C.52:27D-123, Ch.106.
Energy savings improvement programs, implementation by public entities, certain; authorized, C.18A:65A-1 et al., amends C.18A:18A-4.1 et al., Ch.4.
Flags, U.S. or State of NJ, purchase with State funds, manufacture in US; required, C.52:32-1a, Ch.86.
Governor's Fiscal Year 2011 budget message, transmittal date deadline; extended, Ch.269.
Gubernatorial budget message, date of transmittal for fiscal year 2009-2010; extended, Ch.15.

STATE GOVERNMENT (Continued)
InvestNJ Business Grant Program, transfer of unencumbered reserves to qualifying capital investment grant component; directed, Ch.74.
"Jack Freidenrich Engineering and Operations Building," DOT engineering and operations building; designated, Ch.50.
"Law Enforcement Professional Standards Act of 2009," C.52:17B-222 et seq., Ch.121.
Lieutenant Governor candidates, electoral, campaign finance requirements; established, C.19:3-2.1 et al., amends R.S.19:12-1 et al., Ch.66.
"New Jersey Economic Stimulus Act of 2009," C.52:27D-489a et al., amends C.34:1B-5 et al., Ch.90.
New Jersey Marine Sciences Consortium, statutory authorization; repealed, repeals C.52:18C-1 et seq., Ch.262.
Office of Emergency Management, maintenance of directory of emergency supplies; required, C.58:16A-102, Ch.137.
Police Training Commission; established, amends C.52:17B-70, Ch.30.
Post-employment restrictions, certain; exemptions; expanded, amends C.52:13D-17.2, Ch.193.
Real property in Trenton, Ewing, sale by State Treasurer; authorized, Ch.111.
Riparian lands, grant, lease processes; changed, amends R.S.12:3-5 et al., Ch.40.
State tax expenditure report, inclusion in Governor's annual budget message; required, C.52:27B-20a, Ch.189.
Technical assistants to construction code officials, recognition of position, training program; required, amends C.52:27D-126, Ch.119.
Urban enterprise zones, homeland security expenses, certain, eligibility for funding; provided, amends C.52:27H-88, Ch.25.

TAXATION
Cigarette tax rate; increased, Health Care Subsidy Fund, additional revenue; dedicated, amends C.54:40A-8 et al., Ch.70.
"Community Food Pantry Fund," voluntary contributions through gross income tax returns; permitted, C.54A:9-25.25 et seq., Ch.124.
Corporation business tax liability, one-year extension on surcharge; provided, amends C.54:10A-5.40 et al., Ch.72.
Homestead property tax reimbursement, eligibility for seniors, disabled; revised, amends C.54:4-8.67, Ch.129.
Neighborhood Revitalization Tax Credit Program, program eligibility; extended, amends C.52:27D-491, Ch.120.
"New Jersey Lung Cancer Research Fund," voluntary contributions through gross income tax returns; permitted, C.54A:9-25.27 et al., Ch.172.
On-site generation facilities, regulated, tax exemption, certain; provided, C.48:3-77.1, amends C.48:3-51 et al., Ch.240.

TAXATION (Continued)
"Property Tax Assessment Reform Act," C.54:1-86 et seq., amends C.52:27D-505, Ch.118.
Reassessment procedures, certain, appeal by taxpayers, certain; revised, amends R.S.54:3-21 et al., Ch.251.
Sale of municipal tax liens, other liens, statutes concerning; revised, C.54:5-20.1 et al., amends R.S.54:5-19 et al., Ch.320.
Sports, entertainment projects, certain, exemption from property taxation; provided, C.54:4-3.6f et seq., Ch.6.
State tax expenditure report, inclusion in Governor's annual budget message; required, C.52:27B-20a, Ch.189.
Tax amnesty period, establishment; required, C.54:53-19, Ch.21.
Taxation of certain lines of insurance, additional revenues dedicated to Health Care Subsidy Fund, C.26:2H-18.58i, amends C.54:18A-2 et al., Ch.75.
Tax rate on certain alcoholic beverages; increased, Health Care Subsidy Fund, additional revenue; dedicated, C.26:2H-18.58h, amends R.S.54:43-1, Ch.71.
Tax rates for certain taxpayers; temporarily increased, property tax deductions, certain; adjusted, New Jersey Lottery Prizes, certain, taxation; increased, C.54A:2-1a, amends C.54A:3A-17 et seq., Ch.69.

TOBACCO
Cigarette tax rate; increased, Health Care Subsidy Fund, additional revenue; dedicated, amends C.54:40A-8 et al., Ch.70.
Electronic smoking devices, use in indoor public places, sale to minors; prohibited, amends C.26:3D-56 et al., Ch.182.

TRADE REGULATION
Franchisor assignment of interest relative to retail sale of motor fuel, violations; clarified, C.56:10-6.1 et seq., Ch.63.
International labor matching, matchmaking organizations, background checks for owners, employees, provision of information about domestic violence; required, C.56:8-185 et seq., Ch.152.
Novelty lighters, sale, distribution; prohibited, C.2A:65C-1 et seq., Ch.163.
"Place of business" under Franchise Practices Act, definition; expanded, amends C.56:10-2 et seq., Ch.235.

TRANSPORTATION
"Jack Freidenrich Engineering and Operations Building," DOT engineering and operations building; designated, Ch.50.
New Jersey Transit, board membership; increased, amends C.27:25-4, Ch.179.
Notice of discontinuance of certain bus, train service to municipality, 45 days' notice; required, C.48:4-7.1, amends C.27:25-8, Ch.259.

TRANSPORTATION (Continued)
"The Senior Citizen and Disabled Resident Transportation Assistance Program," funding; increased, amends C.27:25-28 et al., Ch.261.

TRUSTS
Consumer prepayments, holding in trust accounts by cemeteries; required, amends C.2A:102-13, Ch.155.
Fiduciaries, certain, posting bond, provision for accounting to court, certain circumstances; required, amends N.J.S.3B:15-1 et al., Ch.140.

UNEMPLOYMENT COMPENSATION
Cancellation of employer charges, certain; eliminated, amends R.S.43:21-7, Ch.12.
Employer unemployment insurance taxes, reduction under certain circumstances; permitted, amends R.S.43:21-7, Ch.144.
Family temporary disability leave, annual; provided, contribution rates, refunds; adjusted, amends R.S.43:21-7, Ch.195.
Job training program participants, off trigger for benefits; eliminated, repeals C.43:21-64, Ch.20.
Legal transcribers, certain, eligibility; clarified, amends R.S.43:21-19, Ch.211.
Nurse midwives, certification of medical condition of individuals under "Temporary Disability Benefits Law," "Work First New Jersey Act"; permitted, amends C.43:21-39 et al., Ch.114.

VETERANS
Cremains of veterans, unclaimed, veterans' organization's right to receive, certain circumstances; provided, C.38A:3-2b4, amends C.26:7-18.2, Ch.14.
"Salute to Hospitalized Veterans Week," week of February 14; designated, C.36:2-122 et seq., J.R.1.

WATER SUPPLY
Environmental Infrastructure Financing Program, laws concerning; changed, C.58:11B-9.2 et al., amends C.58:11B-9 et al., Ch.59.
Independent colleges, grant cap for underground storage tank remediation; increased, amends C.58:10A-37.5, Ch.42.

WATERWAYS
Medical waste, ocean pollution, certain, civil penalties; increased, C.58:10A-48.1 et al., amends C.13:1E-48.20, Ch.282.

WEAPONS
Handgun sales, purchases, certain transfers exempt from 30-day restriction, amends N.J.S.2C:58-2 et seq., Ch.168.

WEAPONS (Continued)
Handguns, purchase of more than one by individual per calendar month; prohibited, amends N.J.S.2C:58-2 et al., Ch.104.
Handguns, sales, purchases, exemptions to prohibition of multiple purchases in 30-day period; provided, C.2C:58-3.4, amends N.J.S.2C:58-2 et al., Ch.186.
Machine gun, assault firearms, unlawful possession, degree of crime; upgraded, amends N.J.S.2C:39-5, Ch.13.
Mental health information, sharing relative to purchase, possession of firearms, conformity with federal law; provided, amend C.30:4-80.8 et al., Ch.183.

WORKERS' COMPENSATION
Contractual salaries applicable to PERS members, certain, applicability to certain employees; extended, amends C.43:15A-6, Ch.338.
Nurse midwives, certification of medical condition of individuals under "Temporary Disability Benefits Law," "Work First New Jersey Act"; permitted, amends C.43:21-39 et al., Ch.114.
Stop-work orders, violations of requirements, certain; penalties; changed, amends R.S.34:15-79, Ch.87.
"The workers' compensation security fund"; transferred to the New Jersey Property-Liability Insurance Guaranty Association, C.34:15-105.1, amends R.S.34:15-105 et al., repeals R.S.34:15-109 et al., Ch.327.
Uninsured employers for non-payment of workers' compensation, court actions, certain circumstances; required, amends C.34:15-120.3, Ch.291.

WOMEN
"Women and Families Strengthening Act," C.30:4-8.6 et seq., amends C.44:10-48 et al., repeals C.44:10-48.1, Ch.328.